



## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 10 November 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

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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 by 7 November 2022.

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2. Apologies for Absence

3. 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.

4. Minutes

To approve the [Minutes](#) of the Meeting held on 13 October 2022 (Minute Nos. 388 – 394) as a correct record.

**Part B reports for the Planning Committee to decide**

5. Planning Working Group

To approve the Minutes of the Meeting held on 1 November 2022 (Minute Nos. to follow).

To consider application 22/502340/OUT Land Adjacent Westfield Cottages Breach Lane Lower Halstow Kent ME9 7DD.

6. Report of the Head of Planning Services

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

**Issued on Tuesday, 1 November 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](http://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

**10 NOVEMBER 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

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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 – 10 NOVEMBER 2022

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

### PART 2

2.1	20/503675/FULL	EASTCHURCH	Palm Trees Caravan Park Second Avenue / Warden Road
2.2	22/503684/FULL	IWADE	10 Ferry Road
2.3	22/503385/FULL	EASTCHURCH	Wynne Hall First Avenue
2.4	20/505059/FULL	NEWINGTON	Willow Trees 111 High Street
2.5	21/505722/OUT	NEWINGTON	128 High Street

### PART 3

3.1	20/505046/FULL	UPCHURCH	High Hopes Poot Lane
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**PLANNING COMMITTEE – 10 NOVEMBER 2022****PART 2**

Report of the Head of Planning

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

<b>2.1 REFERENCE NO - 20/503675/FULL</b>		
<b>APPLICATION PROPOSAL</b> Part Retrospective Change of Use of land within Palm Trees Holiday Park to allow stationing of 28 mobile home lodges around a centrally located recreation area.		
<b>ADDRESS</b> Palm Trees Caravan Park Second Avenue (junction With Third Avenue) Warden Road Eastchurch Sheerness Kent ME12 4ET		
<b>RECOMMENDATION</b> Approve, subject to the conditions below		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application is in accordance with policy DM 4 and would not give rise to any serious harm to the countryside. No objection has been raised by technical consultees.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council Objection		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Palm Tree Management Ltd <b>AGENT</b> John Burke Associates
<b>DECISION DUE DATE</b> 26/7/2022	<b>PUBLICITY EXPIRY DATE</b> 02/02/22	<b>CASE OFFICER</b> Paul Gregory

**Planning History**

15/506364/FULL

Change of use of land on the park to the stationing of 37 No. holiday caravans for 10 month occupancy.

Approved - 04.03.2016

SW/11/1431

Variation of condition (ii) of planning permission NK/8/62/16 to allow 10 month holiday use  
Approved - 09.01.2012

SW/01/0826

Additional 61 pitches within existing site  
Approved – 05.03.2003

SW/97/0812

Extension to club house  
Approved – 13.11.1997

NK/4/72/590

Use of land as caravan camp

NK/4/72/30

Revised layout of caravan camp for 86 caravans and use of one van for wardens' accommodation

## **1. DESCRIPTION OF SITE**

- 1.1 The application site measures approximately 2.5 hectares and forms part of the existing caravan park site known as Palm Trees, although it is situated outside of the approved site area for the stationing of holiday caravans.
- 1.2 The land is currently used as a recreational / amenity space in connection with the caravan park and is laid to grass. The land is generally flat but has slight fall from the north-west to the south-eastern boundary of the site.
- 1.3 The southwestern and southeastern boundaries of the site are formed by dense hedgerows and trees.
- 1.4 Access to the caravan park site is via the existing in out access arrangement from Warden Road via Fourth and Second Avenue. The immediately surrounding area is characterised by the coastline and a large number of holiday parks containing holiday caravans and chalets.

## **2. PROPOSAL**

- 2.1 The application seeks planning permission for the change of use of land within the existing caravan park from open amenity / recreational use to the stationing of 28 holiday caravans. The requirement for the proposal has arisen due to the need to relocate existing caravans as part of the site is in the cliff erosion zone and also due to the acceleration of cliff erosion along the northern coastal boundary of the site in recent years. It is noted that the number of caravans which are proposed to be removed totals 37.
- 2.2 The scheme also includes the construction of a new hard surface road and 28 No. caravan bases, a permeable parking space adjacent to each caravan and new landscaping including wildflower and tree planting and reinforcement of the existing hedgerow with supplementary planting.
- 2.3 As per the description of the development, the proposal is part retrospective as five of the caravans have been moved outside of the 0–50-year erosion zone, although these five caravans are proposed to be moved again as part of this application as they have currently been placed in the 50-100 year erosion zone.

## **3. PLANNING CONSTRAINTS**

- 3.1 0–50-year erosion zone / 50-100 year erosion zone
- 3.2 Potential Archaeological Importance
- 3.3 Grade II Listed Structure – Fletcher Battery

#### 4. POLICY AND CONSIDERATIONS

- 4.1 Bearing Fruits 2031 The Swale Borough Local Plan Adopted 2017 - Policy ST 3 The Swale settlement strategy; ST 6 The Isle of Sheppey area strategy; CP 1 Building a strong, competitive economy; CP 8 Conserving and enhancing the historic environment; DM 4 New holiday parks or extensions to existing parks; DM 5 The occupancy of holiday parks; DM 7 Vehicle parking; DM 14 General development criteria; DM 21 Water, flooding and drainage; DM 22 The coast; DM 23 Coastal Change Management; DM 24 Conserving and enhancing valued landscapes; DM 28 Biodiversity and geological conservation; DM 29 Woodlands, trees and hedges; DM 32 Development involving listed buildings; DM 34 Scheduled Monuments and archaeological sites.
- 4.2 The National Planning Policy Framework (NPPF): Paras 8-11 (sustainable development); 55, 56 (planning conditions); 84 (rural economy); 110, 111 (highway impacts); 153 (adapting to climate change); 169 (sustainable drainage systems); 170, 172 (the coast); 174 (the natural and local environment); 180 (biodiversity); 199-202 (heritage assets).
- 4.3 National Planning Practice Guidance (NPPG): Flood risk and coastal change; Historic Environment; Natural Environment; Use of planning conditions.

#### 5. LOCAL REPRESENTATIONS

- 5.1 1 letter of objection has been received from a local resident raising concerns in respect of overlooking, increased amounts of litter and increased levels of noise.

#### 6. CONSULTATIONS

- 6.1 Eastchurch Parish Council – *“There is concern at this application on top of the recent events at Eastchurch Cliffs adjacent to the site. There has been a substantial loss of land and housing.*

*The application shows no positive drainage for the dispersal of water from the site into mains drains. Water is shown as being diverted into Barrows Brook. Councillor’s query this as this is above the site area and whether this should have been corrected to Hens Brook.*

*The drainage report is from 2019 and the geological and drainage data provided is very much out of date.*

*SBC had commissioned a report after the catastrophic slippage which highlights the rapidly deteriorating soil run off and forecast further incursions in the area.”*

Eastchurch Parish Council were reconsulted and raised the further following points:

*“The Planning Committee of Eastchurch Parish Council continues to object to this application on drainage issues. Correspondence has been exchanged with the agent who did not seem to understand this and thought it was caravan numbers. The drainage issues have not been addressed. The committee asked to make it clear that the objection is on the grounds of drainage issues on the site and not on the relocation or numbers of caravans within the site.*

*Water cannot be drained to Barrows Brook which is uphill and along Warden Road on a dangerous blind corner. It cannot drain into Hens Brook as the cliff fall in 2020 has destroyed the access to it. The drainage reports are from 2019 or earlier before the cliff fall. The original*

*comments made in the PC objection still stand and have not been addressed; they are further supported by the comments from KCC Drainage and Southern Water. Their recommendations should be addressed by the applicant and resubmitted in an updated and amended application.*

*French drains should not be put in to drain over the cliffs as it is not sustainable (KCC comments) and will add pressure on to the already unstable cliff face.”*

6.2 Lead Local Flood Authority (KCC) – *“The application is supported by Surface Water Drainage Design report (RMB, 17 October 2019).*

*Drainage for the northern site includes filter drains for the caravan bases, however there is no drainage to intercept flows from the access road. We do not find allowing overland flows into the sea sustainable due to the adjoining land which we assume to be third party land.*

*We recommend that the applicant presents a sustainable means for the disposal of surface water in the northern site.*

*The proposed surface water drainage for the southern site involves the use of discrete filter drains for the caravan bases and an infiltration basin. The hydraulic calculation of the basin is based on an assumed infiltration rate. We recommend the applicant undertakes ground investigations to establish ground water level as well as infiltration rate to confirm infiltration is feasible on the site.*

*If infiltration basin is proposed due to the feasibility of infiltration, we would also recommend the applicant to confirm how the infiltration basin would be maintained as well as adequate access for maintenance.*

*In accordance with Table 1 of Kent County Council Drainage and Planning Policy document we recommend that applicant submits tender construction drawings for suds features.”*

On the basis of the above comments the agent responded to these points as follows:

*“With regard to the KCC Flood & Water comments the proposals contained in our consultants report addresses these issues adequately; these management proposals are the same as used throughout the Park historically without problem and the site has never had any of the surface water issues implied. Our engineer did however advise that we could install a ‘french’ drain along the northern side of the existing entrance road if needed. I would also point out that we are NOT increasing the number of caravans or surface drainage merely replacing existing caravans.”*

In response, the Lead Local Flood Authority (KCC) made the following further comments:

*“Kent County Council as Lead Local Flood Authority have reviewed the Surface Water Drainage Design prepared by RMB dated 17 October 2019 and agree in principle to the proposed development.*

*The proposals seek to utilise a combination of filter trenches for the caravan plots and access road with an infiltration pond.*

*The filter trench proposed for the length of the access road would be advantageous to the interception of surface water and should be included within the design.*

*It is essential that ground investigations and infiltration tests are undertaken as part of drainage strategy to confirm the underlying London Clay formation has the necessary infiltration rates.”* On this basis a condition is recommended to ensure that groundwater is protected.

Further to receipt of an amended layout I sought the views of the Lead Local Flood Authority (KCC). They have responded confirming that they have no objection and refer to their comments immediately above.

- 6.3 Southern Water – The comments refer to a public foul rising main which crosses the site and sets out the offset distances for various works.

A separate application to Southern Water will be required for connection to the public foul sewer. The response provides further general comments for circumstances in which drainage features can be adopted.

- 6.4 KCC Highways & Transportation – *“In line with the comments provided for the previous application SW/15/506364/FULL, I request that no more than 50% of the proposed pitches shall be occupied until the existing pitches highlighted for relocation on the proposed plan (Dwg no.PLM-1018-01 Rev C) have been permanently removed, which should be secured by condition.*

*Subject to the above, I raise no objection on behalf of the local highway authority.”*

- 6.5 KCC Ecology – *“As a result of reviewing the data we have available to us (including aerial photos and biological records), and the information submitted with the planning application, we advise that the proposed development has limited potential to result in direct ecological impacts. We have taken this view due to the well-maintained nature of the site and relatively unobtrusive development proposal.*

*As stated within Natural England’s response, the impact on the Swale Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site will need to be considered. 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.*

*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.”*

- 6.6 Natural England – Initially set out that as this application would result in an increase in residential accommodation that the impact may be increased recreational disturbance to the Special Protection Area (SPA) and RAMSAR site. Therefore, subject to the appropriate financial contribution being secured this will mitigate against these potential recreational impacts. However, this may also need to be checked via an appropriate assessment.

Further to the above comments I wrote to Natural England to confirm that the number of caravans is being reduced. In response they confirmed that their comments (summarised immediately above) can be withdrawn and as a result they had no comments to make in respect of this application.

- 6.7 KCC Archaeology – *“This involves the conversion of an area of existing sports field into caravan park access road and mobile homes. As noted in the design and access statement the caravan includes the location of the WW1 Fletcher Battery which is in part Listed. There are wider remains of military significance around the site including the magazine to the immediate north.*

*Of particular note the area proposed for development includes the remains of a well-preserved base for a spigot mortar of WW2 date. It is not clear how this will be affected but it should be considered as an undesignated heritage asset. Its significance and the impact of development on the asset should be assessed. If the proposals affect the spigot mortar, I advise that the council should seek the adjustment of the development layout / design to accommodate the preservation in situ of the WW2 feature which forms part of the defence story of this site and the island.*

*With respect to the wider development, I agree that the proposals will not affect the setting of the listed structures and note the positive way in which the park has managed its heritage. Given the proposals involve groundworks to construct road access, bases and services I would recommend that if permission is given provision is made for a programme of archaeological works through the following condition” – condition to require the implementation of a programme of archaeological work.*

- 6.8 SBC Environmental Protection Team – *“No objections to this application or comments to make.”*
- 6.9 Environment Agency – *“We have no comments to make on this planning application.”*
- 6.10 Sport England – *“The site is not considered to form part of or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No.595), therefore Sport England has considered this a non-statutory consultation.*

*Planning permission was previously granted for the siting on caravans on this part of the caravan site under application reference 15/506364/FULL. Sport England had no comment on that proposal that it understands has not been implemented. Similarly, it does not wish to comment on the current proposal.”*

## **7. BACKGROUND PAPERS AND PLANS**

- 7.1 The application is supported by existing and proposed layout drawings, a Design & Access Statement and Surface Water Drainage Report.

## **8. APPRAISAL**

- 8.1 The application site lies outside of the defined Holiday Parks area as defined by policy DM 4 of the Local Plan and is therefore located within the countryside. However, policy DM 4

specifically provides for minor extensions to holiday parks in circumstances where land is lost to coastal erosion, subject to the following criteria being met:

- a. in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area;*
- b. it is demonstrated that on-site upgrading and improvement is not practicable or viable;*
- c. there is no overall increase in the existing number of accommodation units;*
- d. it is part of a scheme to upgrade and improve the quality of tourist accommodation and other amenities on the site;*
- e. it results in a significant and comprehensive improvement to the layout, design and appearance of the site, together with an integrated landscape strategy that creates a landscape framework for both the existing and proposed sites that will reduce their overall impact within the landscape in accordance with Policy DM 24;*
- f. in accordance with Policy DM 5; and*
- g. there is no unacceptable impact on the local environment.*

- 8.2 In terms of these matters, I can find no conflict with policies DM 22 or DM 23 – in this regard it is important to note that the proposals will be moving caravans further away from the coast and as such outside of the coastal erosion zone. The number of caravans on the site will also be decreasing (as the proposal will remove 37 and reinstate 28) and therefore impacts upon the coast in general terms will in my view also reduce.
- 8.3 Having carried out a site visit, and assessed the aerial photos, there wouldn't appear to be sufficient space within the part of the site that lies within the Holiday Park designation as per policy DM 4 to be able to relocate the necessary number of caravans. The supporting details also set out that part of the reasoning for the application would be to allow larger units to be provided and to place them around the recreation area so that there would be more active surveillance of this area. This would in my view sit comfortably within the aims of improving the tourist accommodation on the site.
- 8.4 The proposed development will result in an alteration to this currently open and undeveloped part of the site. However, it is important in my view to consider two issues. Firstly, when you enter the site the area where the caravans are proposed to be located is experienced very much as part of the wider setting of the park, which includes the existing caravans. The reason for this is due to the hedgerow and trees which lie on the boundaries of the site, providing a screen to the wider surrounding area and reducing in my view any harm to the countryside to a very low level. I also believe that the planting will assist in providing a natural barrier between the caravans and those located within the caravan park to the southwest of Third Avenue. Based on the above I am of the view that the scheme is in accordance with policy DM 4.
- 8.5 In addition to the existing landscaping as discussed above, the scheme proposes additional landscaping in the form of tree and wildflower planting. I note that KCC Ecology raise no objection to the scheme, and I am of the view that the additional planting will give rise to biodiversity benefits. I have included a condition requiring precise planting details.

- 8.6 I note the comments of Eastchurch Parish Council as set out in full above, particularly in respect of their objection based upon the proposed scheme of surface water drainage. In terms of this issue, it is important to note that the Lead Local Flood Authority (KCC), who deal specifically with surface water drainage matters have been consulted and again, their comments have been set out in full above. In respect of these comments, I note that initially KCC did raise the same concern as the Parish Council in relation to surface water draining over the cliffs and into the sea.
- 8.7 After liaising with the agent, further comments were received which set out that a further drain can be installed along the northern side of the existing entrance road if needed. I passed these comments to KCC who responded setting out that a filter trench along the access road would be advantageous to the interception of surface water and along with the other measures, including filter trenches for the plots and an infiltration pond, the details are acceptable, subject to a condition relating to the protection of groundwater. I have also liaised with KCC regarding the date of the Drainage Report (as referred to in the Parish Council's comment) and KCC have commented that the information provided is valid. As a result, I have recommended the requested condition is imposed and as a result am of the view that surface water drainage can be acceptably dealt with.
- 8.8 The application site includes the grade II listed 'Fletcher Battery' which is a First World War Coastal Gun Battery, this is split across the holiday park and includes gun emplacements, concrete walling, tunnels, ammunition store, observation building, and cylindrical mortar mounting. 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.
- 8.9 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.
- 8.10 For the most part the proposal will move caravans away from the various elements of the heritage asset which are located on the existing holiday park. The exception to this is the cylindrical mortar mounting which would have caravans placed closer to it, however, it would not be surrounded by caravans as per the other existing elements of the heritage asset. The Council's Conservation Officer has assessed the application and concluded that due to there being no intensification of the use of the site that there would not be any harm caused to the setting of the listed building. I give a significant amount of weight to the comments made and as a result of this I take the view that the proposal is compliant with policy DM 32.
- 8.11 I note the objection that has been received from a neighbouring occupier, who has raised concerns in respect of overlooking, noise and litter. It is important to note that the neighbouring property in question lies approximately 60m from the location of the closest proposed caravan. There is also well-established planting separating the holiday park from the curtilage of the neighbouring dwelling. On the basis of the above considerations, I do not believe that there would be overlooking to an unacceptable degree. In terms of litter, it is



again important to note that the proposal will not lead to an increase in caravans on the site and as such I do not believe an increase in any litter could be reasonably expected. Finally, in respect of noise although this proposal will move caravans closer to residential properties, I give weight to both the distances involved, as set out above, and the lack of objection from the Council's Environmental Protection Team. As such I do not consider that the proposal would give rise to any unacceptable levels of noise. I have however recommended a condition restricting the hours of construction.

8.12 I also note the comments of the KCC Archaeological Officer and have recommended the condition requested is imposed to ensure that features of archaeological interest are properly examined and recorded. In terms of Natural England, they have confirmed that a SAMMS payment is not required as the number of caravans is not increasing and therefore increased recreational pressure on the SPA will not occur.

## **9. CONCLUSION**

9.1 In many respects this proposal is like that granted planning permission under reference 15/506364/FULL. As per the previously referenced unimplemented planning permission I give great weight to the need to place the caravans in this part of the site due to existing caravans being situated within the erosion zone and therefore needing to be removed. Policy DM 4 allows in circumstances where land is being lost to coastal erosion, minor extensions to holiday parks subject to certain criteria being met. As per the discussion above I am of the view that the proposal complies with this policy. I have also considered other relevant matters such as heritage, drainage and ecology and am of the view that the proposal is acceptable, subject to the conditions as set out below.

## **10. 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 drawing PLM-1018-01, Rev E (Proposed Block Plan).

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

- 3) No more than 150 caravans in total shall be stationed on the entire caravan park site at any one time.

Reason: To protect the amenities of the area.

- 4) No caravans shall be occupied between 3rd January and 28th February (or 29th February in any leap year) and no caravans shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet/caravan owners within the application site, stating that:

- (a) The chalets/caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- (b) No chalet or caravan shall be used as a postal address; and
- (c) No chalet or caravan shall be used as an address for registering, claiming or receipt of any state benefit; and
- (d) No chalet or caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- (e) If any chalet or caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 5) Any chalet or caravan that is not the subject of a signed agreement pursuant to condition 4 shall not be occupied at any time.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 6) The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 7) Within 3 months of the date planning permission being granted a detailed soft landscaping scheme to include precise details of species (which shall be native) and an implementation programme shall be submitted to the Local Planning Authority. The landscaping scheme shall thereafter be implemented in accordance with the approved details.

Reason: To ensure a satisfactory external appearance to the development and to provide for biodiversity benefits.

- 8) 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.

- 9) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the Surface Water Drainage Design prepared by RMB dated 17 October 2019.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 10) No further development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

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

Reason: In the interests of residential amenity.

- 12) No more than 14 of the proposed pitches shall be occupied until the existing pitches highlighted for relocation on drawing PLM-1018-01, Rev E (Proposed Site Plan) have been permanently removed.

Reason: In the interest of highway safety and amenity.

- 13) A scheme for the provision of electric vehicle charging points (EVCP) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first use of the development hereby approved.

Reason: In the interests of climate change and lowering pollution levels.

## SCHEDULE

The Park operator must:

- 1) Ensure that all chalet/caravan users have a current signed agreement covering points (a) to (e) in condition 4 of the planning permission; and

- 2) Hold copies of documented evidence of the chalet/caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
- 3) On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
- 4) Require chalet/caravan users to provide new documentation if they change their main residence; and
- 5) Send all written communications to the main residence of the chalet/caravan user; and
- 6) Not allow postal deliveries to the chalet/caravan or accept post on behalf of the chalet/caravan users at the park office; and
- 7) Ensure that each chalet/caravan is to be used for holiday use only and that no chalet/caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
- 8) Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

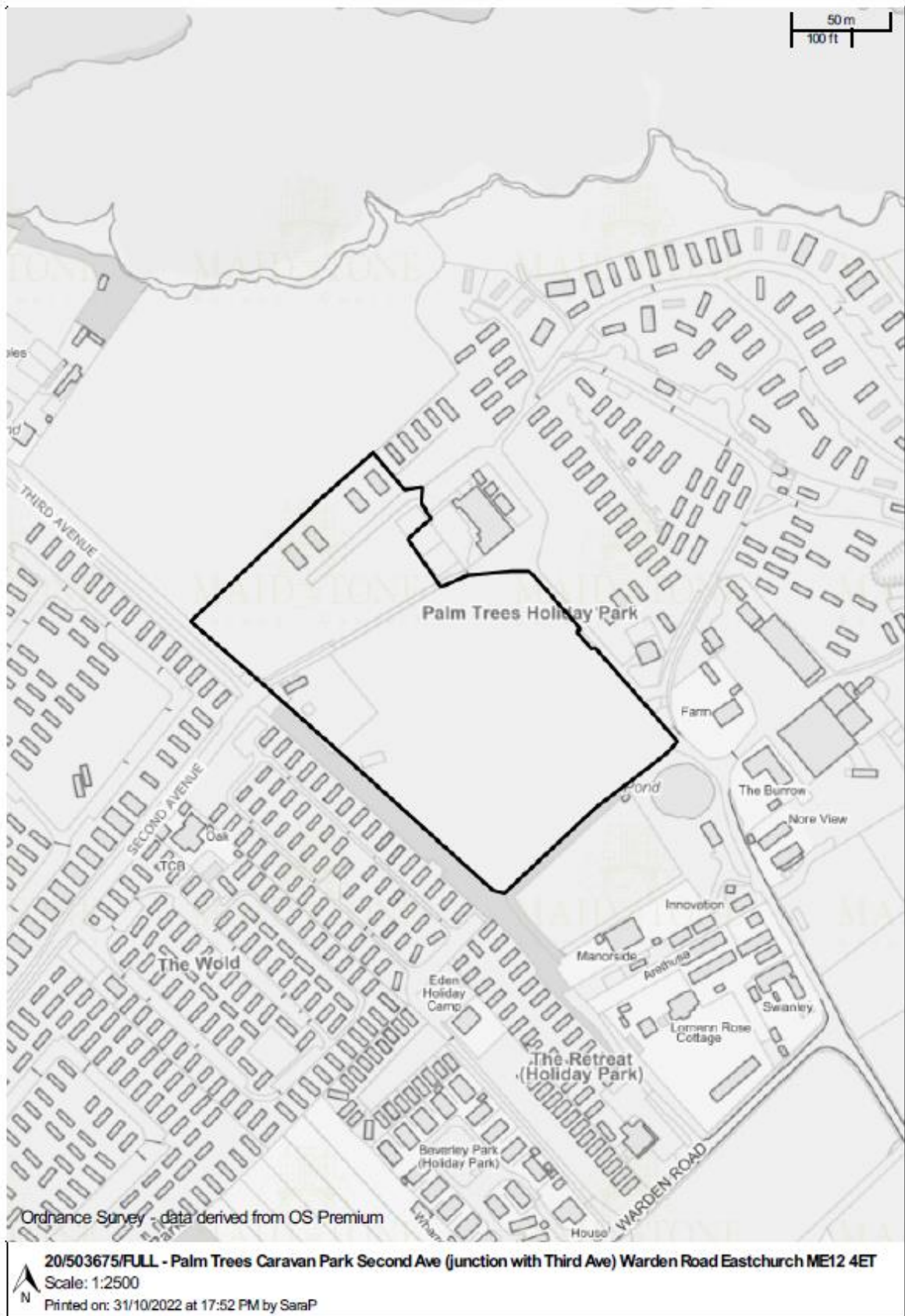
### **The Council's approach to the application**

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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<b>2.2 REFERENCE NO - 22/503684/FULL</b>		
<b>APPLICATION PROPOSAL</b> Garage conversion into habitable space including obscuring window and fixed shut (Part retrospective).		
<b>ADDRESS</b> 10 Ferry Road Iwade Sittingbourne Kent ME9 8RR		
<b>RECOMMENDATION</b> Approve subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal would not harm visual or residential amenity, and as the existing garage is undersized, its loss would not result in a reduction of the number of parking spaces at the property.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Iwade	<b>APPLICANT</b> Dr Angela Hammond <b>AGENT</b> Mr Jonathan Williams
<b>DECISION DUE DATE</b> 11/11/22	<b>PUBLICITY EXPIRY DATE</b> 13/10/22	<b>CASE OFFICER</b> Megan Harris

**Planning History**

SW/99/0588

Two new houses with integral single garages.

Grant of Conditional PP      Decision Date: 13.12.1999

SW/92/0292

DETACHED HOUSE AND GARAGE

Refused      Decision Date: 22.05.1992

SW/75/0148

APPROVAL OF RESERVED MATTERS NK/9/66/23A

Approved pre 1990      Decision Date: 21.07.1986

**1. DESCRIPTION OF SITE**

1.1 10 Ferry Road is a detached two storey property located within the built-up area boundary of Iwade. It is located to the west of Ferry Road, with pedestrian access provided from the front of the property. Vehicular access is taken from a private road accessed from School Lane, with a parking space provided at the rear of the dwelling in front of the integral garage. Part of this access forms the route of public footpath ZR92. There is also a small area of private amenity space to the rear. The property has a large front garden, which has a small stream running through it.

1.2 The surrounding area is characterised by residential development of various forms. Immediately north is No. 8 Ferry Road, a detached dwelling of the same design as the host property.

## **2. PROPOSAL**

- 2.1 This application seeks planning permission for the conversion of the garage to a habitable room, which will include works to an existing side window within the garage to be obscure glazed and fixed shut. The converted garage will be used as a family room, and the garage door has been replaced with a window. The works are largely retrospective.
- 2.2 The application originally proposed the creation of an additional parking space within the rear garden of the property. Concern was raised regarding the reduction in the size of the rear garden which is very modest, and this element of the development was removed from the application. A re-consultation with the Parish Council and neighbours was carried out after this amendment.

## **3. PLANNING CONSTRAINTS**

- 3.1 Potential Archaeological Importance
- 3.2 Environment Agency Flood Zone 2
- 3.3 Environment Agency Flood Zone 3

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: Policies ST3, CP4, DM7, DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan 2017
- 4.3 Supplementary Planning Guidance (SPG): 'Designing an Extension: A Guide for Householders' and SBC Parking Standards SPD 2020.

## **5. LOCAL REPRESENTATIONS**

- 5.1 One objection has been received. Its contents is summarised below:
- Existing window in the side of garage looks into our back garden (No. 8 Ferry Road).
  - It was previously covered up, but was uncovered as part of the conversion works.
  - We appreciate it will be obscure glazed and non-opening, but no details have been provided as to how this will happen.
  - If these measures are done in a way that would be easily removed/reversed, we are concerned that the current/future occupiers could remove these measures, resulting in an intrusion on our privacy.
  - This would be a breach of planning where enforcement action could be taken, but we would prefer the window to be permanently bricked up to negate this possibility.
  - The window is not required for light as the garage door has been replaced with a



window for this purpose.

## 6. CONSULTATIONS

- 6.1 Iwade Parish Council – *“The Council objects on the grounds of loss of parking space; there is no on-street parking near to this property or to the rear.”*
- 6.2 KCC Archaeology – No archaeological measures required.
- 6.3 HM Explosives Inspectorate – No comments provided the development is not a vulnerable building. The property does not meet the criteria to be classed as a vulnerable building.

## 7. BACKGROUND PAPERS AND PLANS

- 7.1 Plans and documents provided as part of application 22/503684/FULL.

## 8. APPRAISAL

### Principle of Development

- 8.1 Policy ST3 of the Swale Local Plan 2017 supports the principle of development within the built-up area boundary of established towns and villages within the borough.
- 8.2 The application site is located within the built-up area boundary of Iwade, where, the principle of domestic extensions and alterations are acceptable, subject to the proposal meeting the requirements set out below.

### Visual Impact

- 8.3 Policy DM16 of the Swale Local Plan 2017 supports alterations and extensions to existing buildings where they reflect the scale and massing of the existing building, preserve features of interest and reinforce local distinctiveness.
- 8.4 Policy CP4 of the Swale Local Plan 2017 requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.
- 8.5 The replacement of the garage door with a window is acceptable in my view, as the window is of a similar scale and design to the existing windows on the property, and sits comfortably on the rear elevation. Matching brickwork has been used in the works, which ensures the development blends in with the main dwelling. The changes to the side window, including obscure glazing and it being fixed shut will have very limited impacts to visual amenity, as it is not visible from any public vantage points. Given the works are minor, to the rear, and do not affect the main architectural composition of the dwelling viewed from Ferry Road, I do not consider any harm in this respect would arise.

Residential Amenity

- 8.6 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, give rise to an unreasonable loss of privacy, or result in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 8.7 Due to the distance to the surrounding dwellings to the south, east and west, I note there is only one property which is in close proximity to the site, No. 8 Ferry Road to the north. The garage conversion will not increase the footprint or scale of the property, and as such the development will not impact neighbouring access to daylight and sunlight or neighbouring outlook. The existing side window in the garage, is an original feature. It provides existing views into the private amenity space at No. 8, and whilst there is already a degree of overlooking from this window, the conversion of the garage to habitable space would likely exacerbate this issue, as it is fair to assume the proposed family room is likely to be inhabited more often than the garage was.
- 8.8 To address this, the application proposes this window is obscure glazed and fixed shut, which will prevent overlooking into No. 8 and restrict noise and disturbance from the use of the family room. I consider this will mitigate the additional overlooking and disturbance likely to be caused by the proposal, and impose a condition below requiring these works to take place prior to the use of the family room commencing.
- 8.9 I note the neighbours at No. 8 have raised concerns regarding these changes, as no details of how the window will be fixed shut and obscure glazed have been provided. They suggest the window should be removed and bricked up to prevent any potential enforcement issues in the future. I consider this suggestion to be unreasonable given the window already exists, and the condition imposed below will set out the requirement for works to the window, the level of obscure glazing required, and ensure that the changes to the window are maintained in perpetuity.
- 8.10 The issue of parking is considered further below. The existing property has a modest rear garden and the application originally proposed a further parking space within this garden. The additional space would take up a large part of the garden, leaving the property with a very limited amount of private amenity space. Given the property has three bedrooms and as such is likely to be occupied by a family, a garden of this scale would lead to unacceptable amenity impacts for the occupiers. Whilst there is a large front garden at the property, this provides little useable outdoor space owing to the stream that runs through the front garden, and the lack of privacy as the frontage is open to Ferry Road.
- 8.11 I raised this concern with the agent, who provided an amended plan removing the additional parking space from the scheme to avoid this impact.

### Highways

8.12 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards.

8.13 The property was erected under application SW/99/0588 and the use of the garage is controlled by condition as set out below:

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

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

8.14 Planning permission is therefore required for any conversion, and a careful assessment as to whether the loss of the garage as a parking space would cause an increase in on street parking, detrimental to highway amenity, must be made.

8.15 The property currently has three bedrooms and, as constructed, would have provided two off road parking spaces - one within the garage which measures internally 5.1m in depth and 2.7m in width and one on the driveway to the front of the garage, which measures 4.4m in depth and 2.8m in minimum width. The application results in the loss of the garage as a parking space, leaving only one parking space for the dwelling.

8.16 Members will be aware that the Kent Country Council Highways team has for many years recommended that garage spaces are not included as part of the parking provision for new residential developments. In addition, the SBC Parking Standards SPD sets advisory and recommended standards for parking provision within developments. The application property is located in an area that I would class as “suburban” and the SPD recommends that a 3-bedroom dwelling should have access to 2-3 parking spaces with the minimum parking space dimensions to measure 5m x 2.5m. The SPD also provides advice on when proposed garages may be counted as parking spaces in new developments – and states that in the case of a single garage, a minimum internal dimension of 7m x 3.6m should be provided.

8.17 In this instance, the current garage at the application site is not of a size that complies with the current recommended SPD dimensions. Although the Council has taken the position in the past that modern parking standards should not necessarily be retrospectively applied to existing garages, it is notable that in recent appeal decisions including 33 The Willows, Newington (Appeal Ref: 3290924) and 30 Grove Park Avenue (Appeal Ref: 3266146) Inspectors have discounted existing undersized parking areas or garages as parking spaces when considered against the dimensions specified in the SPD.

- 8.18 Given these recent and material appeal decisions, it is my view that the same approach should be taken with the garage subject to this application. It is undersized in comparison with the car parking SPD and, as such, should be discounted as a parking space. On this basis, there would be no reduction in off street parking through conversion of the garage.
- 8.19 A single parking space would remain in front of the former garage on the driveway. This in itself is slightly undersized when compared to the SPD (its depth is 4.4m and the SPD requires a space to have a depth of 5m), and a larger car may slightly overhang the access road to the rear of the property. However this is again an existing situation and the proposed development does not affect the ability to continue using this space.
- 8.20 Therefore taking the above into account, I do not consider that the Council could argue that the development has resulted in the loss of a parking space given the existing dimensions of the garage do not meet current advice. I consider that the scheme would be unlikely to cause any unacceptable impacts in the absence of further parking, and that this would not conflict with policies DM7 or DM14 of the Local Plan. As this does not result in a worsening of parking conditions (taking the logic of the appeal decisions referred to above), there is no requirement to provide replacement parking. Although the applicant did originally offer a replacement space, I do not consider this to be necessary, and the effect of this would have been to remove a significant part of the existing rear garden area to the property, with other detrimental consequences.

### Flooding

- 8.21 Policy DM21 of the Swale Local Plan 2017 relates to water, flooding and drainage. The policy states that when considering the water-related, flooding and drainage implications of development, development proposals should accord with national planning policy and planning practice guidance and avoid inappropriate development in areas at risk of flooding and in areas where development would increase flood risk elsewhere.
- 8.22 The site lies within Flood Zones 2 and 3. The conversion of the garage to habitable space will not cause any additional harm from this perspective in my view, as it does not alter internal floor levels or introduce ground floor sleeping accommodation. As such, I have no concerns in this regard.

## **9. CONCLUSION**

- 9.1 The proposal will not harm visual amenities, and the requirement of the side window in the garage being obscure glazed and fixed shut will ensure the development does not cause harm to residential amenities. The loss of the garage is considered to be acceptable due to the fact it is undersized, and as such should not be considered to be a parking space. Whilst the conversion will only leave one further undersized space on the driveway, any vehicle overhanging onto the private access is unlikely to cause any harm to highway safety and convenience due to the nature of the access, which is very lightly used. On the basis of the above, I recommend planning permission is granted.

- 10. RECOMMENDATION** – That planning permission is GRANTED Subject to the following conditions:

**CONDITIONS**

- (1) The development hereby permitted must be carried out in accordance with the following approved plan: 022.02.03B.

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

- (2) Before the family room hereby permitted is first used, the existing window in the north facing side elevation of the room as shown on approved plan 022.02.03B, shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall be fixed shut. The window shall subsequently be maintained as such thereafter.

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

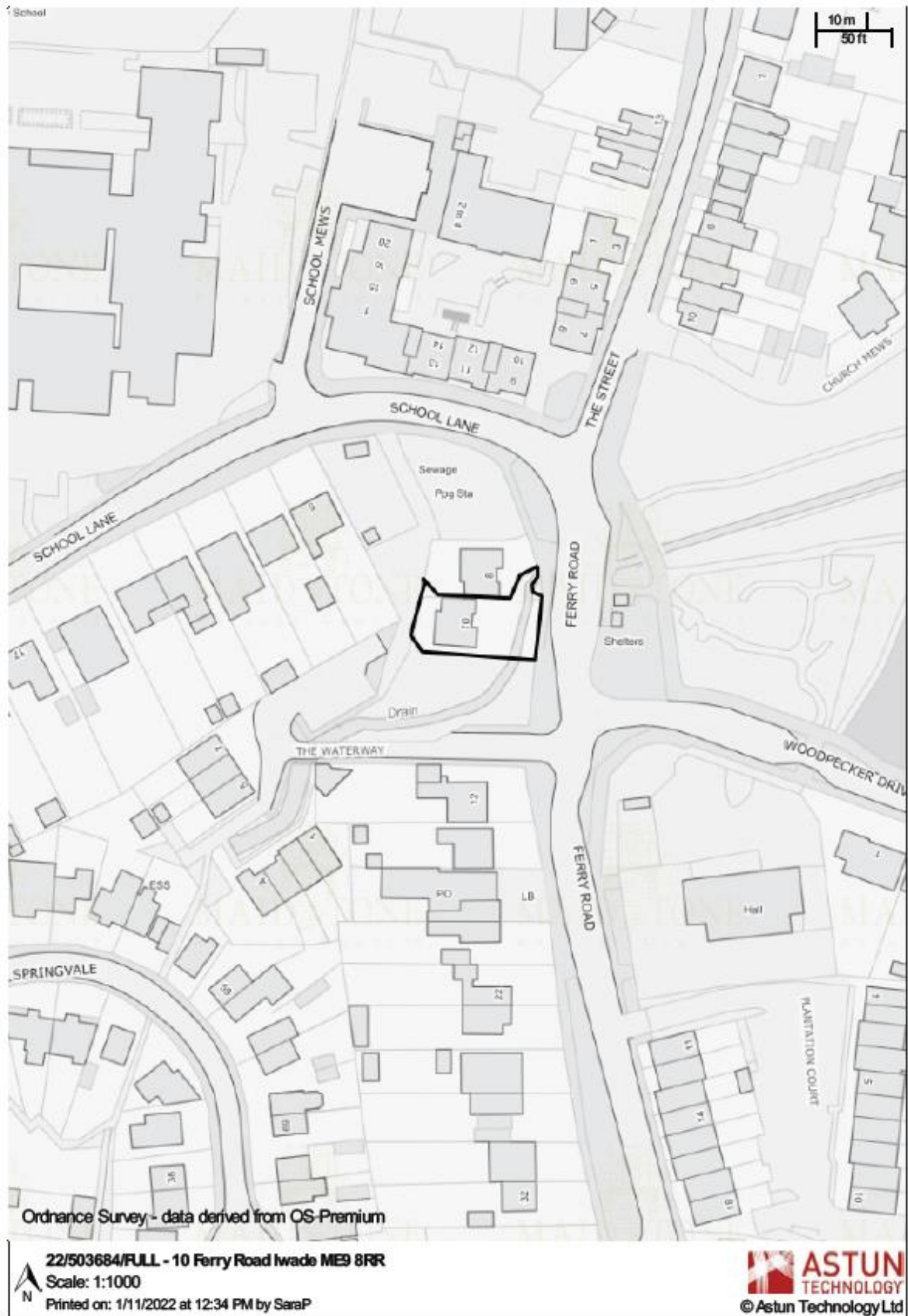
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The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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



<b>2.3 REFERENCE NO - 22/503385/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Change of use of the land to use for the stationing of up to 20 holiday caravans, with associated access road and parking areas			
<b>ADDRESS</b> Wynne Hall First Avenue Eastchurch Sheerness Kent ME12 4JN			
<b>RECOMMENDATION</b> That planning permission is Granted subject to receipt of a SAMMS Payment			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
This application presents the opportunity to enhance the leisure and tourism economy through the development of a site specifically allocated for holiday caravan purposes under policy DM4 of the Local Plan (2017). The additional caravans would provide job opportunities and bolster the viability of local shops, pubs, etc and for this reason there are clear economic and social benefits to the proposal and no adverse amenity harm or negative effects have been identified that that would outweigh the benefits of approving the development.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Objection from Eastchurch Parish Council			
<b>WARD</b> Sheppey East	<b>PARISH/TOWN</b> Eastchurch	<b>COUNCIL</b>	<b>APPLICANT</b> Mr & Mrs D Wynne <b>AGENT</b> Woodstock Associates
<b>DECISION DUE DATE</b> 07/09/22	<b>PUBLICITY EXPIRY DATE</b> 05/10/22	<b>CASE OFFICER</b> Rebecca Corrigan	
<b>RELEVANT PLANNING HISTORY</b>			
<b>PLANNING REF:</b>	<b>DESCRIPTION</b>	<b>DECISION</b>	<b>DECISION DATE</b>
SW/80/0474	Lounge extension	Approved pre 1990	02.06.1980
SW/98/0505	New roof and first floor and replacement garage.	Grant of conditional	03.07.1998
SW/98/0197	New roof and first floor conservatory, new garage to replace existing	Refused	29.03.1998
SW/07/0503	Single storey extensions and internal alterations	Grant of PP	22.06.2007

## 1. DESCRIPTION OF SITE

- 1.1 The application site forms part of the area of holiday parks to the north of the village of Eastchurch. It is located in the south western part of that area, off the south east side of First Avenue.
- 1.2 The land has a site area of approx. 0.6ha and incorporates the detached dwelling of Wynne Hall, situated close to the road frontage, and its extensive rear garden. The rear garden is laid to grass with hard-surfaced tennis courts toward the rear end. The

boundaries of the site are marked by hedging with trees. Access to the site is via First Avenue, an unmade road, leading to a large residential forecourt forward of the dwelling.

- 1.3 The site is bordered to the west, north and east by established holiday parks. To the south is a detached dwelling within a similarly large curtilage; that dwelling being located close to the southern boundary of Wynne Halls garden.
- 1.4 Although the site falls within the local plan holiday park designation, it appears to have been used solely as a residential dwelling.

## **2. PROPOSAL**

- 2.1 The application is for the change of use of the land from a single dwelling and its residential curtilage to use for the stationing of up to 20 holiday caravans. The use requires the demolition of a detached garage and the formation of a new central access road and parking areas. The access road would be surfaced in resin bonded gravel, with the parking areas surfaced in porous shingle.
- 2.2 The existing dwelling would be retained as manager's accommodation and site reception without alteration. The proposed layout plan shows the arrangement of the caravans around the site, with the provision of a new central access road, a single parking space beside each caravan at a ratio of two spaces each and an area of visitor parking spaces inside the access.
- 2.3 It is intended that the existing native species hedgerow boundary treatment would be retained, although there is a need to remove some small trees in the central part of the site to accommodate access to the caravans.

## **3. PLANNING CONSTRAINTS**

- 3.1 In the countryside

## **4. POLICY AND CONSIDERATIONS**

### **4.1 National Planning Policy Framework 2021**

Chapter 2	Sustainable Development
Chapter 6	Building a strong, competitive economy
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

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

Policy ST1	Delivering sustainable development in Swale
Policy ST3	The Swale Settlement Strategy
Policy ST6	The Isle of Sheppey Area Strategy
Policy CP1	Building a strong, competitive economy
Policy CP2	Promoting sustainable transport
Policy CP4	Requiring good design
Policy DM3	The rural economy
Policy DM4	New holiday parks or extensions to existing parks



Policy DM5	The occupancy of holiday parks
Policy DM7	Vehicle parking
Policy DM14	General development criteria
Policy DM19	Sustainable design and construction
Policy DM28	Biodiversity and Geological Conservation

- 4.3 The SBC Vehicle Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM7 of the Bearing Fruits Local Plan Adopted 2017 was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications
- 4.4 The Swale Landscape Character and Biodiversity Appraisal SPD

## 5. LOCAL REPRESENTATIONS

- 5.1 Eastchurch Parish Council – Objection. *The Committee agreed that access was inadequate for any expansion to the site. There were underlying water issues in the winter months that would not be dealt with by inadequate soakaways. Members were concerned that there were 5 caravans already on the site as no planning permission has been applied for, to permit these. The Local Plan has a strong policy resisting the creation of new caravan parks for holiday homes. This application is disingenuous when suggesting that this is an upgrade and expansion of an existing site, by suggesting that the 5 existing vans without planning permission, constitute a regulated site*
- 5.2 A full neighbour consultation took place on 15.07.2022 with the 21 day statutory response to be received by 05.08.2022. A Site Notice was displayed at the site on 21.07.2022 with the 21 day statutory response expiring on 11.08.2022.
- 5.3 In response to the public consultation one (1) letter of objection was received from an immediate neighbour. The letter raised objection to the proposal for the following reasons (summarised):
- Overlooking of property and loss of privacy
  - Traffic effects and safety
  - Noise, smells and disturbance/Layout and density of proposed caravans
  - Loss of trees
  - Effect on the area
  - Flood risk

## 6. CONSULTATIONS

- 6.1 SBC Economic Development – *This is a small scale park development with minimal highways impacts but without the detail around site amenities and landscaping that I need to be able to comment upon in any great detail. It will continue to support the UK staycation trend on the Isle of Sheppey through the provision of value for money short and longer park holiday breaks for families in relative proximity to the local seaside amenities. Whilst a small scale development it will add to the number of parks and bedspaces of this type providing further choice to visitors.*
- 6.2 KCC Highways – Originally did not seek to comment on the application. Following contact by the case officer, KCC advise that they raise no objection to the application. They note that the condition of the access road is not ideal, but advise that this is a

private access and do not identify and highways safety concerns regarding increased usage.

6.3 Natural England – No objection, subject to the Councils Appropriate Assessment and SAMMS Payment

6.4 KCC Ecological Advice – Initially requested further information as follows:

- *Detailed photographs of the building/s – including walls, roof and internal photographs of the detached garage and potential structure to north of tennis courts if present and being removed.*
- *Detailed photographs of the fruit trees to be removed (trunk and exposed/larger limbs)*

Following receipt of supporting information KCC raised no objection to the proposal subject to safeguarding conditions

6.5 SBC Environmental Health – No objection, subject to conditions

6.6 KCC Flood Water and Management – Raise no objection following the submission of a FRA, subject to conditions.

## 7. APPRAISAL

Principle of Development

7.1 Policy ST3 of the Swale Local Plan 2017 supports the principle of development where the proposed development site is located within the established built-up area boundaries of towns and villages within the borough. The policy states that development will not be permitted on countryside land which falls outside of the defined built-up area boundaries unless the development proposal is supported by national policy and the development would contribute to protecting and enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.

7.2 In this case, while the application site is located outside of the built-up area boundaries, the site does fall within the established boundary of holiday park areas as defined by Policy DM4 of the Local Plan (2017). Policy DM4, is therefore critical to the assessment of this application. Part 3, of Policy DM4 allows for the development of new or improved facilities if they are *a) of a type and scale appropriate to the site or park they intend to serve, b) where feasible, made available for use by the local resident population and c) in accordance with Policy DM 5 in terms of occupancy.*

7.3 In addressing DM 4, part 3 (a) *of a type and scale appropriate to the site*, the caravan park would be of a type and scale appropriate to the locality, not least as it would be very similar to existing caravan parks to the west, north and east of the site, albeit on a much smaller scale. It would represent a modest addition to the existing complex of holiday parks in this area.

7.4 In addressing DM 4, part 3 (b) *where feasible, made available for use by the local resident population*. In this instance, the caravan park is on the smaller scale of holiday accommodation and does not include a shop or club house as part of the proposal which

- on larger sites could be made available for use by the general public. There is no reason why the members of the local population could not use the facility as a holiday park if they were so inclined in the normal way that holidaymakers make such visits.
- 7.5 In addressing DM 4, part 3 (c) *in accordance with Policy DM 5 in terms of occupancy*, the site is located within a designated holiday park area and therefore Policy DM5 is relevant given that the proposal relates to the introduction of 20 no. caravans for holiday use.
- 7.6 Policy DM5 states; ‘In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets.’ Policy DM5 allows for an extended occupancy period of 10 months rather than the (previously) standard 8 months, subject to the holiday accommodation not being used as sole or main residences amongst other considerations. The proposal seeks holiday accommodation, not permanent residency and relevant safeguarding conditions would be attached to the approval notice to ensure this would only extend to the 10 month occupancy period endorsed under Policy DM5 . The applicant has confirmed that these conditions would be acceptable.
- 7.7 The criteria for policy DM5 further sets out that development must ensure (1) *The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where appropriate flood evacuation plan would be put in place.* In this regard, the site is not located within an area identified as at risk of flooding. The application is supported with a ‘Drainage Impact and Flood Risk Assessment’ and having reviewed the information, KCC Flood Water and Management are satisfied with the findings of the report subject to three (3) pre-commencement conditions attached to the approval notice. These have been agreed in writing by the planning agent on behalf of the applicant and is therefore sufficient to comply with DM5 (1) of the Local Plan (2017)
- 7.8 Policy DM 5 (2) *The amenity and tranquillity of the countryside and residential areas are safeguarded.* This is addressed in full detail in the relevant sections below, para 7. 14, under Visual Impact and paragraph 7.15 under Residential Amenity, however on both accounts the impact is considered to be acceptable. Moreover, the approval would be subject to standard occupancy conditions where limited occupancy affords the opportunity to retain a period of tranquillity in rural areas.
- 7.9 Policy DM 5 (3) *The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area.* The site is not within the coastal erosion or coastal management zones referred to in Policies DM22 and DM23, and the land is not prone to flooding.
- 7.10 Policy DM 5 (4) *Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where possible.* This application will result in a net increase in visitors to the site where impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Notwithstanding, suitable means of mitigation by means of SAMMS mitigation payment has been agreed and this is set out in further detail under paragraph 7.21 below.

- 7.11 Policy DM 5 (5) *The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences.* In the event of an approval, relevant occupancy conditions would be attached to the consent.
- 7.12 For the reasons set out above, the principle of development for the change of use from residential to holiday accommodation within an area designated for this purpose is fully compliant with policies DM4 and DM5 of the Local Plan and therefore considered acceptable.

#### Visual Impact

- 7.13 In terms of visual impact, the proposed development would result in a change to the current open character of the residential curtilage. However, this should be considered in the context of the designation of the site as part of the wider holiday park complex. The land is not the subject of any particular landscape designation, nor are heritage assets affected. The site is surrounded by developed sites, with much of the neighbouring land given over to similar holiday park uses. In a relatively flat landscape, largely obscured from the public domain it is difficult to see how the development proposed within a designated holiday park area would cause any significant negative impact. Caravans are inherently of low height and the physical works proposed in this application are essentially ground level works to form access and parking space. Existing landscaped boundaries would be retained and enhanced to help minimise impact and provide a suitable context for holiday caravans. A landscaping buffer is proposed to screen the site from the neighbouring property to the south which would be subject to planning conditions. For these reasons, it is considered that the development would not have an unacceptable impact on the surrounding area consistent with policies CP4 and DM14 of the Local Plan (2017)

#### Residential Amenity

- 7.14 There is only one residential neighbour to the south and that property enjoys a spacious curtilage with the dwelling set well away from the boundary with the application site. Notwithstanding, I acknowledge the intensified use that would occur above the current residential use and concerns which have been raised from the neighbouring property relating to noise and disturbance, overlooking and loss of privacy. A revised plan was submitted (Ref: WY 22 30.03B) which shows the retention of the existing Hawthorn hedge along the boundary supplemented with further indigenous species of trees and natural hedgerows to form a 4-6m landscape barrier to screen the site from this neighbouring boundary. Moreover, the approval would be subject to standard occupancy conditions where limited occupancy affords the opportunity to retain a period of tranquillity in rural areas. Moreover, SBC Environmental Health have been consulted and raise no objection to the proposal as presented. With these factors in mind, I do not consider that the proposed development would result in any significant impacts to the living conditions of this neighbouring property to a degree that would warrant a refusal, consistent with policy DM14 of the Local Plan (2017)

### Highways

- 7.15 On highways issues, this would be a relatively modest additional facility to the existing complex of holiday parks. The likely increase in traffic generated would be modest compared to the existing traffic using the network of roads that serves the wider park complex. First Avenue is a straight, unmade access road that is considered suitable to serve the relatively small scale facility proposed here. I have consulted with KCC Highways and while First Avenue is an unmade road, they have advised that they would not be able to recommend refusal based on the condition of the access road (which in this instance is privately owned/maintained) on the basis that the existing access from Plough Road has suitable visibility. Overall, I am satisfied that the proposal would not lead to highway safety concerns consistent with the aims of policies DM6 and DM14 of the Local Plan (2017).
- 7.16 In line with the adopted SBC Parking Standards SPD, two spaces are provided per caravan with additional visitors parking accommodated on the front forecourt. As such, the proposal complies with the requirements of SBC Parking Standards therefore the development would provide suitable parking provision for occupiers.

### Landscaping

- 7.17 Aside from the need to remove some small trees (fruit trees and a walnut) as shown on the drawings, trees and hedging would be retained to provide landscaped boundaries. The trees to be removed are not considered to be of significant amenity value and would be replaced by new specimens, strategically placed to enhance the appearance of the site. Additional planting of indigenous tree and hedgerow species is proposed to 'gap-up' deficiencies in the existing boundary treatments and this would be subject of planning conditions.

### Ecology

- 7.18 This application will result in a net increase in visitors to the site where impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. The North Kent Strategic Access Management and Monitoring Scheme Board (SAMMS) has identified that such impacts are also likely from new holiday accommodation (including caravan parks), and recommends that a tariff is applied per plot as mitigation. This tariff would be used to fund measures within the Birdwise Mitigation Strategy. Should the application be approved, the applicant has agreed to pay the fee set at £275.88 per caravan, a total of £5517.66 is therefore required. Subject to receipt of payment, the application would be considered acceptable in terms of impact upon the SPA. For the sake of thoroughness I have set out an appropriate assessment below.
- 7.19 The development would be unlikely to result in any unacceptable impacts to biodiversity on the site. KCC Ecology raise no objection, subject to precautionary and enhancement conditions, which are included in the recommended list below.
- 7.20 On the basis of the above, I consider the development would not result in unacceptable impacts to biodiversity and would accord with Policy DM28 of the Local Plan.

## 8. CONCLUSION

- 8.1 This application presents the opportunity to enhance the leisure and tourism economy through the development of a site specifically within a wider holiday park designation under policy DM4 of the Local Plan (2017). The additional caravans would provide job opportunities and bolster the viability of local shops, pubs, etc and for this reason there are clear economic and social benefits to the proposal. No adverse amenity harm or negative effects have been identified that that would outweigh the benefits of approving the development, for this reason it is recommended that planning permission is granted.

## 9. RECOMMENDATION

That planning permission is GRANTED Subject to receipt of the relevant SAMMS Payment and the following conditions:

### CONDITIONS to include

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with drawing title number(s): Site location plan, WY 22 30.03B

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

3. No more than twenty (20) caravans shall be stationed on the site at any one time, and the caravans shall be sited in the location shown on drawing Ref: WY 22 30.03B (as amended).

Reason: In the interests of the amenities of the area

4. No caravans shall be occupied between 3rd January and 28th February (or 29th February in any leap year) and no caravans shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet/caravan owners within the application site, stating that:

- (a) The chalets/caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and

- (b) No chalet or caravan shall be used as a postal address; and

- (c) No chalet or caravan shall be used as an address for registering, claiming or receipt of any state benefit; and

- (d) No chalet or caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within

the meaning of the Rent Acts 1968 and 1974; and

- (e) If any chalet or caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licenses.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

5. Any chalet or caravan that is not the subject of a signed agreement pursuant to condition 4 shall not be occupied at any time.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

6. The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

7. 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 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.

8. 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 neighbouring 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.

9. No construction activities shall take place, other than between 0730 to 1800 hours Monday to Friday and 0800 to 1300 hours Saturday, with no working activities on Sunday or Bank Holiday.

Reason: In the interests of amenity

10. No development works shall take place (including any ground works/vegetation clearance), until a precautionary mitigation strategy has been submitted to, and approved by, the local planning authority. The content of the strategy will include:

- The objectives for the proposed works;
- The extent and location of proposed works shown on appropriate scale plans;
- Details of works timing and expected duration;
- Proposed sensitive working methods, including: protective fencing of retained trees and hedgerows, removal of roofing materials by-hand during the bat activity season, Reasonable Avoidance Measures (RAMs) for protected species and sensitive timing of works for breeding birds;
- Contingency plans should a protected species be encountered during works;
- Details of those responsible for implementing the mitigation strategy.

The works shall be carried out in accordance with the approved details for the full duration of the construction period.

Reason: In the interests of Biodiversity

11. Prior to occupation, a lighting design plan for biodiversity shall be submitted to and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, as well as the expected light spill in lux levels, to demonstrate that areas to be lit will not adversely impact biodiversity. Specific regard should be given to avoiding lighting impacts on retained trees, hedgerows, and proposed bat/bird boxes. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.



Reason: In the interests of Biodiversity

12. Within six months of works commencing, details of how the development will offset loss and provide enhancement for biodiversity will be submitted to, and approved by, the local planning authority. This will include a native species-only landscaping scheme. The approved measures will be implemented and retained thereafter.

Reason: In the interests of Biodiversity

13. Prior to the use of the development hereby permitted commencing, a scheme for the provision of electric vehicle charging points (EVCP) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first use of the development hereby approved.

Reason: In the interests of climate change and lowering pollution levels.

14. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall be based upon the indicative landscaping proposals shown on the block plan WY 22/130.03B and shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

16. 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 tree 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 interest of visual amenities of the area and encouraging wildlife and biodiversity.

17. The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of any of the dwellings hereby permitted. At least the first 5 metres of the access from the edge of the highway shall be constructed of a bound surface.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

18. Upon first occupation of any caravan and for the duration of the use of the site as a holiday park, the existing dwelling shall be only used for the purposes of a managers or staff accommodation connected to the operation of the holiday park hereby permitted.

Reason: Because any unrelated use or occupation of the dwelling would be likely to give rise to unacceptable amenity impacts.

## SCHEDULE

The Park operator must:

- 1) Ensure that all chalet/caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
- 2) Hold copies of documented evidence of the chalet/caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
- 3) On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
- 4) Require chalet/caravan users to provide new documentation if they change their main residence; and
- 5) Send all written communications to the main residence of the chalet/caravan user; and
- 6) Not allow postal deliveries to the chalet/caravan or accept post on behalf of the chalet/caravan users at the park office; and
- 7) Ensure that each chalet/caravan is to be used for holiday use only and that no chalet/caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
- 8) Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

### **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.

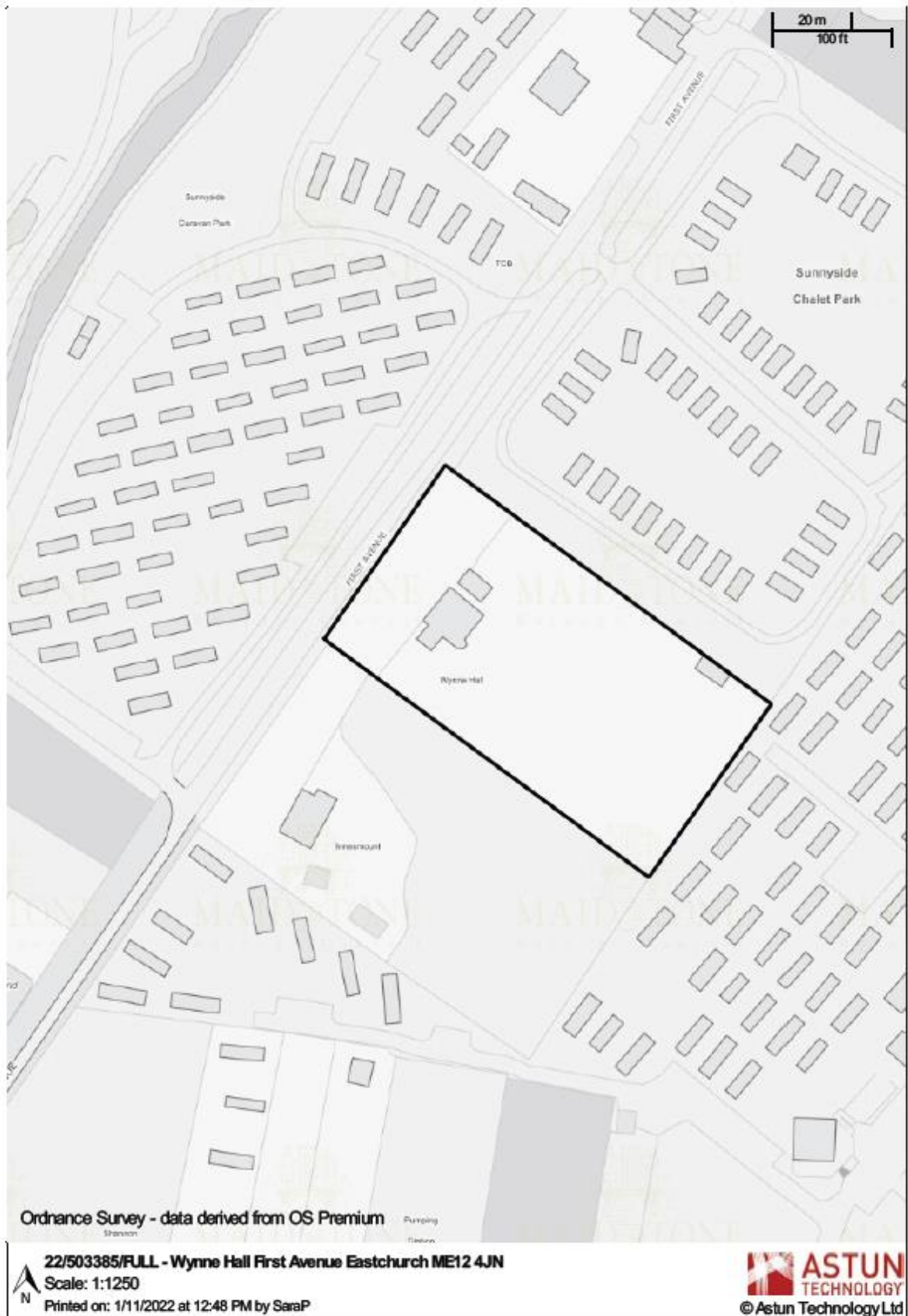
### **The Council's approach to the application**

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.



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<b>2.4 REFERENCE NO - 20/505059/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Retention of existing chalet bungalow with amended residential curtilage and erection of 10 dwellings (7 x three bedrooms and 3 x four bedrooms) with associated access, parking, amenity, and landscaping		
<b>ADDRESS</b> Willow Trees 111 High Street Newington Sittingbourne Kent ME9 7JJ		
<b>RECOMMENDATION</b> 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.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed development would provide additional market housing market adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. 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 any limited harm.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Newington Parish Council Objection, and called in by Councillor Horton		
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> UK Land Investors Ltd <b>AGENT</b> DHA Planning
<b>DECISION DUE DATE</b> 09/04/21	<b>PUBLICITY EXPIRY DATE</b> 25/10/22	<b>CASE OFFICER</b> Corinna Griffiths

**Planning History**

SW/80/0329

CAR PORT

Approved pre 1990 Decision Date: 07.05.1980

**1. DESCRIPTION OF SITE**

- 1.1 The application site comprises an existing chalet bungalow within an unmanaged area of land containing orchard fruit trees, which are classified as BAP Priority Habitat. The plot is approximately 0.75 hectares in area.
- 1.2 The site is situated to the north of the High Street (A2) in Newington. Part of the site is within the settlement boundary (the existing dwelling and land to front/south of the dwelling). The remainder of the site is outside the settlement boundary, and therefore within the open countryside.
- 1.3 To the east and west of the site are single residential dwellings; to the north is a new housing development known as 'Watling Place' off Merton Drive, including a SANG (suitable alternative natural green space) which the application site adjoins. To the south is the A2; beyond this are residential dwellings.

- 1.4 In terms of boundary treatments, the southern frontage with the A2 comprises a dense evergreen tree belt and existing driveway to Willow Trees. The northern boundary comprises a row of poplar trees and scrub and has views to the SANG and new housing estate to the north. The western boundary borders a house and the retained chalet bungalow.
- 1.5 To the east of the site is Public Footpath ZR59, which runs from the A2 and links to a wider network of public rights of way, and acts as a pedestrian link to the A2 from the SANG and housing estate at Watling Place. The boundary between the site and PROW is a dilapidated low-level post and wire fence.
- 1.6 The site is at a lower land level than the A2, as the site slopes south to north from the High Street, before levelling off approximately 30m into the site. There is an initially drop of approximately 2.5m to the north of the southern site boundary, which gradually lowers to approximately 5m in comparison to the A2.

## **2. PROPOSAL**

- 2.1 The application proposals are for the retention of the existing chalet bungalow (Willow Trees) with amended residential curtilage, and for the erection of 10 dwellings (7no. three bedroomed dwellings and 3no. four bedroomed dwellings), with associated access, parking, amenity, and landscaping.
- 2.2 The existing dwelling in the south-western part of the site would be retained, with the extent of residential curtilage associated with the dwelling being amended as part of these proposals. The remainder of the site would be a development of 10 new dwellings, and associated access, parking, amenity and landscaping, to be situated in the south-east and northern parts of the site.
- 2.3 To the east of the existing dwelling, 2no. two storey detached dwellings are proposed comprising plots 1 and 2. The access road would wrap around these plots and lead to the north of the site where the proposals comprise a detached two storey dwelling (plot 10), and two rows of three storey terraced dwellings (plots 3-9). Plots 1 and 2 would front onto the internal access road, whereas plot 10 would front onto the internal access road and public right of way to the east; plots 3-9 to the northern part of the site would front onto the pedestrian footpath, and the SANG beyond the northern site boundary.
- 2.4 The proposed external materials palette includes brick, render and boarding under slate roofs, with integrated photovoltaic slates in the interests of delivering renewable energy technology to the proposals.
- 2.5 The existing vehicular access would be retained for the existing chalet bungalow, and a new vehicular access is proposed off the High Street (A2). The access road would serve the proposed 10no. residential dwellings, with a turning head in the northern half of the site.
- 2.6 The proposals include two pedestrian connection points to the existing PROW, and the boundary between the site and the PROW will consist of low-level planting.
- 2.7 Plots 1, 2 and 10 are 4-bedroom dwellings which will have three parking spaces per dwelling. Plots 3-9 are 3-bedroom dwellings which will have two parking spaces per



dwelling, in an allocated parking courts. Each dwelling will have an EV charging point, and three visitor parking spaces are proposed which will each an EV charging point.

- 2.8 The existing frontage tree screen will be retained except for trees removed to allow for the creation of the new vehicular access and junction. The areas of site to be retained as an enhanced orchard area as shown in hatched green on drawing number 22/08/04 Rev G and is located within the garden of the retained dwelling, and to the south of the access road.
- 2.9 The application proposal originally sought the demolition of the existing dwelling and erection of 20 dwellings. The proposal was amended during the application process to the current proposal which seeks the retention of the existing bungalow, and erection of 10 dwellings.

### 3. SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.75 ha	0.75 ha	None
Approximate Ridge Height (m)			
Approximate Eaves Height (m)			
No. of Storeys	1 ½ (chalet bungalow)	3 (chalet bungalow; 2 storeys and 3 storeys)	+ 1 ½
Parking Spaces		26 spaces (new development)	+ 26
No. of Residential Units	1	11	+ 10
No. of Affordable Units	0	0	none

### 4. PLANNING CONSTRAINTS

- 4.1 Part of the site is within the settlement boundary (existing dwelling and land to front/south of the dwelling). The remainder of the site is outside the settlement boundary, and therefore within the open countryside.
- 4.2 Potential Archaeological Importance
- 4.3 Public footpath ZR59 is adjacent to the proposed development along the eastern boundary.
- 4.4 The site is adjacent to the Newington AQMA, and the proposed vehicular access connects to the AQMA.

### 5. POLICY AND CONSIDERATIONS

- 5.1 National Planning Policy Guidance (NPPF) and National Planning Policy Guidance (NPPG).

## 5.2 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 28 – (Biodiversity and geological conservation), DM 29 – (Woodlands, trees and hedges),

## 5.3 Supplementary Planning Guidance (SPG):

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

## 6. LOCAL REPRESENTATIONS

### 6.1 24 objections have been received. A summary of the points raised in the objections is set out below:

- Outside established village boundary. Would harm the character, appearance, and intrinsic amenity value of the countryside.
- Newington has exceeded its housing allocation.
- Increased traffic and congestion along busy A2 corridor
- Increased air pollution, harmful impact on air quality and health.
- The A2 between Rainham and Key Street roundabout goes through 3 Air Quality Management Zones (Rainham, Newington and Keycol Hill).
- There would be a harmful cumulative impact on air quality. The application should be refused, similar to the Pond Farm appeal/.
- New junction close to existing junction onto A2 from Eden Meadows, and close to pedestrian refuge resulting in a highways safety issue.
- Public transport connections within Newington are poor and infrequent.
- Application needs to view in conjunction with other planning applications in Newington.
- Development out of keeping with surrounding character. Overdevelopment for 20 dwellings on plot of a single dwelling.
- Residential amenity harm from overlooking; window distances; and loss of light.

- A large part of the site is considered to be at medium to high risk from surface water flooding. Underground drainage culvert on the site.
- Removing existing vegetation would increase localised flood risk.
- Existing drainage (sewerage) issues in the east end of Newington High Street, existing foul sewerage system is at capacity
- The main railway line in Newington has suffered landslips due to localised flooding problems in Newington
- Loss of bungalows and cottages unacceptable
- Insufficient amenities and infrastructure within Newington.
- Site has high biodiversity value from old orchard trees and being left unmanaged.
- Loss of orchard, being replaced with concrete
- Harm to the Grade II listed building opposite. (Swale BC has previously refused planning to a small development adjacent but ignored this reason when permitting Eden Meadow, a similarly large development in the Council's favour.)
- Any development in this area should be preceded by field based archaeological investigation at the developer's expense.
- Risk of closure of the PROW adjacent to site.
- Covenant on the site to prevent redevelopment

## **7. CONSULTATIONS**

### **7.1 Newington Parish Council objects to the application.**

7.2 The Parish comments dated February 2021; December 2021; and July 2022 have been appended to this report in full. A summary of the objection is provided below:

- Most of the proposed development is outside the defined urban boundary of the village (citation of various appeals for residential development that have been refused).
- This application is against the principles of the Swale local planning authority's development plan and Swale can now demonstrate a 4.8 year housing supply.
- The site is not included in any of the relevant, more recent, Swale Local Plan, or Local Plan Review evidence gathering, and therefore contrary to adopted policies.
- Proposal would result in negative highway impacts: Increased traffic due to recent permitted schemes within Newington (such as the Persimmon and Eden Meadows development); in cumulative terms, the proposed development has the potential to lead to significant adverse transport and air quality impacts in Newington and that the

proposed site access presents a significant highway safety issue due to the inadequate length of the proposed right turn lane.

- Insufficient parking provision
- Highway safety concerns specifically related to the location of the access opposite the vehicular access to Eden Meadows,
- Concerns regarding potential drainage and sewerage issues
- Harm to the landscape as a result of the proposed development being outside of the built-up area boundary,
- Harm to the Air Quality of Newington (citation of various appeals)
- The proposal would not be 'sustainable' development
- The revised plans would result in greater loss of orchard (a priority habitat) than the original submission in 2021.
- Newington Parish Council have commissioned reports to support their objections, including from the University of Kent regarding air quality, and Railton Transport Planning Consultancy Ltd regarding the submitted transport assessment.

**7.3 National Highways – No objection, subject to a condition seeking a Construction Management Plan**

7.4 We will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case, particularly within the vicinity of the M2 and A249. The then Highways England responded to the consultation on the original 20 dwelling proposals on 19 January 2021, recommending 2 conditions: (1: A Grampian condition relating the M2J5; and 2) the need for a Construction Management Plan).

7.5 We have reviewed the updated Transport Statement (dated May 2022) submitted in support of the revised proposals (for 10 dwellings) and note that traffic generation and hence SRN impact will be lower than previously accepted by us as part of the original proposals. As before, we are content to leave the matter of seeking any contributions towards the costs of the A249/A2 KCC Highways led junction improvement to KCC.

7.6 Therefore, we are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network in the vicinity of the site (SRN Road Name(s)), provided that the following condition is imposed, (reflecting the DfT Circular 02/13 Para 8 -11 and MHCLG NPPF 2021 Para 110-113 tests). Given that the National Highways RIS M2J5 scheme is now under construction, we have no need to recommend the Grampian Condition. Therefore, the only condition we now recommend is attached to any consent are details of a Construction Management Plan.

**7.7 Natural England raise no objection** subject to the appropriate financial contribution being secured (namely £ 275.88 for each dwelling), Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site on the coastal Special Protection Areas and Ramsar Sites. However, due to

the People Over Wind ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment. It is for the Council to decide whether an Appropriate Assessment is required, and Natural England must be consulted.

An Appropriate Assessment has been carried out Natural England were consulted. Natural England raise no objection to the proposal, subject to securing mitigation (SAMMS Payment).

- 7.8 **Southern Water raise no objection**, subject to an informative regarding foul sewerage and surface water disposal.
- 7.9 **KCC Archaeology – raises no objection. Advises there is potential for significant archaeological remains to occur on this site and to be affected by proposed development, and is satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate.**
- 7.10 “I note that the site is located to the north of the A2 in an area that comprises a bungalow, garden and an attached orchard. The proposed development comprises the retention of the bungalow and the construction of ten dwellings in the orchard area together with access, parking and landscaping.
- 7.11 The application documentation includes an Archaeological Desk based Assessment by SWAT Archaeology (October 2020). The desk based assessment provides a good description and assessment of the archaeological potential of the area, rightly recognising the high potential in Newington for remains of Iron Age and Roman date and moderate potential for Bronze Age remains. SWAT have drawn on their experience of the excavations to the immediate north west of the present site where very significant remains of mainly Iron Age and Roman date were investigated in advance of development.
- 7.12 Although the site lies just to the south of the residential site it is important to consider the topographical aspects of the site, the location and orientation of findings to understand the potential of the present site.
- 7.13 The archaeology found on the site to the north focuses on a Roman and possibly earlier road that ran from the Medway across the site to join the main Roman road, Watling Street, that runs between London and the Kent coast. Watling Street follows the approximate line of the A2. The archaeology to the north west included a roadside temple, burials and an area of industry set within enclosures adjacent to the branch road. The branch road generally runs in a north west to south east direction and would adjoin Watling Street to the east of the present site. Roman settlement activity and a rich cemetery are known to lie further to the east at this projected junction. Investigations closer to the road on the 99 High Street site found that the area nearest Watling Street was relatively clear of the intense archaeology seen to the north. Furthermore the area immediately north was seen to lie within a deep natural valley that the Roman road turned to follow before heading south east. The Roman archaeology within the valley

was deeply buried beneath colluvial deposits. It's likely that the valley extends through the present application site and across and south of the A2.

- 7.14 I note that in the desk study observations made during a walkover are that there is some evidence of a drop from the A2 into the site and some evidence of terracing within the grounds to the adjacent property. How such terracing may have affected archaeological deposits is unknown. The reason for the rise to the road may have resulted from this having been placed on a slight causeway across the valley. The potential impact of development is not known given the uncertainty of potential depths to archaeology on this site.
- 7.15 Given the above I conclude that there is potential for significant archaeological remains to occur on this site which may be affected by the proposed development. Given the layout of the archaeology seen to the north it is unlikely that the intense activity seen there extends into the present site considering the orientation of the roads, the presence of the valley and the investigations undertaken closer to the road adjacent to 99 High Street. However there remains a high potential for significant archaeology to be present on the site and this may be impacted by development groundworks. Archaeological evaluation through trial trenching is needed to better understand the archaeological potential and inform mitigation of the impacts of development
- 7.16 I am satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate.”
- 7.17 A condition is recommend to enable a staged approach to evaluation and mitigation of the site's potential impacts on archaeology” (See condition 3).
- 7.18 **KCC Biodiversity – no objection, subject to conditions**
- 7.19 We have reviewed the ecological information submitted in support of this planning application and advise that sufficient information has been provided. If planning permission is granted, we advise that a condition securing the implementation of a biodiversity method statement, ecological enhancements and habitat creation/management plan is included. Suggested wording is provided at the end of this document. Developer Contributions will need to be provided to mitigate against recreational pressure on a Special Protection Area due to the increase in dwellings within the zone of influence; 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.
- 7.20 **KCC Developer Contributions request the following contributions towards infrastructure, and a condition seeking high-speed broadband connections:**

	Per 'applicable' flat	Per 'applicable' House (x10)	Total	Project
<b>Primary Education</b>	£1,700.00	£6,800.00	£68,000.00	Towards the construction costs of a new Primary School

<b>Secondary Education</b>	£1,294.00	£5,176.00	£51,760.00	Towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1
<b>Secondary Land</b>	£658.93	£2,635.73	£26,357.30	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 and age-restricted dwellings.

	<b>Per Dwelling (x10)</b>	<b>Total</b>	<b>Project</b>
<b>Community Learning</b>	£16.42	£164.20	Contributions requested towards additional equipment and resources at Sittingbourne Adult Education Centre
<b>Youth Service</b>	£65.50	£655.00	Contributions requested towards additional resources for the Youth service in Sittingbourne
<b>Library Bookstock</b>	£55.45	£554.50	Contributions requested towards additional services, resources, and stock at Sittingbourne Library
<b>Social Care</b>	£146.88	£1,468.80	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
	All Homes built as <b>Wheelchair Accessible &amp; Adaptable Dwellings</b> in accordance with Building Regs Part M 4 (2)		
<b>Waste</b>	£183.67	£1,836.70	Towards additional capacity at the HWRC & WTS in Sittingbourne

#### 7.21 KCC Flood and Water Management raise no objection subject to conditions

7.22 14/06/22: Kent County Council as Lead Local Flood Authority have reviewed the amended FRA and drainage strategy and although major changes within the layout have been made the Drainage strategy ultimately remains unchanged. Therefore, we have no further comment to make on this proposal and would refer you to our previous response dated 12 February 2021 and the conditions contained therein

7.23 12/02/21: Kent County Council as Lead Local Flood Authority have reviewed the Flood Risk Assessment prepared by Lustre Consulting dated October 2020 and agree in principle to the proposed development. The proposals seek to utilise a piped network

draining into orchard planting with rain gardens prior to discharging at 2l/s into an existing land drain. We note that the exact location, size and condition of the land drain pipe that the proposed drainage is to connect to is to be confirmed during detailed design. Land drainage consent may also be required for any works within the watercourse in the southern area of the site. Consent in this instance will be required from Kent County Council.

**7.24 KCC Highways raise no objection, subject to conditions, and a Section 106 contribution towards Key Street highway improvements to the value of £14,400.**

7.25 15/09/22: I note the amended drawing that has been submitted since my previous response to show the swept path analysis of the maximum size refuse vehicle manoeuvring through the development, and I am satisfied that this does not alter my views on the proposals. Consequently, I can confirm that I adhere to the recommendation made in my response dated 15<sup>th</sup> July 2022

7.26 15/07/22: I am satisfied that the amendments have addressed the points that I had raised in my last response, as the labelling has been clarified with regard to the 5.5m wide junction, and the footway has been extended into the development in order to provide a route into the shared space. I would adhere to my previous comments regarding the acceptability of the off-site highway works and traffic impact on the local highway network, and therefore 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.

7.27 15/06/22: *Traffic Impact*: You will be aware from my previous consultation response that I had raised no objection on behalf of the Highway Authority to the proposed development at that time, and I note that the scheme has now been reduced in scale by half to provide just 10 dwellings. Given that the number of the vehicle movements generated by 20 dwellings was considered acceptable when looking at the capacity of the highway network, I remain satisfied that the smaller scheme proposed would not alter that view. As before, the development would still be expected to contribute towards the recovery of the HIF money awarded to Kent County Council for carrying out highway capacity improvements to Key Street roundabout, as was stipulated by the Department for Communities and Local Government. However, the value would also be reduced from had been requested previously, and the Highway Authority will now seek a contribution of £14,400 based on the recovery formula being applied to planning proposals.

7.28 As previously advised, due to that junction being overcapacity at present and unable to accommodate the impact from cumulative development, the occupation of dwellings on applications being consented is being held back until the contract for the highway improvement scheme has been awarded. Should the Local Planning Authority be minded granting planning approval, a Grampian condition will need to be imposed to restrict occupations until that trigger has been reached.

7.29 *Proposed Site Access Junction*: I have no objection to the revised site access location and accept that the original Stage 1 Road Safety Audit that was carried out can still be applicable to this revision. Whilst the swept path analysis for the refuse vehicle shown on



drawing T-05 Rev P1 does indicate that it would take up the full width of the junction within the access road, it is appreciated that the limited number of dwellings served and infrequent visits by the refuse vehicle would not give rise for concern, as there would be sufficient capacity within the filter lane to accommodate a waiting car clear of obstructing the refuse vehicle.

- 7.30 For clarity, the labelling on the submitted drawings should be amended to correct the width specified for the access road, as it states 4.8m instead of the 5.5m the access has been drawn to.
- 7.31 In addition, the footways leading into the site should continue further around the radii than has been shown, so that they deposit users into the shared space beyond the rumble strip/ramp transition, rather than within the carriageway and too close to the junction.
- 7.32 *Development Layout:* It is assumed that the applicant still intends to not offer the development for adoption by the Highway Authority, and it will remain in private management. I will therefore not comment on the internal layout but would ask that the refuse vehicle swept path analysis is clearly demonstrated to ensure that the vehicle can manoeuvre through the site and turn around within it. Unfortunately, the drawing that has been submitted to show this, drawing number T-01 Rev P1, does not appear to include the analysis as intended.
- 7.33 **KCC Public Rights of Way raise no objection, subject to a contribution of £8625 to improvements to Public Footpath ZR59 (to provide a 1.2m wide all weather surface).**
- 7.34 Public footpath ZR59 is adjacent to the proposed development. A copy of the current Public Rights of Way Network Map showing the line of this path is enclosed. The existence of the right of way is a material consideration. Should consent be granted, the development will impact upon the public use, enjoyment and amenity of the Public Right of Way.
- 7.35 The amended application appears to be much improved from the original application. As identified in the Design and Access Statement the footpath is narrow and uninviting. Removing the dilapidated fence and creating a more open aspect will improve public enjoyment and use of the path.
- 7.36 Should you be minded granting consent for the revised proposal I would request the following S106 developer contributions are sought in respect of the development as they are considered to be:
- necessary to make the development acceptable in planning terms,
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- 7.37 A sum of £8 625 is requested to provide a 1.2 metre wide all-weather surface to address the increased use of Public Footpath ZR59 to access the wider community and countryside. This contribution should be available when 50% of dwellings are occupied. Kent County Council request the opportunity to comment on the draft section 106

agreement. Please advise this department directly when the decision has been made to ensure the proposed works/ improvements can be co-ordinated in a timely manner.

- 7.38 **Kent Police request a condition regarding secure design.**
- 7.39 **MKIP Environmental Health raise no objection subject to conditions; and securing air quality mitigation (damage cost and additional mitigation measures) via a S.106 agreement.**
- 7.40 08/09/22: Environmental Health have reviewed the recently amended air quality mitigation statement which it is deemed acceptable in principle. However, to ensure what is being offered will be delivered there are still some unknowns. If residents choose to not use either the discounted travel tickets or ebike vouchers, then what is the alternative for this money to be spent. In addition, there is limited information available about the discounted tickets. I think it would be sensible to add a condition (or via S.106) to ensure what is being proposed will be delivered. Therefore, I support the statement however would like a condition (or clause within the S.106) imposed to ensure not only that the mitigation measures are delivered, but information on how they will be managed and what alternatives are being considered if tickets are not used. This could possibly also be written into the agreement.
- 7.41 23/06/22: I have reviewed the amended AQA completed by Ensafe 23<sup>rd</sup> May 2022 for the development that has now reduced in size from 20 to 10 dwellings. The method for the model verification process is acceptable.
- 7.42 The consultant has shown committed development flows in the modelled scenarios. The cumulative impacts seem lower when compared to other AQAs for this area which could be due to the approach taken or data inputs. Appendix D includes a sensitivity analysis which provides a worst-case scenario by emitting the future Emission Factors to the model. Scenario 2 on page 66 include committed development with two receptors sites continuing exceed the AQO (R13 and R14) and with R13 to R18 showing moderate to slight impacts. I have reviewed various AQA's for this area, which have also taken the conservative approach, but these have shown substantial cumulative impacts for most or all receptor sites.
- 7.43 It seems some relevant Rainham sites have not been included, as only one is showing (page 42). Can this please be checked by MBC planning to ensure all relevant development sites have been included?
- 7.44 I am glad to see the consultant has provided two assessments with and without emission factors, as this shows how significant they can be when applying them and provide insight between the two, when considering impacts. Various factors could influence behaviour changes such as the Covid pandemic or economic changes which may show a decline in vehicle improvements. Therefore, it is essential to show both scenarios.
- 7.45 Objections have been raised in other applications by Environmental Health (EH) relating to the cumulative impact to the Air Quality Management Areas/ nearby receptors (Newington and Keycol Hill). Following recent discussions, we have asked for further information to aid our consideration of these applications and for applicants to provide the following:

- A breakdown of how the damage cost calculation to be provided for Air Quality mitigation would be spent. It is advised that the money would be put towards encouraging the use of Public Transport. For example, the provision of rail ticket, bus tickets etc.
  - EH need more attention to be spent on quantification of benefits i.e., for a mode shift or reduction in trip rates as part of this.
  - Proportionate mitigation measures above the provision of the damage cost calculation should be considered and should not include policy required provisions i.e., car charging units.
- 7.46 It is important that the Council can be assured that the development individually and cumulatively would not result in exceedance of prescribed AQOs. It is hoped in breaking down the specific mitigation delivered by the damage cost calculation, and hopefully its positive promotion of public transport, that it will provide a clear picture as to the solutions to the cumulative impacts in Newington.
- 7.47 Recommendation: The applicant has provided an amended air quality mitigation statement completed by Ensafe (23<sup>rd</sup> May 2022) which breaks down how the damage cost that would be spent. I would recommend this is reviewed to provide additional mitigation keeping in mind there are potential cumulative impacts that need to be accounted for.
- 7.48 21/04/21: Requested an updated air quality assessment to assess the air quality impacts from increased traffic flow on both receptor sites along the A2 within and between Newington and Keycol Hill; the cumulative impact needs to be reconsidered to consider transboundary effects; and to provide details of a scheme of mitigation beyond the value of the damage cost. Outlined an objection to the application due to insufficient air quality information.
- 7.49 Regarding other Environmental Health considerations, the comments raise no objection to contamination issues subject to a condition seeking the submission of a phase 1 contaminated land assessment. The comments request other the following other conditions; construction and environmental health statement; construction hours condition; EV charging; and low NOx gas boilers.
- 7.50 **SBC Affordable Housing Manager raises no objection, and no affordable housing is sought.** The Affordable Housing Manager notes that this application now proposes a reduction of delivering 20 new build homes to 10. Therefore, affordable housing policy DM8 no longer applies as this is below the 11-dwelling threshold, and there is no longer a requirement to provide affordable homes on this site
- 7.51 **SBC Greenspaces Manager raises no objection, subject to a contribution of £593 per dwelling towards Formal Sport and £446 per dwelling towards Open Space.**
- 7.52 Limited opportunity to provide open space on site although pleased to see the retention of most of the frontage tree screen and linkage to the SANG on the adjacent development.

7.53 Confirm what open space is included within the development will not be transferred to the Council and as such alternative method of management and maintenance needs to be found. I also confirm that we would seek a contribution toward off site enhancement/increase in capacity of both Formal Sports and Play/Fitness facilities within Newington Recreation Ground as identified in the Swale Open Spaces and Play Area Strategy 2018-22. Formal Sport - £593.00 per dwelling and Play/Fitness - £446.00 per dwelling

## 8. APPRAISAL

### Principle of Development

- 8.1 Part of the application site comprising the existing dwelling, and land adjacent to the dwelling are situated within the built-up area boundary of the settlement of Newington. The remainder of the site adjoins the built-up area boundary and is therefore located just outside the built-up area boundary. The proposed new residential dwellings would be situated outside the defined boundary. 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.
- 8.2 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 majority of the site (and proposed new residential development) lies outside of the built-up area boundary it is considered to be located in the open countryside.
- 8.3 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.
- 8.4 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.
- 8.5 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 date<sup>8</sup>, 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 proposed<sup>7</sup>; 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.*

8.6 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.

8.7 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)’.*

8.8 (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.

8.9 The proposed development would consist of residential development and would not incorporate direct commercial/economic benefits.

8.10 The provision of residential housing does generate passive economic benefits as additional population can see additional spending in local centres. The development would have some short-term benefits related to the employment generated throughout the construction process. The provision of jobs and require spending in the locality because of development would see short term economic benefit.

8.11 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.

8.12 (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

8.13 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. The provision of 10 market houses would contribute to the provision of housing for present and future generations.

- 8.14 The application site is within a 10minute walk from Newington train station and shops and services along Newington High Street. The Manual for Streets guidance indicates that:
- 8.15 '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 is within walking distance of most residents'.
- 8.16 The access to the wider countryside and to services would be within sustainable walking distance. The proposal would provide two pedestrian connection points to the existing PROW (ZR59) which runs along the eastern boundary; and would secure a contribution to improvements to Public Footpath ZR59 (to provide a 1.2m wide all-weather surface). As such the proposals would help integrate the new dwellings within the existing settlement of Newington and help provide improved links to the SANG to the north of the site, and wider network of public footpaths. The proposal would provide a degree of support for the communities' health, social, and cultural wellbeing.
- 8.17 The proposal would be considered to provide significant social benefits in considering the site's overall social objectives.
- 8.18 (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.
- 8.19 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.
- 8.20 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 area which does sit outside of the defined boundary of the built-up area of Newington.
- 8.21 The site is situated to the north of the High Street (A2), and the site is on a lower land level than the High Street (A2). The impact to the landscape will be considered below. However, it is noted that the proposal would have limited impact due to the retention of existing mature tree planting along the southern and northern site boundaries; and the proposal would effectively be an infill development with existing residential development to the east and west of the site.
- 8.22 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.

- 8.23 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.
- 8.24 The proposal would be considered to have a moderate weight in meeting an environmental objective.

### **Landscape/Visual Impact**

- 8.25 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.
- 8.26 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.
- 8.27 The application site is not located within either a national, Kent or local land designation.

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, and
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.

- 8.28 In accord with the Swale Landscape Character and Biodiversity Appraisal 2011 the site is located within the Iwade Arable Farmlands landscape designation. The site sits on the edge of this designation due to its proximity to the built area of Newington. The site is at the southern boundary of this character area.
- 8.29 The key characteristics of the area are detailed as being medium-large scale fields, isolated farmsteads and cottages, isolated historic properties and mixed 20<sup>th</sup> century development, valley and hill setting to village of Newington with landmark Church, cereal production has replaced traditional orchards, and fragmentation and extensive loss of hedgerows. The landscape condition is poor. The sensitivity identifies this is a moderately sensitive area. Intermittent, long views are afforded across this landscape of large arable fields. However, the gently undulating topography dispersed tree cover and broken hedgerows, help to provide a general sense of enclosure.
- 8.30 The application site consists of an existing residential dwelling, with unmanaged area of land containing orchard fruit trees within the garden area of the dwelling. Either side of the site to the east and west are residential dwellings, to the south is the High Street (A2)

with residential dwellings on the opposite side of the highway, and to the north is an area of open space (SANG) which forms part of a modern residential development at Watling Place.

- 8.31 The site has existing defined boundaries, including a mature evergreen tree belt on the southern boundary, row of poplar trees on the northern boundary, planting and fencing with the neighbour to the west (109 High Street). To the east is a dilapidated low fence between the site and PROW, and beyond this the neighbouring dwelling Ellens Field has a mix of planting and close boarded fencing along its boundary with the PROW. The site is therefore visually contained and would be considered as an infill development given the relationship with existing neighbouring residential dwellings.
- 8.32 The proposals include the retention of existing mature planting along the northern boundary with the SANG to the north, and on the southern boundary the mature trees will be retained, except for a section to allow for the new vehicular access into the site.
- 8.33 Immediately to the east of the site is PROW ZR59, the views and user experience of this footpath will change because of the proposed development. The proposals include two new pedestrian access points to the footpath; and provide a contribution to enhance the surface of this footpath (to provide an all-weather surface) which will improve the overall quality of the footpath. In terms of the visual impact sections of existing trees and planting along the eastern boundary will be retained, with additional planting proposed, and a soft boundary comprising low level planting is proposed between the site and PROW.
- 8.34 Any approval would be conditioned to ensure that the proposal would retain existing tree coverage (as identified on the submitted plans), whilst seeking a full detailed landscaping plan.
- 8.35 Given the retention of existing mature planting along the northern and southern site boundaries; and visually contained nature of the site, the proposal would only have a localised impact, rather than longer wider implications to landscape views. The site sits outside of any designated landscape, and it is considered that the proposal would not result in adverse landscape impacts.

### **Design/Layout**

- 8.36 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.
- 8.37 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.



- 8.38 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.
- 8.39 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.
- 8.40 The proposed new dwellings would be situated in the eastern and northern parts of the site. To the east of the existing dwelling, 2 x two storey detached dwellings are proposed comprising plots 1 and 2. The access road would wrap around these plots and lead to the northern part of the site where the proposals comprise a detached two storey dwelling (plot 10), and two rows of three storey terraced dwellings (plots 3-9). Plots 1 and 2 would front onto the internal access road, plot 10 would front onto the internal access road and public right of way to the east, and plots 3-9 in the northern part of the site would front onto a pedestrian footpath, and the SANG beyond the northern site boundary.
- 8.41 Plots 1 and 2 comprise detached dwellings set back from the highway and are consistent with the frontage building line for dwellings to the north of the High Street. These dwellings are largely consistent with the linear form of development evident to the north of the High Street and maintain a lower density form of development in the southern part of the site. The dwellings in the northern part of the site will front onto a pedestrian footpath with existing SANG open space beyond the site boundary, and existing Watling Place development to the north-west and will read as a modern addition to the new residential development. The layout of the scheme has been designed to reduce rear back gardens situated along the site boundaries, notably the northern boundary to ensure the proposals integrate with the wider area, rather than creating a hard inactive boundary.
- 8.42 Overall, the scheme has a density of approximately 14 dwellings per hectare, which is considered to be appropriate for the rural context of the site.
- 8.43 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. The enclosure details provided show brick walls for garden spaces adjacent to the public realm, with space for planting would ensure units with the internal public facing rear/side elevations would retain sufficient detailing.
- 8.44 The properties in the wider area do vary in form and the architecture derives interest in the street scenes. Plots 1 and 2 would have a traditional bulk and massing of detached two storey dwellings with hipped and gable roof forms. The plots in the northern part of the site comprise two terraces of three storey dwellings, with gable roof forms with a multiple gable roof composition. The scheme has evolved through discussion with the urban design officer who outlined those three storey dwellings in the northern part of the site would be acceptable, as it links with the modern Watling Place development.

- 8.45 The external materials palette includes brick, render and boarding under slate roofs with integrated photovoltaic slates in delivering renewable energy technology to the scheme. It is considered that the design of the houses complements the traditional massing with pitched roofs of neighbouring developments but has its own materials identity and colour palette. Full details of the external materials will be secured via condition, to ensure a high-quality finish.
- 8.46 In terms of hard surfacing, the plans show that tarmac would be used for the site access, and the remainder of the access road and parking areas would be a shared surface. To ensure a high-quality fabric across the site details of the surfaces would be secured by condition.
- 8.47 The proposal is considered to provide, subject to condition, a high level of design and layout.

### Highways

- 8.48 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.
- 8.49 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’.*
- 8.50 The revised Transport Statement indicates that the proposal would generate an increase of four vehicle trips in the morning peak hour and an increase of four vehicle trips in the evening peak hour. A total increase of 47 vehicles trips across a 12-hour day could be expected. The KCC Highways Officer advised that the traffic impact for 20 dwellings was acceptable, and the amended proposal for 10 dwellings would also be considered acceptable when looking at the capacity of the highway network. The development would still be expected to contribute towards the recovery of the HIF money awarded to Kent County Council for carrying out highway capacity improvements to Key Street roundabout, as was stipulated by the Department for Communities and Local Government. The requested contribution is £14,400 based on the recovery formula being applied to planning proposals.
- 8.51 The proposal would include a new vehicular access to serve the proposed new 10 residential dwellings. The KCC Highways Officer has reviewed the details of the proposed vehicular access and considered the submitted plans as amended acceptable. The officer commented that whilst the swept path analysis for the refuse vehicle shown on drawing T-05 Rev P1 does indicate that it would take up the full width of the junction within the access road, it is appreciated that the limited number of dwellings served and infrequent visits by the refuse vehicle would not give rise for concern, as there would be sufficient capacity within the filter lane to accommodate a waiting car clear of obstructing the refuse vehicle. The proposal would allow for refuse vehicles to traverse through the site and exiting in a forward gear.

8.52 Newington Parish Council and neighbouring objections have raised concerns regarding highway safety, and the Parish Council have commissioned a highways review as part of their comments. I have sought further comments from KCC Highways to respond to the additional information and will update members by way of an update.

#### *Parking*

8.53 Regarding parking, the Parking Standards SPD provides recommended guidance in respect of car parking provision and recommends parking for suburban locations as follows; 1 to 2 spaces per unit for 1 & 2 bed houses; 2 to 3 spaces per unit for 3 bed houses; and 3+ spaces per unit for 4+ bed houses. The guidance also seeks 0.2 spaces per unit for visitor parking. The parking provision would comply with these requirements, and parking would either be provided on plot including surface parking spaces and within open car ports, or within private parking courts. The proposal would generate a need for 2 visitor parking spaces. The proposal would exceed the required amount in providing 3 visitor spaces, and the spaces are evenly distributed given the scale of the development.

8.54 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 and meeting parking guidance.

8.55 Each dwelling will have an EV charging point, and three visitor parking spaces are proposed which will each have an EV charging point. Each dwelling will also have a cycle shed located within the garden, with an electric cycle charge point.

#### **Residential Amenity**

##### *Existing residential development*

8.56 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.

8.57 As a 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. As noted previously, there are existing residential dwellings adjacent to the site, to the west, north and east.

8.58 To the west is 109 Willow Trees, the proposals include the retention of existing chalet bungalow (111 Willow Trees) which is adjacent to the neighbouring dwelling. Therefore, any impact would arise from the plots 3-6 in the northern part of the site. There would be a gap of approximately 11m from the flank wall of plot 3 to the boundary with 109 Willow Trees, and there would be separation distance of approximately 50m between the dwellings. The proposals seek the retention of existing planting along this boundary. It is therefore there is sufficient separation distance and screening to ensure there would be no significant harm to the residential amenity of this neighbouring dwelling.

8.59 To the east is Ellens Field, the neighbouring site is situated to the east of the PROW ZR59. The neighbouring site is situated on a higher land level than the proposal site, and

there is an existing close boarded fence and trees/shrubs to the east of the PROW. Plot 10 would be the closest dwelling to this neighbouring property, and there would be a separation distance of approximately 30m to the dwelling, and approximately 15m to an outbuilding. Given the separation distance, difference in land levels, boundary fencing and existing planting that there would be no significant harm to the residential amenity of this neighbouring dwelling.

- 8.60 To the north is the recent Watling Place development, and 52 Watling Place is situated to north-west of the site, and there is a separation distance of approximately 26m between 52 Watling Place and plot 3. The existing poplar trees are to be retained along the northern site boundary, and existing planting to be retained on the western boundary. It is therefore there is sufficient separation distance and screening to ensure there would be no significant harm to the residential amenity of this neighbouring dwelling.
- 8.61 The proposals include the retention of existing chalet bungalow (111 Willow Trees) with new dwellings to the north and west of this dwelling. There would be a suitable separation distance and screening between the dwelling and new properties to ensure no significant harm to the residential amenity of this dwelling.
- 8.62 There would be no significant harmful impact to the residential amenity of neighbouring dwellings on the south side of the A2 due to the separation between the site and High Street (A2).

*Proposed residential development*

- 8.63 The proposed units would have dual aspect views which would allow sufficient outlook and allow natural light to filter into the dwellings. 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.
- 8.64 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 and position of the properties reduces the overall impact with 11m achieved between side to rear alignment, or to ensure no first-floor level windows directly overlook a neighbouring property.
- 8.65 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, and with pedestrian connections to an area of open space in the SANG to the north.
- 8.66 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.

**Heritage**

- 8.67 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.

- 8.68 There are no heritage designations within the site or its immediate proximity. However, there is a Grade II listed building to the south-east of the site, Ellens Place (5 & 6 London Road) which is located approximately 75m to the south-east of the application site, on the opposite side of the High Street (A2).
- 8.69 The Council's Conservation Officer has advised that the proposed development on this parcel of land would not materially impact on the setting of the grade II listed Ellens Place. Due to the distance from the proposal site and lack of proper intervisibility provided by vegetation on the boundary of the site along High Street which screens the views of the proposal site, it is considered that there would be no significant harm to the setting of heritage asset.
- 8.70 The proposed development would retain most of the mature vegetation along the front boundary, with the erection of two x two storey detached dwellings in the southern part of the site and situated on a lower land level than the High Street (A2), with the denser form of development a greater distance from the listed building. As such, it is considered that the proposals would not result in harm to the designated heritage asset.

### **Ecology and Biodiversity**

- 8.71 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.
- 8.72 Paragraph 174 of the NPPF advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. It also advises that opportunities to incorporate biodiversity in and around developments should be encouraged. The application has been supported by an Ecological Assessment.
- 8.73 As set out in the consultation response KCC Biodiversity are satisfied the appropriate level of ecological survey work has been undertaken.
- 8.74 The amended plans (from 20 to 10 dwellings) showed a greater loss of orchard to the original plans, KCC Biodiversity advised that traditional orchard (a priority habitat) is present throughout the site, and therefore mitigation would be required. In response to these comments, updated plans were submitted which demonstrated the areas of site to be retained as an enhanced orchard area, these are shown in hatched green on drawing number 22/08/04 Rev G. The updated comments KCC Biodiversity set out that the proposals now include the area to the west of the access road will be retained/enhanced as an orchard resulting in a retention/creation of at least 0.132ha of orchard within the site. They are satisfied with the proposals ensuring the retained habitat is protected during construction (condition 4); and further details regarding habitat creation and management are sought by condition (condition 13).
- 8.75 KCC Biodiversity are satisfied with the findings of the ecological assessment and outlined mitigation measures and recommend conditions to secure the following: biodiversity method statement; habitat creation and management plan; and ecological enhancements.
- 8.76 With regard to the potential implications for the SPA and the requirements of the Habitat Regulations. As Members will be aware, the Council seeks developer contributions on

any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, situated approximately 3km from the closest part of the SPA and as such the Council seeks a mitigation contribution of £275.88 for each new dwelling. The proposal will result in a net gain of 10 dwellings which will result in a financial contribution of £2758.80 which will be secured via a S.106 legal agreement. As a result, and appropriate assessment will be undertaken below.

*Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.*

- 8.77 This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale 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).
- 8.78 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.
- 8.79 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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 8.80 In considering the European site interest, Natural England (NE) 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 advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.
- 8.81 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 (NKEPG).
- 8.82 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 (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

- 8.83 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 (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) 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.

### **Water, Flooding, and Drainage**

- 8.84 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.
- 8.85 The application site is 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.
- 8.86 KCC Drainage outlined they are satisfied that the SUDs design proposed will not increase the risk of flooding and raise no objection subject to further details sought via condition. The submitted details indicate surface water will be addressed by a mix of permeable paving; cellular storage tanks; and surface water will need to be stored on site and released at 2 l/s to the existing land drain along the sites' western boundary, as agreed with the LLFA. These conditions include submission of a detailed surface water drainage scheme; and verification report pertaining to the surface water drainage system. Southern Water raise no objection subject to an informative regarding foul drainage. Therefore, it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.
- 8.87 Newington Parish Council and neighbouring objections have raised concerns regarding localised surface water flooding, and that the site is identified at risk from surface water flooding in the Level 1 Strategic Flood Risk Assessment (SFRA) 2020. Looking at the GIS map with this dataset, a small section of site falls within 3.33% AEP (1 in 30-year) and 1% AEP (1 in 100-year), which a larger part of the site falling within 0.1% AEP (1 in 1000-year). These concerns have been raised with KCC Flood and Water Management, who have responded that the risk of the surface water flow path has been considered and raise no objection to the proposed development.

### **Sustainability**

- 8.88 Policy DM 19 of the Local Plan requires that development proposals will include measures to address and adapt to climate change.
- 8.89 The scheme proposes sustainability measures as outlined in the submitted Design and Access Statement, including high level thermal insulation; air source heat pumps

(ASHPs) with photovoltaic supplement to provide space heating and hot water for the development; with photovoltaic roof slates; electric vehicle charging points (1 per dwelling); and electric bike charging points.

8.90 Should Members be minded granting planning permission for the application, details of the sustainable measures for the site, the solar panels could be secured via condition.

#### 8.91 **Air Quality**

8.92 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.

8.93 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”.*

8.94 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”.*

8.95 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.

8.96 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.

8.97 The Newington Air Quality Management Area (AQMA) is located to the south of the site, and the vehicular access to the site would join the AQMA. The AQMA is located along the A2 High Street Newington. There is also a AQMA at Keycol Hill further on the A2 to



the east. Further along the A2 to the west Medway Council has also identified an AQMA on Rainham High Street.

- 8.98 An Air Quality Assessment was provided by the applicant. The assessment considers the development on an individual and a cumulative basis. In regard to the vehicle emission 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. The proposed development's impact in isolation would not therefore be considered to have significant harm to human health.
- 8.99 The Councils Environmental Health Officer raised concerns with the submitted information regarding cumulative impacts and outlined that other sites in Newington were identifying a moderate or substantial impacts when taking into account the cumulative impacts.
- 8.100 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<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. 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 £4077.
- 8.101 The applicant outlined how the damage cost mitigation of the £4077 would be spent for on-site mitigation. The submitted air quality assessment has set out potential mitigation measures, in the form of welcome packs, travel vouchers for public transport and electric bike vouchers, with the costing being £8,550. The Councils Environmental Health Officer has outlined that the further details of the mitigation measures are sought within the S.106 agreement to ensure the measures are deliverable, and that the contribution is spent appropriately. This will be secured via the section 106 agreement.
- 8.102 It should be noted that all dwellings would have the provision of an electrical vehicle charging point, but these are not considered as part of the mitigation package. Each dwelling will also have a cycle shed located within the garden, with an electric cycle charge point.
- 8.103 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 NO<sub>2</sub>. The assessment also considers that the proposed mitigation measures to be vague and weak. 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.
- 8.104 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.

8.105 Considering the Environmental Health Officers comments, full details of mitigation measures will be controlled by the S.106 agreement, with indicative measures comprising welcome packs, travel vouchers for public transport and electric bike vouchers, which are considered appropriate given the small scale of development being proposed. The proposal would be considered to meet with the Local Air Quality Management Plan.

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

### **Archaeology**

8.107 Part of the application site is located within an area of Archaeological Potential; this comprises land to the north of the High Street (A2) up to approximately 20m into the site. The wider local area has been subject to archaeological finds. The Archaeological assessment submitted outlines there would be high archaeological potential for the Iron Age and Roman periods, moderate potential for the Bronze Age and low potential for all periods. The overall potential for surviving archaeology is therefore considered high and the impact of the proposed development will potentially have a high impact on any potential surviving archaeology should it exist. Therefore, a programme of archaeological works should be considered.

8.108 KCC Archaeology conclude that there is potential for significant archaeological remains to occur on this site and to be affected by proposed development. They are satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate. Given the illustrative layout this could be achieved through design and layout of open space. The evaluation should be timed to be undertaken ahead of any reserved matters application so that archaeological measures can be taken account of in development design. A condition is recommend to enable a staged approach to evaluation and mitigation of the site's potential impacts on archaeology" (See condition 3).

### **Developer Contributions**

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

8.110 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.

8.111 Kent County Council Highways have requested a contribution 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. Kent County Council Public Rights of Way have requested contribution to improvements to Public Footpath ZR59 (to provide a 1.2m wide all-weather surface).

8.112 The Open Space team have requested a contribution towards the provision of off-site open space and formal sports. 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.

8.113 Further, to the above Swale would require contribution towards the provision of wheelie bins of approximately. Administration/monitoring fees, SPA mitigation as referenced above, and Air Quality Damage Cost Calculations will be sought via the S.106 agreement.

8.114 The requested contributions are outlined below:

KCC Primary Education (£6800 per house)	Total: £68,000.00
KCC Secondary Education (£5176 per house)	Total: £51,760.00
KCC Secondary Land (£2,635.73 per house)	Total: £26,357.30
KCC Community Learning (£16.42 per dwelling)	Total: £164.20
KCC Youth Service (£65.50 per dwelling)	Total: £655.00
KCC Library Bookstock (£55.45 per dwelling)	Total: £554.50
KCC Social Care (£146.88 per dwelling)	Total: £1468.80
KCC Waste (£183.67 per dwelling)	Total: £1836.70
KCC Highways	Total: £14,400
KCC PROW	Total: £8625.00
Air Quality Mitigation (Damage Cost)	Total: £4077.00
SBC Formal Sports (£593.00 per dwelling)	Total: £5930.00
SBC Play (£46.00 per dwelling)	Total: £4460.00
SBC refuse/bins £109.40 per dwelling	Total: £1094.00
SAMMS £275.88 per dwelling	Total: £2758.80
Air Quality Mitigation (Additional mitigation measures)	
Administration and Monitoring	TBC
<b>Total:</b>	<b>£192,141.30 (£19,214.13 per dwelling)</b>

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

### **Affordable Housing**

8.116 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. As the proposed development is for a net gain of 10 dwellings, affordable housing would not be required.

### **Titled Balance**

8.117 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 proposed<sup>7</sup>; 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.

8.118 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.

8.119 Part of the proposal site is situated within the defined settlement boundary, and part of the site is located outside the defined settlement boundary. The new residential development is sought in the part of the site outside the defined settlement boundary but 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 pedestrian links to access existing PROW and wider amenities in Newington. The proposal would include a contribution to improve the surfacing of Public Footpath ZR59 (to provide a 1.2m wide all-weather surface).

8.120 The proposal would not result in harm to the designated heritage asset (Grade II listed Ellens Place to the south-west). It is not considered that the proposal would result in landscape harm due to the infill nature of the development, and retention of mature planting at the site boundaries. The site is not isolated as it is located adjacent to existing residential dwellings and recent development at Watling Place. The land is not a designated landscape either nationally or at the local level.

8.121 Further, the proposal would provide additional housing addressing an identified need in the borough.

8.122 Therefore, it is not considered that there is any identified harm to heritage or landscape. 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 new residential development outside the defined settlement boundary of Newington. 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.

9.2 The proposal would provide additional housing in the Borough adjacent to a settlement boundary on the development hierarchy strategy. There would be modest positive benefits of improving the economic and social vitality of the area (during construction and through the introduction of new residents).

9.3 The site is locational sustainable, being within walking distance to the facilities and services within Newington, and with walking distance to public transport facilities (bus and train station) that serve Newington. The proposal would be considered to have a moderate weight in meeting an environmental objective.

- 9.4 The proposal would include a contribution to improve the surfacing of Public Footpath ZR59 (to provide a 1.2m wide all-weather surface), which will enhance pedestrian connectivity within Newington.
- 9.5 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 to include

- 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, 22-08-01  
Proposed Colour Site Plan, 22-08-02 D  
Proposed Colour Site Plan, 22/08/03 Rev G  
Proposed Site Plan, 22-08-04 G  
Proposed Plot 1 Plans & Elevations, 22-08-05  
Proposed Plot2 Plans & Elevations, 22-08-06  
Proposed Plots 3-6 Plans, 22-08-07  
Proposed Plots 3-6 Elevations, 22-08-08  
Proposed Plots 7-9 Plans, 22-08-09  
Proposed Plots 7-9 Elevations, 22-08-10,  
Proposed Plot 10 Plans & Elevations, 22-08-11  
Proposed Street Scene, 22-08-12  
Proposed Access Design, 16821 - H-01 Rev P2  
Tree Protection Plan, J20694 Arb TPP B

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

### ***Pre-Commencement***

- 3) A) Prior to any development works, the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
- B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.

- C) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:
- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
  - b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
  - c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 4) No development shall commence (including site clearance) until a Biodiversity Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall be based on the recommendations of the Preliminary Ecological Appraisal and Protected Species Report by Greenspace Ecological Solutions and shall provide detailed mitigation measures and ecological enhancements to be carried on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details.

Reason: In the interest of protected species

- 5) No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising 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, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.

Reason: To ensure any contaminated land is adequately dealt with.

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

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

Reason: In the interests of the amenities of the area

- 7) 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 prepared by Lustre Consulting dated October 2020 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

- 8) No works shall commence on the site hereby permitted (including site clearance or preparation) until the details of a Construction Management Plan have been submitted to and approved in writing by the local planning authority (who shall consult with National Highways and Kent County Councils Highways). The Construction Management Plan 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) Timing of deliveries

- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

The development shall be carried out in accord with the approved Construction Management Plan at all times unless otherwise agreed in writing by the local planning authority (who shall consult National Highways and Kent County Councils Highways).

Reason: In the interests of highway safety, and to ensure that the M2 and A249 Trunk Road continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

- 9) 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.

- 10) 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.

- 11) 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.

Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.

#### **Prior to above ground level works / specified time scales**

- 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) Within 3 months of works commencing an orchard establishment and management plan must be submitted to the LPA for written approval. The plan must include the following:
- Map showing areas of orchard to be enhanced and created
  - Detailed methodology to establish the orchard
  - Overview of the management of the orchard
  - 5 year rolling management plan for the orchard
  - Details of on going monitoring
  - Details of who will carry out the management.

The plan must be implemented as approved.

Reason: In the interest of ecological enhancement and habitat creation of the site.

- 14) Within three months of works commencing of the development hereby approved, details of how the development will enhance and manage biodiversity will be submitted to and approved in writing by the Local Planning Authority. This will include the inclusion of ecological enhancements for bats, reptiles, and breeding birds through the provision of bat boxes, bird boxes, hibernacula, and native planting. The approved details will be implemented and thereafter retained.

Reason: In the interest of ecological enhancements of the site

- 15) No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials, including hard surfaces to be used in the construction of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 16) No development beyond the construction of foundations shall take place until full details of both hard landscaping/surfacing and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include details of any existing and proposed trees, shrubs and other planting, schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, hard surfacing materials, an implementation programme, and details of long-term management. The long-term management details shall include the communal amenity landscape areas and retained fruit trees. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

- 17) 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.

- 18) No development above ground level shall commence until details have been submitted to and approved in writing by the Local Planning Authority demonstrating how the development will meet the principles of 'Secure by Design'. The development shall then be completed strictly in accordance with the approved details.

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

- 19) The development shall take place in accordance with the details of the Tree Protection Plan (drawing no. J20694 Arb TPP B) and Arboricultural Method Statements and arboricultural supervision within the Arboricultural Impact Assessment and Method Statement Rev C (dated May 2022), and in accordance with the current edition of BS 5837 Trees in Relation to Design, Demolition and Construction. All trees to be retained must be protected by barriers and/or ground protection.

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

### **Pre-Occupation**

- 20) 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.

- 21) 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 the suitable modelled operation of the drainage system where the system constructed is different to that 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 neighbouring 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.

- 22) The areas shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning

Authority before the associated use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 23) Provision of Electric Vehicle charging points as shown on the submitted plans prior to the use of the site commencing. 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:  
<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: in the interest of air quality

- 24) The approved cycle parking facilities as illustrated on plan 22/08/04 G shall be provided prior to bringing the development into first use and retained thereafter.

Reason: In the interest of sustainable transport.

- 25) Prior to the occupation of any of the units hereby permitted the approved access as show on the approved plans including H-01 Revision P2 shall have been completed and brought into use and maintained as such thereafter.

Reason: In the interest of the local highway network.

- 26) 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 pedestrian crossing as shown on drawing H-01 Revision P2 shall have been completed and brought into use.

Reason: In the interest of highway safety.

- 27) No dwellings shall be occupied, until the Key Street highway improvement contract has been awarded.

Reason: In the interest of highways capacity

- 28) 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.

- 29) 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.

- 30) 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 interests of amenity

## **INFORMATIVES**

**National Highways Informative:** The CMP shall include details (text, maps, and drawings as appropriate) of the scale, timing and mitigation of all construction related aspects of the development. It will include but is not limited to: site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit delivery journeys on the SRN during highway peak hours such as the use vehicle booking systems etc); measures to ensure that HGV loads are adequately secured, travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries; plus sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway (and means to remove if it occurs).

Southern Water: 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.

### **KCC PROW:**

- No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority
- There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.
- Planning consent does not confer consent or a right to disturb or unofficially divert any Public Right of Way at any time without the express permission of the Highway Authority.
- No trees or shrubs should be planted within 1.5 metres of the public right of way.
- In order to ensure public safety during development, the temporary closure of the route may be required. A temporary closure will be processed by Kent County Council on the basis that :
  - The closure is paid for by the developer,
  - The duration of the closure is kept to a minimum,
  - Alternative routes will be provided for the duration of the closure,
  - Six weeks notice of the requirement of a closure is given by the developer.

### **Informative for ASBESTOS:**

Adequate and suitable measures shall be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

**KCC Flood and Water Management:**

The proposals seek to utilise a piped network draining into orchard planting with rain gardens prior to discharging at 2l/s into an existing land drain. We note that the exact location, size and condition of the land drain pipe that the proposed drainage is to connect to is to be confirmed during detailed design. Land drainage consent may also be required for any works within the watercourse in the southern area of the site. Consent in this instance will be required from Kent County Council.

**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 1



Application: 20/505059/FULL: Willow Trees, 111 High Street, Newington ME9 7JJ

Proposal: Demolition of existing chalet bungalow and erection of 20 dwellings (4 x two bedrooms and 14 x three-bedrooms and 2 x four-bedrooms) with associated access, parking, amenity and landscaping.

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At the Newington Parish Council meeting on 26 January 2021 there was a unanimous decision to OPPOSE this application.

1 Most of the proposed development is outside the defined urban boundary of our village.

In the three most recent appeals to the planning inspectorate the appeals have been rejected on the grounds of being outside the urban boundary. (see 148 High Street, 6 Ellen's Place, 132 High Street (PINS refs. APP/V2255/W/20/3245359; APP/V2255/W/20/3250073; APP/V2255/W/20/3247555).

The Applicant's Planning Statement

...if the Council deem there to be an unacceptable departure from the Development Plan, it is submitted this very marginal conflict with Policy ST 3 carries very reduced weight and the proposal is justified by other material considerations. Indeed, it is important to stress that Swale Borough Council are currently unable to demonstrate a five-year supply of housing, with their most recent published position (February 2019) suggesting they only have 4.6 years supply. Therefore, in accordance with paragraph 11d of the NPPF, planning permission should be granted unless: i). the application of policies in the framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or ii). the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework.

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



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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.

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.

The Preliminary Ecological Survey indicates:

6.3.2 The traditional orchard on the site qualifies as a NERC s41 priority habitat. Therefore, further consideration into the retention, protection and enhancement of the habitat is required

We refer to the appeal decisions above where Inspector decisions were that any, then, deficit in Swale’s current supply was not a reason to approve the applications.

It is our understanding that Swale believes it can now demonstrate a 5 year supply and so any arguments on the presumption in favour of development do not apply to this application.

We would also note that the original Eden Meadow application (opposite) 16/505861/OUT, for (9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers. The reasons for rejection apply fully to this application.

## 2 The site is not included in any of the relevant, more recent, Swale plans.

- 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 Plan Review.

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

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%. The 2017 edition of the Local Plan reiterated the restrictions on growth with the single exception of “Land North of the High Street”: a development of 124 homes nearing completion.

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%



## APPENDIX 1

### 3 Infrastructure

Highways England comments refer to the cumulative effect of increased traffic, in this case the Persimmon and Eden Meadow developments which have significantly increased the number of cars and therefore of journeys to and from the East of Newington.

From the applicant's planning statement:

3.2.3 There is a new vehicle access proposed from the High Street, which navigates through the middle of the site in a south to north direction

3.4.1 Access to the proposed development will be achieved via a new junction to the north of High Street, Newington. This junction will take the form of a simple priority junction and will be provided with a visibility splay of 2.4 x 45 metres to the east and 2.4 x 53 metres to the west.... A break in the crosshatching at the frontage of the site will be implemented to allow for vehicles turning right into the site and vehicles turning right out of the site.

We believe that, if approved, this development would create a potentially dangerous cross-over with Eden Meadow

5.4.5 A road safety analysis has been completed which identified nine incidents have been recorded in the last three-year study period. It is noted that one of the incidents was a 'fatal', it is however noted that this occurred because of human error, as did the majority if not all the other incidents. As such, it is not considered that the proposed development will exacerbate the existing highway safety record.

We are concerned that nine incidents, one of them fatal, in a three year period is deemed to be acceptable.

We note that these statistics cover the period before the building of 124 dwellings adjacent to the proposed development.

And:

3.4.2 The development will provide two vehicle parking spaces per dwelling, a total of 42 vehicle parking spaces, plus four visitor parking spaces.

This would clearly be insufficient. All evidence from recent developments shows that many smaller homes have 2 cars and a van. We do not believe the parking allocations are compliant with Swale Borough Council's parking standards as revised in May 2020.

Newington Parish Council has real concerns about potential drainage and sewerage issues. There have been several instances of flooding of neighbouring properties in recent years, even before work commenced on the Persimmon development.

The Planning Statement:

5.6.3 The FRA ... states that the proposed development has the potential to increase the flood risk on and off site if not properly mitigated.

5.6.4,... the surface water would need to be stored on site and released at 2l/s to the existing land drain along the site's western boundary.

5.6.5 ... ground levels through the site are to be subtly be reprofiled to encourage excess surface water runoff through the site to be across the landscaped areas and roads, away from the properties. Finished floor levels should also be raised by + 450 mm above surrounding ground levels.

5.6.9 The surface water drainage infrastructure should be maintained by a management company post development.

These seem to acknowledge the real potential for future problems.

## APPENDIX 1

The site falls 5m from the A2 to the northern boundary and attenuation ponds are being considered for collecting surface water, which will be situated partly in between 4 houses in the Northern Terrace. According to 3.5 in the statement the areas to the western and northern boundaries are at medium to high risk from surface water flooding.

5.12 The landscaping areas along the western, eastern and northern boundaries will be subtly re-profiled to create flow pathways through the site as shown by and garden fences, where designed to be within a flow pathway should be designed to ensure flow paths are not blocked.

Figure 5 appears to indicate that the surface water will flow from the site to the edge of the Watling Place site.

Local knowledge suggests that a culvert runs north through this site.

#### 4 Air Quality

Newington is an Air Quality Management Area. There are further AQMAs one mile to the east and two miles to the west of the village.

The proposal may be for a relatively modest development of 20 homes but there is a cumulative effect of all developments. We would remind officers and councillors that any recent readings must be seen in the light of two long periods during summer 2019 and spring 2020 of closure of our High Street (emergency and scheduled gas works) and the greatly reduced traffic during the Covid emergency. The new, sophisticated, monitoring equipment, commissioned due to concerns about air quality in Newington is not as yet operational.

We are well aware 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.

5.5.3 ...The findings of the damage cost analysis revealed that a figure of £7,485 should be applied as an indicator to the level of mitigation measures required.

5.5.4 ... it is considered that the provision of Electric Vehicle Charging Points, cycle storage and the implementation of a travel plan would represent adequate mitigation for the predicted air quality impacts.

5.5.5 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 Pond Farm decision to reject Gladman's application (Planning Inspectorate and upheld by the Court of Appeal) was because there was no clear proposal for mitigation measures and no evidence that these would improve air quality in Newington.

The Highways England 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.

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.

The reference to electric vehicle charging points is a requirement of all local applications and so a token gesture here. There is significant evidence that the cost of electric vehicles makes them unaffordable for the majority of those in affordable and social housing and that

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as well as their own cars, these residents often have to accept the works van provided by their employer. It is sad that there is no mention of heat source pumps, so presumably these new homes will rely on polluting gas boilers.

## 5 This is not a 'sustainable' development

There is little detail or firm commitment in the application on Affordable Housing

6.1.5 The applicant has engaged with several Registered Providers over the last several months and it is their intention to deliver all the units proposed as affordable tenure. However, for valuation purposes the application seeks permission for the provision of policy compliant affordable housing as the minimum. Therefore, 8no. of the units proposed (40%) would be affordable tenure, comprising 7no. affordable rent products and 1no. intermediate product.

2.5.4 The Councils affordable housing manager also indicated that there was a pressing need for the delivery of two-bedroom affordable homes in the Newington Area.

Newington Parish Council would be interested to see the evidence behind this. We are not aware of a Housing Needs Analysis in recent times.

In the applicant's Planning Statement:

2.3.1 The site enjoys access to several local facilities and services, which are within a reasonable walk distance. These include schools, local shops, healthcare, employment and public transport links. The accompanying Transport Statement provides a summary of walk distance to a range of local amenities and shows that most are less than a 10-minute walk.

However, in reality: the village school is full; there is one convenience store and a joint pharmacy/post office; the GP surgery is not accepting new patients; there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. The 10 minute walk to the village is along narrow pavements besides the busy and polluted A2.

The December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/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 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 ignore 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 – Section 106 money for schools is going to schools in Sittingbourne as the local primary school cannot expand and is full further increasing car usage through the Bobbing AQMA.

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.

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## APPENDIX 2

Application: 20/505059/FULL: Willow Trees, 111 High Street, Newington ME9 7JJ  
 Proposal: Demolition of existing chalet bungalow and erection of 20 dwellings (4 x two bedrooms and 14 x three-bedrooms and 2 x four-bedrooms) with associated access, parking, amenity and landscaping.

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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 111 High Street report submitted by the applicant:*

#### 4.2.1. No consideration given for committed developments

54. The AQA for Willow Trees [2] appears to consider the proposed development in isolation, and does not consider proposed or committed developments in the area. Therefore future predictions are likely to be under-estimates.

#### 4.2.2. Diffusion tube / Automatic inputs are not all correct and therefore the model is not

56. Some of the values provided for monitored NO<sub>2</sub> do not match up with those provided in Table A.2 starting on page 27 of Swale's 2020 ASR [8]....

58. Clearly then, the model cannot be correct if its inputs are not.

#### 4.2.3. Initial model accuracy is poor

63. This doesn't seem like a very accurate model and it is our view that the initial model inputs should have been adjusted at this point before proceeding to model adjustment via a scaling factor.

#### *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 NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> within Newington exceed WHO guidelines for health.

9. The Newington AQMA has exceed NO<sub>2</sub> 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.

**APPENDIX 2**

*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.*

**APPENDIX 3**

Application: 20/505059/FULL Willow Trees 111 High Street Newington ME9 7JJ

Revised proposal: Retention of existing chalet bungalow with amended residential curtilage and erection of 10 dwellings (7 x three bedrooms and 3 x four bedrooms) with associated access, parking, amenity, and landscaping

At the 17 June 2022 Newington Parish Council Planning Committee meeting it was unanimously agreed to oppose this revised application.

The reasons for our objection remain as stated in our February 2021 response, augmented in December 2021, together with an air quality report commissioned from the University of Kent Centre for Health Services Studies.

### 1 Most of the proposed development is outside the defined urban boundary of our village.

In the three most recent appeals to the planning inspectorate the appeals have been rejected on the grounds of being outside the urban boundary. (see 148 High Street, 6 Ellen's Place, 132 High Street (PINS refs. APP/V2255/W/20/3245359; APP/V2255/W/20/3250073; APP/V2255/W/20/3247555).

The Applicant's Planning Statement stresses that Swale has only a 4.6 year housing supply; this may have been correct at the time of submission of the application; it is our understanding that Swale can now demonstrate a 4.8 year supply (18 July 2022)

Based on the assumption of 4.6 year supply, in 3.5.22 the applicant states.

... local planning authorities should grant planning permission unless the application of policies in the framework prove clear reason for refusing the development, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits

We draw attention 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.

We refer also to the Appeal Court Decision (Case No: C1/2020/0542/QBACF) published 3 February 2021

Paragraph 8 of the judgment clarifies that the NPPF

Paragraph 12 confirms that "[the] presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making".

This application is against the principles of the Swale local planning authority's development plan and Swale can now demonstrate a 4.8 year housing supply.

## APPENDIX 3

2

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.

We would also note that the original Eden Meadow application (opposite) 16/505861/OUT, for (9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers. The reasons for rejection apply fully to this application.

The (November 2020) Preliminary Ecological Survey indicated:

6.3.2 The traditional orchard on the site qualifies as a NERC s41 priority habitat. Therefore, further consideration into the retention, protection and enhancement of the habitat is required

Kent County Councils Ecological Advice Service (February 2022) reports

The revised plans will result in a greater loss of orchard to what was originally proposed in 2021. priority habitats are: “Capable of being a material consideration in the...making of planning decisions.” (Paragraph 84, Government Circular (ODPM 06/2005)). Traditional orchard (a priority habitat) is present throughout the site, and therefore mitigation would be required. As part of the original application it was proposed to retain approximately a quarter of the orchard but the revised site plan indicates that only 3 or 4 trees will be retained within the site. We advise that the proposal will result in the loss of a priority habitat and we recommend that additional information is provided demonstrating how the loss of the orchard will be mitigated.

There is currently no response from the Developer.

## 2 The site is not included in any of the relevant, recent, Swale plans.

- 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 Plan Review.

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

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%. The 2017 edition of the Local Plan reiterated the restrictions on growth with the single exception of “Land North of the High Street”: a development of 124 homes now complete.

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%



## APPENDIX 3

3

### 3 Infrastructure and Transport

Newington Parish Council had previously (May 2022) commissioned Railton Consulting to advise on the likely transport/highways effects of another proposed development in our village (22/500275/OUT). In June 2022 we asked Railton to report on the likely effects of this application for 10 additional homes at 111 High Street; this report is on the planning portal. In summary:

The cumulative effect of developments in Newington

- However, there have recently been numerous planning applications for residential and other developments in and around Newington and there is concern locally that the cumulative impact of these developments may be severe.
- In total, including the 111 High Street development, 216 dwellings are proposed within Newington. The Paradise Farm brickearth extraction will generate 101 vehicle movements including 85 HGV movements per day, albeit over a limited period.
- In addition, four committed developments in the wider area have been identified that will generate additional vehicle movements on the A2 through Newington.
- the trip generation of the various consented and proposed developments in the area... shows that developments within Newington will generate 1,123 new vehicle trips per day on the local highway network. To this will be added 1,182 vehicle movements along the A2 associated with other committed development in the area.
- In relation to existing traffic flows on the A2, this additional traffic represents a 13% increase on a daily basis.
- In transport environmental terms, an increase in excess of 10% is deemed to be potentially significant in sensitive areas.
- Newington is a sensitive area as evidenced by the presence of an Air Quality Management Area (AQMA) covering the whole of the village.
- The recently implemented 20mph zone on the A2 in the village centre also points to the sensitivity of the area to traffic impact.
- From the data that is available it is clear that in cumulative terms, the proposed development has the potential to lead to significant adverse impact.
- The only mitigation that is proposed relates to the Keycol junction. No further mitigation is proposed to deal with the adverse impacts associated with increased traffic levels on the A2 through Newington village.

A specific and significant concern:

- The proposed site access has been subject to a Road Safety Audit. This identified two areas of concern; the gradient of the access road adjacent to the A2 and the uncontrolled crossing point east of the proposed site access that lacks tactile paving and includes a central beacon column that sits on the pedestrian desire line. These issues can be overcome relatively easily.
- It is noted that the Safety Audit cites only two drawings as references... It is therefore unclear whether the safety auditor had access to the full set of swept path drawings.
- because of the length of the right turn lane being limited by the presence of the pedestrian refuge, an 11.4m refuse vehicle is unable to wait to turn right into the site without its rear protruding into the path of westbound traffic on the A2:
- It is likely that a vehicle wishing to turn into the site will frequently be forced to wait in this hazardous position both because of the high eastbound traffic flows on the A2 and also because an inbound vehicle is forced to wait for any exiting vehicle to clear the access road since a large vehicle is unable to pass a smaller vehicle on the southern section of the site access due to the bends. The risk is exacerbated if any other vehicle is waiting to turn right into the site.

## APPENDIX 3

4

## And the Conclusion

- I conclude that, in cumulative terms, the proposed development has the potential to lead to significant adverse transport and air quality impacts in Newington and that the proposed site access presents a significant highway safety issue due to the inadequate length of the proposed right turn lane.

Newington Parish Council also has real concerns about potential drainage and sewerage issues. There have been several instances of flooding of neighbouring properties in recent years, even before work commenced on the Persimmon development.

## The Applicant's May 2022 Flood Risk Assessment

4.5 The proposed development is deemed to have a Flood Risk Vulnerability Classification of 'More Vulnerable'

## The Planning Statement:

4.10.3 The FRA ...states that the proposed development has the potential to increase the flood risk on and off site if not properly mitigated.

4.10.4,... the surface water would need to be stored on site and released at 2l/s to the existing land drain along the site's western boundary.

4.10.5 ... ground levels through the site are to be subtly be reprofiled to encourage excess surface water runoff through the site to be across the landscaped areas and roads, away from the properties. Finished floor levels should also be raised by + 450 mm above surrounding ground levels.

4.10.9 The surface water drainage infrastructure should be maintained by a management company post development.

These seem to acknowledge the real potential for future problems. The structure, funding and operation of the management company is undefined.

## From the May 2022 Flood Risk Assessment

5.8 The layout of the properties along the site's northern boundary have been arranged to allow surface water to flow northwards. Two large gaps between proposed buildings have been created to maintain flow routes.

Figure 5 appears to indicate that the surface water will flow from the site to the edge of the Watling Place site.

Local knowledge suggests that a culvert runs north through this site.

This part of the A2 is known to flood – both surface water running down the hillside and foul sewage. The 124 homes of the Persimmon Development have exacerbated the problem, possibly causing the recent landslide on the railway embankment. 'Willow Trees' refers to the trees planted at 111 High Street both as a species that tolerates flooding and also in order to assist naturally in soaking up floodwater. We are concerned that the May 2022 Lustre Consulting Flood Risk Assessment concludes that

6.3 The site is generally at 'low' risk' from surface water flooding

However, some of the proposed measures suggest this is not the case. We are concerned that housebuilding on this orchard site will simply pass on the danger of flooding to neighbouring properties.

## APPENDIX 3

5

#### 4 Air Quality

Newington is an Air Quality Management Area. There are further AQMAs one mile to the east and two miles to the west of the village.

The proposal may be for a relatively modest development of 11 homes but there is a cumulative effect of all developments. We would remind officers and councillors that any recent readings must be seen in the light of two long periods during summer 2019 and spring 2020 of closure of our High Street (emergency and scheduled gas works) and the greatly reduced traffic during the Covid emergency.

We are well aware 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.

From the applicant's Air Quality Mitigation Statement:

5.0 ...A total damage cost of £4077 for the proposed development has been determined.

Table 6 suggests that the proposal includes mitigation measures worth £24,368.55 through 3 months of travel vouchers, EV charging points in visitor bays, welcome (information) packs to new households, and cycle storage facilities.

The Pond Farm decision to reject Gladman's application (Planning Inspectorate and upheld by the Court of Appeal) was because there was no clear proposal for mitigation measures and no evidence that these would improve air quality in Newington. There is no evidence that the proposals above would improve air quality in our village.

Highways England commented on the original application for 20 homes regarding 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.

This is repeated in the KCC Highways June 2022 letter

Newington Parish Council remains concerned that, when improvements to the A249/M2J5 junction are complete as well as the Key Street roundabout this will result in increased traffic flow through the village, impacting through increased pollution within our AQMA.

Electric vehicle charging points are a requirement of all local applications and so a token gesture here. There is significant evidence that the cost of electric vehicles makes them unaffordable for the majority of those in affordable and social housing and that as well as their own cars, these residents often have to accept the works van provided by their employer. We remain unconvinced that the overall provision of parking spaces is sufficient to meet potential demand. There would be no nearby alternative overspill parking.

The applicant's position on heat source pumps is confusing. The May 2022 Design and Access Statement (page 9) has pictures, presumably from a manufacturer's catalogue, of heat source pumps yet the Air Quality Mitigation Statement (4.0) states All gas-fired boilers to meet a minimum standard of <math>40\text{mgNO}\_x/\text{KWh}</math>

The references to cycle sheds and to electric cycle charging are an illusion. The village has a national cycleway through the back lanes and is reasonably popular for leisure purposes. It is unlikely that residents of the new development would choose to regularly cycle to work along the busy A2.



## APPENDIX 3

6

At the end of 2021 Newington Parish Council commissioned The Centre for Health Services Studies at The University of Kent to comment on a variety of housing applications in Newington including the proposal to construct 20 dwellings at “Willow Trees” 111 High Street (20/505059/FULL), specifically on the AQA constructed by enSAFE Consultants. We have since commissioned revised comments on this recent application. *The full comments can be seen on the planning portal.*

To summarise the report:

1. The applicant has reduced the number of dwellings to 10 and have included a new AQA
2. The new AQA suffers from the same problems as the previous one, namely that the initial (unadjusted) model is poor. The average % difference is 23.75.
3. Lustre compares NO2 values in Table 12 and not NOx.
6. It is our view that the initial model is not accurate enough to proceed to the adjustment step.
7. enSafe acknowledges this inaccuracy when it states on page 47 of [2] that: “it is difficult to have the model represent these specific localised conditions. It is also important to note that the accuracy of diffusion tubes monitoring is considered to be +/- 20% and as such, this can make it difficult to accurately represent this variance within the model.”
8. We are in agreement with enSafe here, in that line-source emission models such as that used are not good at predicting reality accurately. So the question that should be asked is, why should the local authority accept such models as evidence when even the authors of such models admit their inaccuracy?
9. In summary, the air quality assessments recommendations are based on a model with a poor initial accuracy and so we cannot draw any firm conclusions as to the impact of this individual development or its contribution cumulatively.

## 5 This is not a ‘sustainable’ development

There is a confused and confusing narrative on the overall concept behind this application.

The original application (November 2021, January 2021) had initially included reference to affordable housing with some indication that this would be for local people; consequently there was support from the Council’s Affordable Housing Manager. There is no mention of this in the revised application.

Newington Parish Council was told that, on completion of the development, the applicant intended to ensure preference would be given to village residents. It is hard to see how this would work in reality. Anyway, there would be no way to ensure that these local purchasers then sold their existing home to village residents. Therefore there is no clear advantage to local people.

In contrast the Planning Statement includes the paragraph

3.5.27 ... consideration of recent amendments to the London Plan have identified that the City’s housing need and is increasing more difficult to deliver (*sic*) and therefore areas outside London will be faced with having to absorb more housing. Consequently Swale Borough Council has a duty to explore if it can accommodate this overspill of London’s unmet need.

This would suggest that such a development may benefit those from outside the area instead of local people.

## APPENDIX 3

7

The original application had initially included reference to affordable housing with some indication that this would be for local people; consequently there was support from the Council's Affordable Housing Manager. There is no mention of this in the revised application.

In the applicant's Planning Statement:

1.3.1. The site enjoys access to several local facilities and services which are within a reasonable walking distance. These include schools, local shops, healthcare, employment and public transport links

However, in reality: the village school is full; there is one convenience store and a joint pharmacy/post office; the GP surgery is not accepting new patients; there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. The 10 minute walk to the village is along narrow pavements besides the busy and polluted A2.

The December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/N/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 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 ignore 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 – Section 106 money for schools is going to schools in Sittingbourne as the local primary school cannot expand and is full further increasing car usage through the Bobbing AQMA.

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**.

Please see:

- University of Kent Centre for Health Services Studies comments on the applicants Air Quality assessment (21 June 2022)
- Railton Transport Planning Consultancy Ltd comments on the applicants transport assessment (13 July 2022)

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<b>2.5 REFERENCE NO - 21/505722/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline application for demolition of existing residential dwelling, and for the erection of up to 46 residential dwellings, including affordable housing, with access from A2 High Street (Access only being sought).		
<b>ADDRESS</b> 128 High Street Newington Sittingbourne Kent ME9 7JH		
<b>RECOMMENDATION</b> 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.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
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. 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.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Newington Parish Council Objection		
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> Mr Andrew Wilford <b>AGENT</b>
<b>DECISION DUE DATE</b> 03/02/22	<b>PUBLICITY EXPIRY DATE</b> 15/09/22	<b>CASE OFFICER</b> Corinna Griffiths

### Planning History

SW/90/0956  
GARAGE  
Grant of Conditional PP

#### 1. DESCRIPTION OF SITE

- 1.1 The application site comprises an existing residential dwelling (no. 128 High Street) and its garden, and land located to the rear previously used as paddocks and is currently a grassed open field with several derelict sheds/outbuildings/containers. The plot is approximately 2.66 hectares in area.
- 1.2 The site is located on the southern side of the High Street (A2) in Newington. Part of the site is within the settlement boundary (the existing dwelling and garden area to the south). The remainder of the site is outside the settlement boundary, and therefore within the open countryside.
- 1.3 The site is accessed via a track located between No. 128 High Street and No. 132 High Street. The track also serves as an access to the rear for No. 132 High Street.
- 1.4 The site is broadly regular in shape, extending south to a restricted byway (ZR64) that runs from Callaways Lane to access the adjacent field network. The land raises gently to

the south. The topographical survey shows the north-eastern boundary of the site at circa +31.40m AOD, with the western boundary circa +38.50m AOD.

- 1.5 Public Footpath (ZR61) is situated to the west of the site boundary, that runs from The Tracies southwards and links up with the restricted byway at the south of the site.
- 1.6 There is limited vegetation on site itself with the majority confined to the boundaries where there is a range of extensive hedgerows running along the west and eastern boundaries to no defined edge other than boundary fencing.
- 1.7 There are listed buildings close to the application site: a Grade II listed milestone at 89 High Street is situated 13m to the north of the site entrance (on the opposite side of the A2); and the Grade II Lion House is situated 45m to the north-west (from north-west corner of site).
- 1.8 The application site lies to the southeast of the Newington High Street Conservation Area, and to the northeast of the Newington Manor Conservation Area.

## 2. PROPOSAL

- 2.1 Outline planning consent is sought for the demolition of existing residential dwelling and erection of up to 46 residential dwellings, including affordable housing, with access from A2 High Street.
- 2.2 At this stage the only detailed element being sought is the access. Other matters such as layout, scale, appearance, and landscaping will be controlled by reserved matters.
- 2.3 In terms of the access, vehicular access to the site will be derived from a new priority junction with the A2 High Street, to be formed via No. 128 High Street (which would be demolished) and the adjacent access track. This would take the form of a priority junction with a 5.5m carriageway width and a 1.8m footway on the western side can be sited in this location. Kerb radii of 6.0m would be provided at each shoulder of the access to accommodate larger vehicle movements. The proposed access design is shown on drawing no. 15809-H-01 Revision P4
- 2.4 The proposal would result in a net increase of 45 dwellings, as the proposal seeks the demolition of an existing dwelling.
- 2.5 The supporting documents have outlined an illustrative housing mix, comprising 46 no. dwellings (including 5no. flats), not exceeding 2 storeys in height. The illustrative housing mix would be a mix of 1, 2, 3, 4 and 5 bed units, with a mix of private and affordable unit as shown on the table below:

	Private	Affordable	Total
<b>1 bed flat</b>	0	6	6
<b>2 bed houses</b>	2	4	6
<b>3 bed houses</b>	19	7	26
<b>4 bed houses</b>	5	1	6



<b>5 bed houses</b>	2	0	2
<b>Total</b>	28	18	46

- 2.6 The proposed density across the site is 26 dwellings per hectare (dph).
- 2.7 An indicative total of 92 residential parking spaces will be provided across the site. These would consist of 32 on-plot bays, together with 14 garages or open sided car barns. A further 46 parking bays will be provided on the access roads and in small parking courts across the site as an unallocated provision for residents, with an additional nine unallocated bays for visitors.

### **3. PLANNING CONSTRAINTS**

- 3.1 Part of the site is within the settlement boundary (the existing dwelling and garden area to the south). The remainder of the site is outside the settlement boundary, and therefore within the open countryside
- 3.2 Potential Archaeological Importance
- 3.3 Public footpath ZR61 is adjacent to the proposed development along the western boundary and connects to a restricted byway (ZR64) to the south of the site.
- 3.4 The site is adjacent to the Newington AQMA, and the proposed vehicular access connects to the AQMA.
- 3.5 There are listed buildings close to the application site: Grade II listed milestone at 89 High Street is situated 13m to the north of the site entrance (on the opposite side of the A2); and Grade II Lion House is situated 45m to the north-west (from north-west corner of site).
- 3.6 The application site lies to the southeast of the Newington High Street Conservation Area, to the northeast of the Newington Manor Conservation Area.

### **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)

#### 4.3 Supplementary Planning Guidance (SPG):

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

#### 4.4 Kent Minerals and Waste Local Plan 2013-30

Policy CSM 5: Land-won Mineral Safeguarding; Policy DM 7: Safeguarding Mineral Resources

### 5. LOCAL REPRESENTATIONS

#### 5.1 12 objections have been received. A summary of the points raised in the objections is set out below:

- Greenfield site, loss of greenfield land.
- Countryside location, outside the settlement boundary
- Site not in Local Plan or Local Plan Review
- Increased air pollution, harmful impact on air quality and health.
- Lack of infrastructure, and overstretched infrastructure. Eg. Schools, healthcare
- Poor public transport facilities
- Harmful to character of the area, and reduction in separation between other developments, and Sittingbourne. Breaks the ribbon development along the south side of the A2.
- Concerned this will result in development in the fields between The Tracies and Eden Meadows
- Harm to natural environment and reduction in biodiversity
- Harm to residential amenity; harmful outlook onto site; lack of privacy and overlooking from proposed new houses; loss of light; increased noise and disturbance
- Village will become a town
- Increased traffic and congestion along A2 and in Newington
- Access on a narrow part of the High Street
- Highway safety concerns – proposed access unsuitable onto/off A2
- The A2 is difficult to cross for pedestrians

- Overloading of existing sewers and drains
- Loss of a view
- This is on land that is deemed to be 'quality agricultural land' then it is in breach of Local Plan policy DM 31.
- Public Footpath (ZR61) will require a proposed realignment which is not considered in the planning application.
- Concern over loss of privacy and volume of people using a path opposite no. 10 The Tracies.
- Recent appeals dismissed for land to the rear of the high street (eg. APP/V2255/W/20/3245359 on Land at rear of 148 High Street)
- Demolition of 128 High Street would have a detrimental effect on the structural integrity of the 126 High Street, as both properties were constructed as one building.

## **6. CONSULTATIONS**

### **6.1 Newington Parish Council objects to the application.**

The Parish comments dated December 2021 have been appended to this report in full. A summary of the objection is provided below:

- The land where housing is proposed is outside the defined urban boundary of the village (citation of various appeals for residential development that have been refused to the south of the High Street, A2, and within Newington, and surrounding villages)
- The land on which housing is proposed is outside the established built-up boundary of Newington. It borders a public bridleway from which there are outstanding views south towards Wormdale and north over the countryside leading to the estuary
- The access and proposed housing development is between the High Street and Newington Manor Conservation Areas
- This application is against the principles of the Swale local planning authority's development plan and the shortfall in housing supply is not large enough to warrant the harm that would be caused.
- The site is not included in any of the relevant, more recent, Swale Local Plan, or Local Plan Review evidence gathering, and therefore contrary to adopted policies.
- The land is not a 'brownfield' site; it is agricultural land, albeit not extensively farmed in recent years. Conflict with Policy DM31
- Newington has exceeded its housing targets as set out in the Local Plan.
- Harm to the landscape as a result of the proposed development being outside of the built-up area boundary, loss of visual amenity from public footpaths (ZR65 and ZR67/1)

- Harm to the Air Quality of Newington (citation of various appeals), and reference to Pond Farm planning inquiry. Cumulative impact of development will have harmful effects.
- 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
- Detrimental effect on the grade II listed buildings Ellen's Place and Lion House, both located on Newington High Street
- Ecological information is poor quality and downplays species on site.
- Poor public transport
- The proposal would not be 'sustainable' development
- Newington Parish Council have commissioned reports to support their objections, including from the University of Kent regarding air quality, and Railton Transport Planning Consultancy Ltd regarding the submitted transport assessment.

#### 6.2 **Environment Agency – No comments**

#### 6.3 **National Highways – No objection**

6.4 No objection is raised to this application on the basis that the proposals will generate minimal additional traffic on the SRN in Peak Hours. We therefore consider that the development will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para's 9 & 10 and MHCLG NPPF 2021 Paras 110-13), in this location.

6.5 We note, however, that Swale Borough Council/Kent County Council may wish to seek an appropriate financial contribution towards the part Housing and Infrastructure Fund funded A249/A2 Key Street Junction mitigation.

6.6 **Natural England raise no objection** subject to the appropriate financial contribution being secured (namely **£ 275.88** for each dwelling), Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site on the coastal Special Protection Areas and Ramsar Sites. However, due to the People Over Wind ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment. It is for the Council to decide whether an Appropriate Assessment is required and Natural England must be consulted.

An Appropriate Assessment has been carried out and Natural England and submitted to Natural England for comment. Members will be updated regarding this at the Committee meeting.

6.7 **NHS CCG request a contribution of £42,372.00 towards general practice services within the area.**

- 6.8 The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution.
- 6.9 Requests a contribution of **£42,372.00** (based on a net gain on 45 units) towards refurbishment, reconfiguration and/or extension of Iwade Health Centre and/or Green Porch Medical Partnership and/or Thames Avenue Surgery and/or towards new general practice premises development in the area.
- 6.10 **Southern Water raise no objection, subject to a condition regarding sewerage network reinforcement and an informative regarding foul sewerage and surface water disposal.**
- 6.11 Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water. As such a condition is requested regarding sewerage network reinforcement
- 6.12 **KCC Archaeology – raises no objection. Advises there is potential for significant archaeological remains to occur on this site and to be affected by proposed development and is satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate.**
- 6.13 “I note that the site is located to the south of the A2 in open land to the rear of properties fronting the main road and will be accessed from the A2 via 128 High Street and an adjacent access track. The proposed development vis to be concentrated in the northern two thirds of the site with orchards and landscaping to the south. Area of open space will be incorporated into the development design according to indicative illustrative site layout.
- 6.14 The application documentation includes an Archaeological Desk based Assessment by SWAT Archaeology (July 2021). The desk-based assessment provides a good description and assessment of the archaeological potential of the area, rightly recognising the high potential in Newington for remains of Iron Age and Roman date. SWAT have drawn on their experience of the excavations to the north of the A2 at rear of 99 High Street to illustrate the rich resources of the area though I am of the view that the background evidence in this general area would be greater than low potential for prehistoric findings and that it is likely that the lack of evidence is a product of the location of investigation.
- 6.15 In considering the potential for roman activity on this site it is important to consider the focus of activity seen to the north and to the east along with understanding the topography of the site. As explained in the study the works to the north of the A2 found intense industrial activity focused on a round that ran from the Medway through to joining the main Roman road, Watling Street (the A2) to the east of Newington. The main focus of the Roman settlement is likely to have been around that junction as can be seen in investigations on that higher ground both to the north and south of the A2. The main

Roman road has not been located accurately in this area but elsewhere in Swale has been seen to lie to the south of the present A2 though that may be a local aspect. The investigations to the north of the High Street did not locate a great deal of activity immediately alongside the A2 suggesting an element of cleared land as described in the DBA. Topographically the present site sits on the west side of a dry valley that extends from the downs and was seen crossing the site to the north of the A2. Within that valley archaeological remains were buried at depth beneath colluvium. It is possible that similar colluvial depths may extend into the present site. I note the brickearth deposits within the site may be potentially quarried and these would be of interest for their potential to contain remains of Palaeolithic date.

- 6.16 In terms of impacts the site has been mainly open land with some minor development in recent years with outbuildings. Archaeology could survive well both at shallow depth and potentially at greater depths if colluvium is present in the valley. Although there is no indication of archaeological remains in the immediate vicinity of the site, the background potential for Iron Age and Roman date is high and there is potential for other periods including palaeolithic and Bronze Age remains. The development impacts would arise mainly in the northern two thirds of the site though impacts from planting in shallow buried deposits may occur elsewhere.

Given the above I conclude that there is potential for significant archaeological remains to occur on this site and to be affected by proposed development. I am satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate. Given the illustrative layout this could be achieved through design and layout of open space. The evaluation should be timed to be undertaken ahead of any reserved matters application so that archaeological measures can be taken account of in development design. A condition is recommended to enable a staged approach to evaluation and mitigation of the site's potential impacts on archaeology" (See condition 7).

- 6.17 **KCC Biodiversity** – comments awaited from this consultee, Members will be updated at the committee meeting or via a tabled update.

- 6.18 **KCC Developer Contributions request the following contributions towards infrastructure, and a condition seeking high-speed broadband connections:**

	Per 'applicable' flat (x0)	Per 'applicable' House (x39)	Total	Project
<b>Primary Education</b>	£1,700.00	£6,800.00	£265,200.00	Towards the construction of a new 2FE Primary School in Sittingbourne
<b>Special Education</b>	£262.97	£1,051.82	£41,020.98	Towards the expansion of capacity through new Specialist Resource Provision at Newington Primary School and provision at a satellite school of Meadowfield School, Sittingbourne

<b>Secondary Education</b>	£1,294.00	£5,176.00	£201,864.00	Towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1 and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups
<b>Secondary Land</b>	£658.93	£2,635.73	£102,793.47	Towards the new Secondary school site acquisition upon land off Quinton Road, NW Sittingbourne and/or land acquisition costs for new Secondary Schools in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups.

'Applicable' excludes: 1 bed units of less than 56 sqm GIA and age-restricted dwellings.

	<b>Per Dwelling (x45)</b>	<b>Total</b>	<b>Project</b>
<b>Community Learning</b>	£16.42	£738.90	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre
<b>Youth Service</b>	£65.50	£2,947.50	Towards additional resources and upgrade of existing youth facilities including the New House Sports and Youth Centre in Sittingbourne to accommodate the additional attendees, as well as resources and equipment to enable outreach services in the vicinity of the development
<b>Library Bookstock</b>	£55.45	£2,495.25	Towards additional resources, services, stock, and works to Sittingbourne Library
<b>Social Care</b>	£146.88	£6,609.60	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough
	All Homes built as <b>Wheelchair Accessible &amp; Adaptable Dwellings</b> in accordance with Building Regs Part M 4 (2)		
<b>Waste</b>	£183.67	£8,265.15	Towards additional capacity at the HWRC & WTS in Sittingbourne

6.19 KCC Flood and Water Management raise no objection subject to conditions

- 6.20 Kent County Council as Lead Local Flood Authority have reviewed the Flood Risk Assessment prepared by DHA dated August 2021 and agree in principle to the proposed development.
- 6.21 The current surface water strategy proposes that surface water will be managed through a series of piped networks and permeable paving prior to discharging into an infiltration basin to the east of the site.
- 6.22 We appreciate that these are integrated into open spaces. The information submitted to support the outline component of the planning application has demonstrated how surface water may be managed within an indicative layout.
- 6.23 These have been presented as a high-level strategy and therefore the comments by KCC Flood and Water Management outline areas that will need to be addressed when finalising a detailed drainage scheme which will be sought via condition. This includes the need for further infiltration/soakage tests; comments regarding ownership boundaries; underground services routed outside of permeable paving; grading levels of swales and basins; depth of basins/ponds.
- 6.24 KCC have advised that that full consideration is given to the landscaping of the basins and promotion of multi-functional design. The current basin arrangement may not maximise the open space and biodiversity opportunities available.
- 6.25 **KCC Highways raise no objection, subject to conditions, and a Section 106 contribution towards Key Street highway improvements to the value of £63,248.64.**
- 6.26 05/09/22: Confirmed the value of the requested contribution towards Key Street highway improvements should be **£63,248.64**.
- 6.27 25/08/22: *"I refer to the above application and the Transport Technical Note that has been produced by the applicant's highway consultant to address the outstanding matters raised in my previous consultation response of 18th March 2022.*
- 6.28 *The technical note includes an amended access drawing 15809-H-01 Revision P4, and this demonstrates the provision of the requested visibility splays in accordance with the posted 30mph speed restriction that exists at the site access. I note that the eastern splay has been drawn to a 29cm offset from the carriageway edge, and I consider that this is acceptable, given the presence of drainage gullies to influence the positioning of motorbikes. In addition, and as observed in the technical note, a 20mph speed restriction has recently been introduced just to the west of the access, and this is likely to reduce speeds on the approach.*
- 6.29 *The proximity of the vehicular access to 132 High Street has now been reviewed, and the swept path analysis provided to assess movement does show that the new junction would assist with the turning manoeuvres for the existing property, removing any need for reversing on or off the A2. While there would still be interaction with traffic, the lower levels of activity and speed along the site access than the A2, would mean less chances of conflict than at present. It is also noted that the proposed junction has been subjected*



*to an independent Stage 1 Road Safety Audit, and this has not raised any concerns over the design of the access.*

- 6.30 *Consequently, I am satisfied that all of the outstanding items raised have now been addressed and can therefore confirm no objection is raised subject to conditions, and S.106 contribution towards Key Street Highway Improvements”.*
- 6.31 18/03/22: Whilst the access drawing has been amended to respond to the comments of the Road Safety Audit, and revised sightlines have been shown, it is not considered necessary to provide site lines in excess of the 30mph posted speed limit through the village, noting also that the eastern sightline has been drawn to a 1m off-set anyway to achieve the 54m y-distance. Consequently, a 43m y-distance would be the requirement, but this would be expected to be drawn to the carriageway edge.
- 6.32 However, it is noted that the formation of the access would place the existing private access for 132 High Street directly on top of the proposed junction radius, and vehicles would need to reverse on or off of the private hardstanding within the junction and over the pedestrian crossing point. Given the junction will be formed onto the A2, it would be expected that no accesses should be within 15m of the junction. As the access arrangements currently stand, the proposed junction would not be in accordance with design guidance. Alternative parking arrangements for 132 High Street are required to remove the vehicle activity from the junction in order to address this concern.
- 6.33 04/02/22:
- “1) A Transport Assessment has been provided with the planning application and, having examined the methodology used for ascertaining the traffic impact of the proposed development, find it to be in accordance with accepted practice. Trip rate calculations have been broken down by the proposed tenures of the 46 dwellings, working on the basis that 28 units will be privately owned houses, 12 will be affordable houses and 6 will be affordable flats. It should be noted, however, that if the matrix of housing tenures were to be amended at any point prior to determination or subsequently through any planning variation, the Transport Assessment would need to be adjusted accordingly and reviewed by this Authority.*
- 6.34 *2) As required, appropriate selection parameters have been used in the TRICS database to derive trip rates for the proposed housing, and these demonstrate that the proposed development would attract around 21 vehicle movements during AM Peak Hour (0800-0900), and 20 vehicle movements during the PM Peak Hour (1700-1800). When this is distributed across the highway network using the local Census data for origins and destinations applied to journey planning, it is expected that approximately 37% of movements would route west of the site, with the remaining 63% routing east.*
- 6.35 *3) The resultant trip distribution would suggest that during the AM Peak Hour, an additional 8 vehicles would pass through the centre of Newington, and 13 vehicles through the Key Street roundabout. During the PM Peak Hour, this would add 7 vehicle movements through Newington and 13 through the Key Street roundabout. This volume of traffic would not usually be considered “severe” under the terms of the NPPF in respect to its likely impact on this section of the highway network.*

- 6.36 4) *However, as this proposed development will create additional vehicle movements at the Key Street roundabout, it will be expected to contribute towards the recovery of HIF money awarded to Kent County Council, in order to undertake planned highway capacity improvements at the roundabout. Consequently, the Highway Authority will seek a Section 106 contribution of £31,200 based on the recovery formula being applied to planning proposals in this locality. In addition, due to the junction being at capacity at present and the impact of cumulative development, further development is being held back until the contract for the highway improvement scheme has been awarded. Should the Local Planning Authority be minded granting planning approval, a Grampian condition will need to be imposed to restrict occupations until then.*
- 6.37 5) *Turning to the proposed site access junction, I am generally satisfied that it meets current design guidance to adequately serve the proposed size of development and cater for pedestrian movements and the expected vehicle types that will use it, although Kent Fire and Rescue would need to be consulted for their views on accessing 46 dwellings from a single point of vehicular entry. A Stage 1 Road Safety Audit has been carried out for the access, and its recommendations accepted by the designer, although I cannot find in the documentation drawing 15809-H-01 Rev P2 which addresses points 2.1 and 2.2, nor can I find the amended tracking plans given in response to point 2.3. These would need to be submitted for verification as soon as possible.*
- 6.38 6) *One concern I do have regarding the submitted visibility splays is that the footway east of the access is shown to be 2.5 metres in width on the access plan, whereas I measure less than 2 metres. As this facilitates the required visibility splay to the east, the dimensions of the plan would need to be checked for accuracy.*
- 6.39 7) *I note that westbound journeys on foot from the access would require crossing the A2/High Street, and that there would be insufficient carriageway space to create a pedestrian refuge. However, the carriageway is of a width and visibility along this section sufficient that it can be crossed by the majority of pedestrians in safety. Furthermore, the site also offers pedestrian connectivity to Callaways Lane and footways linking to the village centre via recent development at The Tracies, utilising part of PROW ZR61. This route actually lies on more of a direct desire line towards local amenities on High Street, when coming from the proposed dwellings. As a minimum, the section of ZR61 that facilitates this link would therefore need to be improved to the standard recommended by Public Rights of Way in their consultation. This link is confirmed on the submitted movement parameter plan, and we would therefore expect it to be realised if this site were to come forward for reserved matters. If it appears that it was not viable, for any reason, then we would reserve the right to request the creation of a crossing point in the vicinity of the main site access to fully facilitate journeys on foot.*
- 6.40 8) *The application confirms that the development will not be offered to Kent County Council for adoption as highway maintained at public expense, although it has been agreed that it will conform to a publicly maintainable standard. As layout and associated parking are reserved planning matters, we will reserve comment on these points until they come forward in detail.*
- 6.41 9) *The proposed development traffic would pass through existing AQMAs at Newington and Key St. Whilst air quality is a matter for the Planning Authority, they may wish to*

*consider the appropriateness of requiring a Travel Plan to be prepared in accordance with Local Plan policy DM6. This should set out specific targets, actions and any reasonable mitigating sanctions required to reduce traffic related impact upon the AQMAs.”*

**6.42 KCC Minerals and Waste raises no objection, subject to a Grampian condition to determine whether a viable Brickearth deposit exists on the site, and to ensure the safeguarded mineral is not sterilised; and a condition regarding a Brick Earth Extraction Method Statement if a viable deposit is found.**

6.43 25/10/22: “Given the outline nature of the planning application I am persuaded that the Grampian condition is acceptable, as it does not dilute the safeguarding presumption, though technically appealable it is unlikely to be successfully appealed as its clearly a reserved in principle matter. Therefore, for any detailed planning applications a fully concluded Mineral Assessment with a defined justified exemption (if applicable) that is agreed will remain the acceptable approach.”

6.44 25/08/22: “I have read through the applicant’s submitted Minerals Assessment (MA) in relation to the above outline planning application.

*It is clear that there is in high probability that a usable and viable Brickearth deposit is present at the site. It is noted that the applicant states (in the email below) “Wienerberger have indicated that they are interested in the site, but they require further chemical testing to make final confirmation and that they do not have the ability to store the brickearth off site. The brickearth is therefore required to stay on site until such time as Wienerberger can use it.”*

Therefore, if the further analysis does conclude that the material is suitable for brick manufacture and that prior extraction is viable and the applicant intends to do this as part of their proposals, the County Council would have no objection to the application on grounds of Policy CSM: 5 Land-won Mineral Safeguarding, of the Kent Minerals and Waste Local Plan 2013-30 (as Early Partially Reviewed 2020).”

6.45 17/02/22: “The applicant has submitted further information arguing that the land-won mineral safeguarding exemption criteria of Policy DM 7: Land-won Mineral Safeguarding can be invoked.

6.46 The applicant concludes that the mineral deposit, though unquantified, is not a viable deposit, and given the access constraints onto the A2 there is a lack of practicality of its extraction. And wishes to invoke criterion 2) of Policy DM 7. Being a site with a developable area of 1.3ha still renders, from any practicable and acceptable amenity impact point of view, all the mineral present to be potentially sterilised. As, it would be totally unacceptable to extract the Brickearth at this site at some point in the future having been partially developed as proposed. Therefore, the proposed development renders all the mineral potential of the site to be sterilised if developed. However, 2.66ha while not an extensive area in terms of mineral extraction for Brickearth, the applicant has not demonstrated an understanding of the potential quantity of usable or unusable mineral deposit at the site. The local mineral operator, Wienerberger UK, require a site to have a yield of at least 50,000 cubic metres to be a viable operation. The site, if it has

depth of some 2.0m of usable Brickearth, would yield some 53,200 cubic metres. Close to the break point required to be a viable prior extraction operation. Therefore, it is considered that the applicant addresses this point and defines the amount of usable Brickearth the site could yield before criterion 2) can be robustly and justifiably invoked. Moreover, I do not regard significant (50m) stand-off buffer zones necessary for the relatively rapid extraction of a superficial economic geology that is Brickearth. Perimeter top soil bunds would be sufficient screening devices to reduce impacts on adjacent residential properties where present.

- 6.47 Therefore, given the above the County council does not consider that the requirements of Policy DM 7 have been satisfied at this time, and correspondingly maintains an objection on grounds of land-won mineral safeguarding pursuant to Policy CSM 5: Land-won Mineral Safeguarding.”

*Officer Note: The applicant submitted a Mineral Resource Assessment regarding Brickeath in August 2022.*

- 6.48 26/11/21: “The application site is not within 250 metres of a safeguarded minerals or waste management facility. With regard to land-won minerals safeguarding matters it is the case that the area of the application site is coincident with a safeguarded mineral deposit in the area, that being Brickearth. The mineral resource is safeguarded by Policy CSM 5: Land-won Mineral Safeguarding. Therefore, the application details should include a Minerals Assessment (MA) to determine if the safeguarded mineral deposit is being needlessly sterilised, and if not whether an exemption to mineral safeguarding pursuant to Policy DM 7: Safeguarding Mineral Resources of the Kent Minerals and Waste Local Plan 2013-30 can be invoked.”
- 6.49 **KCC Public Rights of Way raise no objection, subject to a contribution of £10,764 to improvements to Public Footpath ZR61 (to provide a 1.5 metre wide all-weather surface to address the increased use of Public Footpath ZR61 which links the new development to the wider public rights of way network)**
- 6.50 “Public footpath ZR61 is adjacent to the proposed development. The path provides an important link between the village of Newington and the surrounding countryside. The proposed development will increase use of the path. It is currently narrow, there is no recorded width for the most part, and it suffers from unkempt vegetation from both sides, including from the proposed development site making pedestrian access difficult at certain times of the year.
- 6.51 The application states that a pedestrian link will be created to connect to public footpath ZR61 and The Tracies. Whilst this is welcomed should you be minded granting consent I would request a condition to ensure that only pedestrian access is available. (Condition 33)
- 6.52 I would request that the applicant considers providing a suitable width for the footpath by addressing their boundary – if the hedge is to be maintained the fence could be removed altogether or if still required installed on the development side of the hedge
- 6.53 The surface of this section of path will require upgrading and the following S106 developer contributions are sought in respect of the development. A sum of **£10,764.00**

is requested to provide a 1.5 metre wide all-weather surface to address the increased use of Public Footpath ZR61 which links the new development to the wider public rights of way network.”

- 6.54 **Kent Police** advise that the applicant apply secure by design homes 2019 principles to the design of the site at reserved matters stage.
- 6.55 **MKIP Environmental Health raise no objection subject to conditions; and securing air quality mitigation (damage cost and additional mitigation measures) via a S.106 agreement.**\_
- 6.56 04/08/22: “Previous comments were made on the 21/02/2021 to which Environmental Health had recommended refusal on-air quality grounds, as results in the AQA showed that a significant amount of receptor sites in the two AQMAs (Newington and Keycol Hill) will continue to exceed the National Air Quality Objective 40  $\mu\text{m}/\text{m}^3$  due to the cumulative impacts of the Newington developments sites.
- 6.57 Since then, Environmental Health and Planning teams have had a meeting with Medway Council teams in relation to transboundary air quality issues and cumulative impacts between the Newington and Rainham area. The meeting we had was initially discuss the problem and consider mechanisms we could put in place to deal with this appropriately in the future. The council are investigating the options for this.
- 6.58 However, in the short term the council does not have specific measures or mechanisms in place, therefore will need to ensure the current applications in the planning system provide mitigation over and above the damage cost amount to mitigate the cumulative impacts. I have reviewed the AQ technical note for the above application which provides a breakdown of mitigation measures with estimated costings and benefits. The applicant has provided a good package of measures for the number of houses being provided. These include subsidised public transport ticket options and an E-bike scheme which are both deemed suitable for the scale and location of this development. These too can provide some long-term benefits to the area.
- 6.59 The estimated benefits provide some quantification of the AQ benefits; however, these are solely dependent on the behaviour change in new residents to know if they will be achieved. This is the case for most air quality benefits relative to active travel and reducing car use, as it is all dependent on the uptake and participation of such schemes.
- 6.60 For this reason, I would ask if residents don't take passes, how would the money be managed and that an alternative needs to be in place? This could be written into the legal agreement if approved. I would recommend that a mechanism is put in place to ensure that the money not used for tickets is accounted for i.e., added to the Ebike scheme.
- 6.61 Clarification on these point above need to agree and drawn into the S106 agreement, if approved and should be incorporated into the sites Travel Plan to ensure measures are monitored, managed appropriately, and reported to the Local Authority”
- 6.62 21/02/22: “The amended AQA was completed in January 2022 which now includes table 17 for proposed and committed flows for Newington developments sites only. The

results from this show nine of the receptor locations in the assessment to have a substantial impact and two locations with moderate impact by the year of 2024. Table 15 shows the development impact alone shows five receptor locations having moderate impact. Table 16 shows proposed and committed development sites for Newington and Rainham development with substantial impacts at even more receptor sites, as a result of high traffic flows coming from Rainham development sites.

- 6.63 There are significant limitations within this part of the district as there are currently no other alternative routes to support new walking and cycling routes or reduce car usage. A radical strategic scheme of mitigation measures is needed to mitigate the cumulative impacts identified in the air quality assessment, and this is not evident in this application. For this reason, I recommend refusal on air quality grounds, as results in table 17 justifiably show that a significant amount of receptor sites in the two AQMAs (Newington and Keycol Hill) will continue to exceed the National Air Quality Objective 40 µm/3 due to the cumulative impacts of the Newington developments sites alone.”
- 6.64 20/12/22: Provided comments setting out that further information was required regarding air quality (cumulative impacts). In terms of contamination, following on the submitted preliminary risk assessment, no objection is raised subject to a contamination condition.
- 6.65 Noise: I have reviewed the Noise Assessment Report completed September 2021 by Auracle Acoustics for this outline application. The report shows that indoor and outdoor amenity areas will not exceed the noise level guidance provided by BS8233:2014. It is evident that being set back from the road has reduced the noise impact from the A2/ High Street.
- 6.66 Conditions are recommended regarding piling activities; strategy for noise during any piling; and construction hours condition.
- 6.67 **Rural Planning LTD** concludes that under both National and Local Plan policy that the loss of agricultural land, in this case, is a potentially adverse factor in principle, but only to a relatively limited extent. The degree of weight to be given to this, in terms of the overall Planning balance, is of course a matter for the Council.
- 6.68 “The application would involve an area of some 2.66 ha (6.57 acres) which is presumably designated as agricultural land although it appears to be largely scrub/weedy grassland with some trees, which has had no agricultural use for many years. There are a number of derelict buildings/sheds. No detailed Agricultural Land Classification survey of the land appears to have been undertaken in preparation for this application but given the general location and the typical nature of soils in this area, and the findings of a relatively detailed 1976 Soil Survey report of the area, it is fair to assume that it falls within one of the higher grades within the “Best and Most Versatile” category.
- 6.69 Paragraph 112 of the NPPF states: “*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.*”

- 6.70 The more detailed Policy DM 31 of the Council's Local Plan (2017) states:  
*“Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:*
- 1. The site is allocated for development by the Local Plan; or*
  - 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
  - 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”.*
- 6.71 “Significant” development of agricultural land is not further defined in the NPPF, but in this case, given the land's lack of active agricultural use and the relatively small area, on balance I would suggest its loss should not be seen as particularly significant, in principle, in terms of the NPPF guidance.
- 6.72 Local Plan Policy DM31 (without including the “significant” parameter) requires consideration of whether the development arises from an “overriding need that cannot be met on land within the built-up area boundaries”. This aspect of housing need is not a matter within Rural Planning Limited's advisory remit.
- 6.73 Assuming, however, the test of need to be met, Local Plan Policy DM31 (specifically in terms of BMV land) requires consideration as to whether the particular choice of BMV land would be allowable as one of the two above Exceptions.
- 6.74 I understand Exception 1 does not apply, the site not currently being within a Local Plan allocation. Regarding Exception 2 the submitted Planning Statement does not include any detailed analysis to demonstrate that there are no other suitably sustainable sites of a lower grade with the Local Plan's area. Nor does Rural Planning Limited possess the necessary data to advise whether there are other feasible sites of lower quality, nor whether the choice any such lower grade sites would significantly and demonstrably work against the achievement of sustainable development. The Council, however, may be aware if there are any other such sites.
- 6.75 Regarding Exception 2's additional requirement “3”, as already indicated above it appears there are no implications for the viability of any remaining agricultural holding. There could be some risk of accumulated further loss of high-quality land regarding the adjoining parcels of land immediately to the east and west of the site, although currently these also appear not to be in particularly active or productive agricultural use.
- 6.76 In conclusion therefore, under both National and Local Plan policy I consider that the loss of agricultural land, in this case, is a potentially adverse factor in principle, but only to a relatively limited extent. The degree of weight to be given to this, in terms of the overall Planning balance, is of course a matter for the Council.”
- 6.77 **SBC Affordable Housing Manager has provided comments setting out that 18 dwellings will be required as affordable units, with 25% will need to be First Homes (FHs) and the remaining 75% Social Rented housing (SR). The comments**

**include a more comparable mix of affordable housing in the orange columns as per Policy DM8 of the Council’s adopted local plan, Bearing the Fruits.**

- 6.78 In accordance with Policy DM8 of the Council’s adopted local plan ‘Bearing the Fruits’, 40% (all other rural areas) of the 45 additional dwellings being provided should be delivered as a good mix of 18 affordable homes that meet housing need of local households. Of the 40% affordable housing, 25% will need to be First Homes (FHs) and the remaining 75% Social Rented housing (SR).
- 6.79 Therefore, this application should include Four First Homes as part of the s106 affordable housing contribution in order to comply with latest national policy.
- 6.80 The remaining 14 (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 be secured as social rented.
- 6.81 In accordance with Local plan policy CP3, a good choice of housing types should be provided, including as affordable, to ensure the delivery of a reasonable and proportionate mix to the open market homes, including larger 4-and 5-bedroom houses were provided on development sites.
- 6.82 Whilst I appreciate this is an outline application with an indicative housing schedule, this is what has been used as the basis to set out the initial s106 affordable housing requirements. Therefore, any changes made to the accommodation schedule will also need to be reflected in the affordable offer so that an agreed reasonable and proportionate mix is maintained with the correct tenure split of 25% FH’s and 75% SR.
- 6.83 The table below provides further detail on the type, tenure split, and mix of affordable homes required against the indicative offer as noted in the application form but includes the deduction of one 4+ house to account for the existing unit which cannot be considered when calculating the number and type of s106 affordable homes that need to be provided. I have suggested a more comparable mix of affordable housing in the orange columns as per Policy DM8 of the Council’s adopted local plan, Bearing the Fruits:

Property Type	TOTAL net gain	Private Housing	40% Affordable Housing Offer	40% Policy Compliant Mix Required	25% First Homes Required	75% Social Rented Required
1BF	6	0	6	2	0	2
2BH	6	2	4	3	0	3
3BH	26	19	7	10	3	7
4BH+	7	6	1	3	1	2
<b>TOTAL</b>	<b>45</b>	<b>27</b>	<b>18</b>	<b>18</b>	<b>4</b>	<b>14</b>



- 6.84 As supported by policy's DM8 and CP3, the affordable homes should be designed for use by disabled and made available for a variety of groups including families, vulnerable and older persons households. Along with housing need demonstrated on the Council's Housing Register and with the requirements of the Equality Act, I would recommend that two social rented dwellings be provided to Part M4(3) standard (wheelchair user dwelling) and that one-bedroom ground floor flats best meet this need. The remaining affordable homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).
- 6.85 As supported by the Council's SPD (2009), the affordable homes should be well integrated within the development, not be visually distinguishable from the market housing and be located in appropriately sized clusters.
- 6.86 I can confirm that Swale's Housing Register demonstrates a need for all types and sizes of accommodation for those in housing need in the Newington and Sittingbourne area, including supported and adapted homes.
- 6.87 **SBC Greenspaces Manager** - comments awaited from this consultee, members will be updated at the committee meeting or via a tabled update.
- 6.88 **Swale Footpath Group** note that it seems that public footpath ZR 61 to the west of the site and the track to the south would not be affected.

## 7. APPRAISAL

### Principle of Development

- 7.1 Part of the application site comprising the existing dwelling, and garden area for 128 High Street are situated within the built-up area boundary of the settlement of Newington. The remainder of the site adjoins the built-up area boundary and is therefore located just outside the built-up area boundary. The proposed new residential dwellings would be situated outside the defined boundary. 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.
- 7.2 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 majority of the site (and proposed new residential development) lies outside of the built-up area boundary it is considered to be located in the open countryside.
- 7.3 Most of the application site is not considered as previously developed land, as the field has been previously used as paddocks and is currently a grassed open field with a number of derelict sheds/outbuildings/containers. The site is not currently used for agricultural purposes, it appears to be largely scrub/weedy grassland with some trees, which has had no agricultural use for many years.
- 7.4 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.

- 7.5 The land in question comprises approximately an area of 2.66 ha (6.57 acres) but does not appear to be in active agricultural use, and formerly in equestrian use. The Rural Planning Consultant commented on the proposal and outlined that whilst no detailed Agricultural Land Classification has been undertaken, given the general location and the typical nature of soils in this area, and the findings of a relatively detailed 1976 Soil Survey report of the area, it is fair to assume that it falls within one of the higher grades within the “Best and Most Versatile” category.
- 7.6 With regard to para 112 of the NPPF, the Rural Planning Consultant advises that given the land’s lack of active agricultural use and the relatively small area, on balance its loss should not be seen as particularly significant, in principle, in terms of the NPPF guidance.
- 7.7 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:
- “1. The site is allocated for development by the Local Plan; or*
  - 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*
  - 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.”*
- 7.8 With regard to Policy DM31, the Rural Planning Consultant has commented that exemption does not apply. Regarding 2 and 3, the comments conclude that it appears there are no implications for the viability of any remaining agricultural holding. There could be some risk of accumulated further loss of high-quality land regarding the adjoining parcels of land immediately to the east and west of the site, although currently these also appear not to be in particularly active or productive agricultural use.
- 7.9 In conclusion therefore, under both National and Local Plan policy the Rural Planning Consultant advises that the loss of agricultural land, in this case, is a potentially adverse factor in principle, but only to a relatively limited extent.
- 7.10 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.

- 7.11 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.
- 7.12 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 date<sup>8</sup>, 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 proposed<sup>7</sup>; 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.*
- 7.13 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.
- 7.14 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)’.*
- 7.15 (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.
- 7.16 The proposed development would consist of residential development and would not incorporate direct commercial/economic benefits.
- 7.17 The provision of residential housing does generate passive economic benefits as additional population can see additional spending in local centres. The development would have some short-term benefits related to the employment generated throughout the construction process. The provision of jobs and requit spending in the locality because of development would see short term economic benefit.

- 7.18 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.
- 7.19 (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
- 7.20 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 28 market houses and 18 on-site affordable units would contribute to the provision of housing for present and future generations.
- 7.21 The applicant has indicated that the site will support the provision of affordable units and would provide a full 40% on-site provision (18 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.
- 7.22 The application site is within a 10minute walk from Newington train station and shops and services along Newington High Street. The Manual for Streets guidance indicates that:
- 7.23 '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 is within walking distance of most residents.
- 7.24 The access to the wider countryside and to services would be within sustainable walking distance. The proposal would provide a pedestrian connection point to the existing PROW (ZR61) which runs along the western boundary; and would secure a contribution to improvements to Public Footpath ZR61 (to provide a 1.5m wide all-weather surface). As such the proposals would help integrate the new dwellings within the existing settlement of Newington and help provide improved links to the wider network of public footpaths. The proposal would provide a degree of support for the communities' health, social, and cultural wellbeing.
- 7.25 The proposal would be considered to provide significant social benefits in considering the site's overall social objectives.
- 7.26 (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.

- 7.27 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.
- 7.28 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 area which does sit outside of the defined boundary of the built-up area of Newington.
- 7.29 The site is situated to the south of the High Street (A2), with open fields to the south of the application site. The impact to the landscape will be considered below. However, it is noted that the proposal would have some localised harm to footpath ZR61 and The Tracies, no significant adverse impacts are identified in terms of landscape effects. However, given the scale and siting of the development could be subject to landscape screening, controlled by future reserved matters.
- 7.30 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.
- 7.31 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.
- 7.32 The proposal would be considered to have a moderate weight in meeting an environmental objective.

### **Landscape/Visual Impact**

- 7.33 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.
- 7.34 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.
- 7.35 The application site is not located within either a national, Kent or local land designation.
- 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, and
  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.
- 7.36 The site is located to the south-east of Newington, to the south of residential development on High Street and east of residential development at The Tracies. Arable fields with small areas of orchard lie to the south, while smaller fields in use for horse pasture and arable use lie to the east. The site covers an area of approximately 2.7 hectares (ha) and currently comprises grazing land for horses. Patchy hedgerows line the eastern, southern and south-western boundaries, with some reinforcement by post and wire fencing. In-garden vegetation and fence panels form the northern and north-western boundaries. The site slopes gently from 37m in the south to 32m in the north.
- 7.37 In accord with the Swale Landscape Character and Biodiversity Appraisal 2011 the site is located within the Newington Arable Farmlands landscape designation. The site sits on the edge of this designation due to its proximity to the built area of Newington. The site is at the north-western boundary of this character area.
- 7.38 The key characteristics of the area are detailed as being a rolling arable landscape; settlement limited to ribbon development along major roads and isolated farmsteads; mixed field pattern, generally medium scale; few isolated woodlands at field margins; views mainly enclosed by topography, roadside screening and built development.
- 7.39 The condition of the LCA is reported as poor, due to the loss of internal field boundaries especially hedgerows, and replacement with post and wire fencing. This causes a sense of openness and lack of structure within the landscape. The LCA is considered to have low sensitivity. Rolling topography and intermittent vegetation restrict views into and out of the LCA. The landscape lacks distinctiveness and a sense of place, which is exacerbated by 20th century housing. Important historic elements in the landscape include isolated farms and traditional residential buildings.
- 7.40 The application has been supported by a Landscape and Visual Impact Assessment (LVIA) which has been externally reviewed by LUC (Land Use Consultants).
- 7.41 The application has been supported by an illustrative site layout plan and parameter plan. This shows that the built form of development would be located in the northern part of the site, with the southern part of the site free from built development. The southern part of the site would be a community orchard, with buffer planting along the southern boundary and majority of the eastern and western boundaries where these adjoin adjacent fields.
- 7.42 The proposed built form of the proposed development would be situated adjacent to existing residential dwellings in Newington, including existing development to the south of the A2 at the Tracies, and along Callaways Lane. 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.

- 7.43 Further, the proposed community orchard and dense landscaping along the site boundaries, will help form a new soft edge to the settlement boundary. The screening proposed along the west/southern/eastern boundaries would take a period to establish. However, this would mute the overall impact of the development to the wider rural views. Details of landscaping are a reserved matter; however, it would be expected that any future reserved matters application includes a full detailed landscape scheme, including details of how the community orchard and landscape buffers would be managed and maintained.
- 7.44 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.
- 7.45 The submitted LVIA outlines the only significant landscape effects are judged to be on the vegetation at year 15, which is judged to be moderate beneficial. No significant adverse effects on landscape character are recorded.
- 7.46 In the review by LUC, they set out that the beneficial effects at year 1 have been overstated, as the loss of agricultural lane, albeit in poor condition, and replacement with built development over a large part of the site will result in an adverse landscape effect, despite mitigation, at least in the early years of the scheme, until planting has matured. Overall, the comments by LUC note that the judged effects on landscape character are reasonable, and do not identify any significant adverse impacts that would occur in terms of landscape effects.
- 7.47 The submitted LVIA outlines there would be a major adverse impact to the users of PROW ZR61, reducing to a minor adverse impact in year 15. In the review by LUC, they consider that significant visual effects will also occur for users along the local PROW network in year 1 (ZR64). Overall, no significant adverse impact on the PROW network or public vantage points have been identified. LUC have outlined that some residents at the Tracies will experience a significant visual change in year 1 and year 15. The harm identified would be limited to localised viewpoints.
- 7.48 The proposed development will have an additional impact on the wider landscape by virtue of the introduction of built form whereby none exists currently (aside from the small outbuildings on site). The height and location of development has been carefully considered so as to ensure that the impact of the proposal is limited. Moreover, the final layout and massing of the units is not established at this stage and further analysis will be undertaken when the detailed element is worked up. The restrictions imposed via the parameter plan, in terms of the location of the built form, and limiting the height of the development to 2 storeys reflect the outcome of the LVIA. Moreover, the proposal seeks to introduce additional screening to further mitigate the impact of the proposal. It is recommended that a condition be imposed requiring an LVIA to be submitted at reserved matters stage to ensure that the impacts are no greater than that which has been hereby assessed and to ensure that the detailed design duly accounts for the potential impact.

### **Access and Highways**

7.49 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.

7.50 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’.*

7.51 As noted above, the application is seeking outline consent, with details of access being sought at this stage. Vehicular access to the site will be derived from a new priority junction with the A2 High Street, to be formed via No. 128 High Street (which would be demolished) and the adjacent access track. This would take the form of a priority junction with a 5.5m carriageway width and a 1.8m footway on the western side can be sited in this location. Kerb radii of 6.0m would be provided at each shoulder of the access to accommodate larger vehicle movements. The proposed access design is shown on drawing no. 15809-H-01 Revision P4.

7.52 KCC Highways have reviewed the submitted access details through the application process and advised they are generally satisfied that it meets current design guidance to adequately serve the proposed size of development and cater for pedestrian movements and the expected vehicle types that will use it. Clarification was requested during the application process regarding tracking plans and visibility splays, and further information and an amended access drawing have been provided to support the application. The proposal would allow for refuse vehicles to traverse through the site and exiting in a forward gear.

7.53 In the comments dated 25/08/22 provided by KCC Highways it is advised that the updated access drawing is acceptable, it will provide the required visibility splays and notes the junction has been subjected to an independent Stage 1 Road Safety Audit, and this has not raised any concerns over the design of the access.

7.54 The revised Transport Statement indicates that the proposed development would attract around 21 vehicle movements during AM Peak Hour (0800-0900), and 20 vehicle movements during the PM Peak Hour (1700-1800).) The resultant trip distribution would suggest that during the AM Peak Hour, an additional 8 vehicles would pass through the centre of Newington, and 13 vehicles through the Key Street roundabout. During the PM Peak Hour, this would add 7 vehicle movements through Newington and 13 through the Key Street roundabout. This volume of traffic would not usually be considered “severe” under the terms of the NPPF in respect to its likely impact on this section of the highway network.

7.55 The development would still be expected to contribute towards the recovery of the HIF money awarded to Kent County Council for carrying out highway capacity improvements to Key Street roundabout, as was stipulated by the Department for Communities and Local Government. The requested contribution is £63,248.64. based on the recovery formula being applied to planning proposals.



- 7.56 In terms of pedestrian connectivity, the proposal offers pedestrian connectivity to Callaways Lane and footways linking to the village centre via recent development at The Tracies, utilising part of PROW ZR61. KCC PROW have sought a contribution to enhance the public footpath network here, which KCC Highways concur with. The comments advise that as the link is shown on the parameter plan, they would expect it to be realised if this site were to come forward for reserved matters. If it appears that it was not viable, for any reason, then KCC Highways would reserve the right to request the creation of a crossing point in the vicinity of the main site access to fully facilitate journeys on foot.
- 7.57 An indicative total of 92 residential parking spaces will be provided across the site. These would consist of 32 on-plot bays, together with 14 garages or open sided car barns. A further 46 parking bays will be provided on the access roads and in small parking courts across the site as an unallocated provision for residents, with an additional nine unallocated bays for visitors. The indicative details provided would meet the requirements of the Parking Standards SPD in terms of parking numbers, and distribution between on-plot parking, and unallocated provision. No objection is therefore raised regarding parking, and it is considered that full details can be secured at the reserved matters stage.
- 7.58 The proposal would not be considered to result in a severe impact to the local highway network. The proposal subject to conditions and developer contribution would be considered acceptable.

### **Design**

- 7.59 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. Paragraph 130 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.
- 7.60 Policy CP4 sets out the requirements for requiring 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.
- 7.61 Policy DM14 of the Local Plan sets out the General Development Criteria for development proposals. This includes a number of requirements including the requirement that proposals be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location; those proposals provide for an integrated landscape strategy that will achieve a high standard landscaping scheme and those proposals reflect the positive characteristics and features of the site and locality.
- 7.62 The applicant has submitted a parameter plan which does establish parameters for the future development and gives an indication of layout. This shows that the built form of development would be located in the northern part of the site, with the southern part of

the site free from built development. The southern part of the site would be a community orchard, with buffer planting along the southern boundary and majority of the eastern and western boundaries where these adjoin adjacent fields. The maximum building height is set at 2 storeys, and this would be conditioned.

- 7.63 The Urban Design Officer has provided comments on the illustrative layout, and there are some elements that are positive such as the perimeter block layout which will create a well overlooked public realm, and the small pocket of housing is close to a grid form that is legible with streets that are as straight and as direct as possible complete featured open spaces that form navigable features.
- 7.64 The Urban Design Officer has identified areas that will need to be addressed at reserved matters stage including retention and enhancement of existing vegetation on site boundaries; provision of sufficient street trees; a connected network and variety of multi-functional landscapes and open spaces.
- 7.65 The Urban Design Officer has therefore set out that for Reserved Matters a full context study is required to inform the design and to ensure that the site is positively integrated into the context. A local study will be undertaken (regarding urban design, landscape character and architecture) and the design response to the study applied to the place will be clearly set out. The masterplan will be based on a design response to a local study, and the local study should be a stand-alone document and once finalised will not change. This will be sought by way of a condition, to be approved before the submission of any reserved matters application.
- 7.66 The proposal is submitted in outline only (with all matters other than access reserved for future consideration) at this stage. A full assessment of the design of the units, the streetscape and other detailed design elements will take place at reserved matters stage. It is recommended that the parameter plan be conditioned as part of any outline consent which shall secure the location of built form, the areas of open space, orchard, the pedestrian links, and the planting buffer. Moreover, conditions are also recommended to require full details of landscaping/planting and materials at the appropriate trigger point to ensure the scheme is of a high quality.
- 7.67 Overall, it is considered that the outline scheme has been designed to ensure high quality development is delivered at the future stages of the development. Subject to the imposition of conditions, it is therefore considered that the design is acceptable.

### **Residential Amenity**

- 7.68 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.
- 7.69 As a rule, 21m is considered sufficient to prevent a significant loss of amenity relating to daylight/sunlight, visual intrusion to outlook and privacy. 11m is generally considered appropriate for side/flank to rear relationships. The submitted details are indicative at this stage, and full details of the design of the dwellings, including floor plans and elevations will be sought at the reserved matters stage.

- 7.70 There are existing neighbouring properties to the west, north, and north-east of the site, comprising residential dwellings on The Callaways, The Tracies and the south side of the High Street A2.
- 7.71 In terms of the dwellings to the west, there is an indicative separation distance of between 6m-23m between the indicative plots and the existing dwellings on The Tracies; and indicative separation distance of between 17m-39m to the north, and indicative separation distance of between 16m-28m to the north-east. Whilst there are instances where the indicative distances are below the standard requirements, it is considered that the scheme can be designed to ensure no significant harm to neighbouring properties, for example limiting development to single storey or 1 ½ storeys in the north-west part of the site and ensuring the orientation and layout of the dwellings prevents direct overlooking to neighbours. This can be controlled at the reserved matters stage.
- 7.72 The proposal would see an uplift in vehicle movements regarding the residential development. However, the upturn for 46 units would not be considered so significant as to result in unacceptable noise implications to residents. Tree planting along the access road into the site will assist with noise mitigation.
- 7.73 The Environmental Health Officer has commented on the proposal and the submitted Noise Assessment Report and raised no objection to the proposed development regarding noise.
- 7.74 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.
- 7.75 In terms of future residential amenity, the indicative layout has been designed to achieve rear to rear alignment that would allow 21m which is the recommended distance to ensure sufficient privacy, or in places that a closer relationship exists the orientation of the properties reduces the overall overlooking with 11m achieved between side to rear alignment. Each dwelling would have a suitable amenity space, with the residential flats having access to the open space within the site.
- 7.76 Overall, it is that the proposal can be designed to preserve existing amenity levels and ensure there is an acceptable level of amenity for future occupiers. The proposal is considered compliant with local and national policy regarding amenity.

### **Heritage**

- 7.77 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.
- 7.78 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.

7.79 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...'*

7.80 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'.*

7.81 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.

7.82 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 a Conservation Area. The application site lies to the southeast of the Newington High Street Conservation Area, to the northeast of the Newington Manor Conservation Area.

7.83 There are listed buildings close to the application site: Grade II listed milestone at 89 High Street is situated 13m to the north of the site entrance (on the opposite side of the A2); and Grade II Lion House is situated 45m to the north-west (from north-west corner of site).

7.84 There is no intervisibility between Newington Manor Conservation Area and the proposed development area (PDA), and very limited intervisibility between Newington High Street Conservation Area, Lion House and the PDA, due to a combination of intervening modern development, tree cover and topography.

7.85 The grade II listed milestone lies almost directly adjacent the proposed access to the application site and the alteration to the existing access to the agricultural land would result in a change to its setting.

7.86 The Conservation Officers notes that the proposal may conflict with CP8, in that it will inevitably result in more vehicle movements and associated negative impacts to the at-risk High Street Conservation Area, making it more difficult to reverse the existing harm there. CP8 states inter alia that *'Development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and identity...'*. However, with

regards to the NPPF terms the proposal is one which it would be very difficult to sustain a heritage-related reason for refusal given the low-end less than substantial harm level impact we are looking at here and the prospect of up to 46 new homes (with some affordable homes provision) making a material impact to the housing delivery supply.

- 7.87 The Conservation Officer comments that the proposed area for the new housing would round off the southeast built up area to the village of Newington without materially impacting on the setting of any heritage assets and potentially resulting in landscape and biodiversity gains. The Conservation Officer has questioned the appropriateness of the indicative layout and indicative architectural approach for a site which is on the edge of the village. Taking into account the more village-like character of Newington and the fact that the site would form a new edge to open countryside, the Conservation Officer advises a less dense, less urban form of development would seem more appropriate.
- 7.88 The Conservation Officer notes that this should not prevent an on-balance support of the proposal, but a development brief would be appropriate to include as a requirement of any consent to ensure that the physical context of the site is given more, and due consideration in providing the framework for a subsequent reserved matters submission.
- 7.89 The Conservation Officer concludes that there would not be adequate and defensible grounds to sustain a heritage related reason for refusal.
- 7.90 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’.*

- 7.91 Whilst a degree of concern with identifying the proposal as harmful to the setting of the High Street Conservation Area 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.

### **Biodiversity**

- 7.92 Policy CP7 requires developments to conserve and enhance the natural environment. The policy lists the ways in which that shall be achieved and includes the requirement for developments to make the enhancement of biodiversity and landscape as their primary purpose. The policy further requires a net gain in biodiversity in line with the NPPF’s requirements. This is further supported by Policy DM 28 which further requires proposals to be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development. Paragraph 180 of the NPPF sets out the principles by which planning applications should be considered against in respect to habitats and biodiversity.
- 7.93 The application is also supported by a Preliminary Ecological Appraisal prepared by the Ecology Partnership. This has been undertaken to understand any ecological

constraints, any mitigation measures that may be required, any additional survey work that may be required and to identify opportunities for ecological enhancement.

- 7.94 The site is dominated by semi-improved grassland with some areas of scrub and tall ruderal vegetation, together with buildings, bare ground, and hardstanding. Such habitats are of low ecological value, with only hedgerows considered to form an important ecological feature. The existing vegetation at site boundaries are to be retained as part of the proposals.
- 7.95 The site generally offers limited opportunities for protected species, with evidence limited to small numbers of foraging and commuting common bat species, likely bat exploratory activity within a single building, a moderate number of reptiles and common bird species. Appropriate mitigation measures will therefore be implemented to safeguard fauna during relevant site works. Long-term opportunities will be maintained, if not enhanced, under the proposals through new landscape planting and provision of nest boxes.
- 7.96 The proposals present the opportunity to secure a number of biodiversity net gains, including additional native tree planting, new roosting opportunities for bats, and more diverse nesting habitats for birds. On this basis, it is considered that a biodiversity net gain of 37.55% would be achieved under the proposals, substantially above the 10% level indicated by emerging policy and legislation. It is recommended that this be secured by condition if Members are minded permitting the scheme.
- 7.97 The application is in outline at this stage; however, the supporting document suggests that the scheme will not have an adverse impact on biodiversity or ecology subject to mitigation. It is recommended that the conditions imposed require further evidence at reserved matters stage and via submission of details applications to demonstrate compliance with the relevant mitigation and enhancement measures. Moreover, it is recommended that the SAMMs tariff also be secured via legal agreement.
- 7.98 Comments are awaited from KCC Biodiversity regarding the submitted ecological information, and these comments and condition wording will be confirmed via tabled update or at the committee meeting.
- 7.99 With regard to the potential implications for the SPA and the requirements of the Habitat Regulations. As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, situated approximately 3km from the closest part of the SPA and as such the Council seeks a mitigation contribution of £275.88 for each new dwelling. The proposal will result in a net gain of 45 dwellings which will result in a financial contribution of **£12,414.60** which will be secured via a S.106 legal agreement. As a result, and appropriate assessment will be undertaken below.

*Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.*

- 7.100 This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale 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).

7.101 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.

7.102 Due to the scale of development, there is limited 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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

7.103 In considering the European site interest, Natural England (NE) 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 advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

7.104 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 (NKEPG).

7.105 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 (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

7.106 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 (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) 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.

## **Sustainability**

7.107 The supporting information sets out the applicant's approach to addressing Climate change which includes a commitment to ensure that all dwellings achieve a 50% reduction in CO<sub>2</sub> and that each dwelling will have an Electric Vehicle Charging point. This will be achieved through the proposed house designs and adopting a fabric first approach, combined with Air Source Heat Pumps to provide heating and hot water will deliver the required CO<sub>2</sub> reductions by at least 50%.

7.108 To ensure the reserved matters scheme meets this, an energy and sustainability statement will be sought with the reserved matters application to demonstrate that the layout, orientation, and design has been considered to minimise energy consumption. It is considered that the parameter plans have been designed with sufficient flexibility to ensure that the detailed design can accord with the relevant policies. It is also recommended that a condition be imposed requiring details of the reduction in CO<sub>2</sub> emissions beyond the requirements of the Building Regulations. The % reduction will be established at reserved matters stage. It is also recommended that a minimum water efficiency of 110 litres per person per day is also secured by condition.

### **Air Quality**

7.109 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.

7.110 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”.*

7.111 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”.*

7.112 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.

7.113 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.

7.114 The Newington Air Quality Management Area (AQMA) is located to the north of the site, and the vehicular access to the site would join the AQMA. The AQMA is located along the A2 High Street Newington. There is also a AQMA at Keycol Hill further on the A2 to the east. Further along the A2 to the west Medway Council has also identified an AQMA on Rainham High Street.

7.115 An Air Quality Assessment was provided by the applicant. The assessment considers the development on an individual and a cumulative basis. In regard to the vehicle emission 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. The proposed development's impact in isolation would not therefore be considered to have significant harm to human health.

7.116 The Councils Environmental Health Officer raised concerns with the submitted information regarding cumulative impacts and outlined those other sites in Newington were identifying a moderate or substantial impacts when taking into account the cumulative impacts.

7.117 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<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. 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 **£22,022.00**

7.118 The applicant outlined how the damage cost mitigation of the **£22,022.00** would be spent and advised this would be the provision of an annual bus pass (for route 326/327 between Sittingbourne and Chatham, at a cost of £595 per pass) for every household within the development as part of the site's Travel Plan; the cost of which (£27,370) would exceed the damage cost.

7.119 The submitted air quality assessment has set out additional mitigation, via a financial contribution over and above the damage cost towards the establishment of a cycle hire scheme for the village, similar to that which was recently introduced in Faversham. The supporting information sets out the details of this, and an offer to each household a three-year Network Railcard.

*"1.3.2 Initial engagement has been undertaken with the provider of the Faversham scheme (APP-BIKE), and it is deemed feasible to provide five bicycles (comprising a mixture of e-bikes and traditional cycles) within the proposed development. The applicant is willing to offer each household two years' free use of the scheme (at a cost*

*of £6,440), with all ongoing management and maintenance costs to be borne by APP-BIKE.*

*1.3.3 It is further proposed to offer each household a three-year Network Railcard (at a cost of £4,140), which entitles recipients to one-third off the price of many rail fares within London and the Southeast.”*

7.120 The Councils Environmental Health Officer has reviewed the submitted mitigation measures, and notes that the applicant has provided a good package of measures for the number of houses being provided. These include subsidised public transport ticket options and an E-bike scheme which are both deemed suitable for the scale and location of this development. These too can provide some long-term benefits to the area.

7.121 The Councils Environmental Health Officer has set out that alternative mitigation measures need to be written into the S.106 agreement, to ensure that the measures are deliverable, and any unspent contribution (or passes not taken up) are redistributed to another form of mitigation, to ensure contribution is spent appropriately. This will be secured via the section 106 agreement and incorporated into the sites Travel Plan to ensure measures are monitored, managed appropriately, and reported to the Local Authority.

7.122 It should be noted that all dwellings would have the provision of an electrical vehicle charging point, but these are not considered as part of the mitigation package.

7.123 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 NO<sub>2</sub>. The assessment also considers that the proposed mitigation measures to be vague and weak. 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.

7.124 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.

7.125 Considering the Environmental Health Officers comments, full details of mitigation measures will be controlled by the S.106 agreement, with indicative measures comprising, an annual pass for the bus, provision of network rail vouchers and contributions towards an electric bike scheme, which are considered appropriate given the modest scale of development being proposed. The proposal would be considered to meet with the Local Air Quality Management Plan.

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

### **Flooding and Drainage**

- 7.127 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.
- 7.128 The application site is 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.
- 7.129 KCC Drainage outline they agree in principle to the proposed development. The current surface water strategy proposes that surface water will be managed through a series of piped networks and permeable paving prior to discharging into an infiltration basin to the east of the site.
- 7.130 The submitted information for the outline scheme has been presented as a high level strategy and therefore the comments by KCC Flood and Water Management outline areas that will need to be addressed when finalising a detailed drainage scheme which will be sought via condition. This includes the need for further infiltration/soakage tests; comments regarding ownership boundaries; underground services routed outside of permeable paving; grading levels of swales and basins; depth of basins/ponds.
- 7.131 KCC have advised that full consideration is given to the landscaping of the basins and promotion of multi-functional design, as the current basin arrangement may not maximise the open space and biodiversity opportunities available. This is an element that would be secured at reserved matter stage.
- 7.132 Southern Water raise no objection subject to a condition regarding sewerage network reinforcement and an informative regarding foul drainage.
- 7.133 Therefore, it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.

### **Minerals (Brickearth)**

- 7.134 The application sites fall within a safeguarded mineral in the area, being Brickearth. The mineral resource is safeguarded by Policy CSM 5: Land-won Mineral Safeguarding of the Kent Minerals and Waste Local Plan 2013-30. As such, KCC Minerals & Waste requested that the application should include a Minerals Assessment (MA) to determine if the safeguarded mineral deposit is being needlessly sterilised, and if not whether an exemption to mineral safeguarding pursuant to Policy DM 7: Safeguarding Mineral Resources of the Kent Minerals and Waste Local Plan 2013-30 can be invoked.
- 7.135 The submitted Minerals Assessment (MA) sets out there is a high probability that a usable and viable Brickearth deposit is present at the site, and the local Brickearth user in the area (Weinberger Ltd). Weinberger Ltd stated that they were interested in the site as a source of Brickearth and outlined that further testing would be required.
- 7.136 KCC Minerals and Waste advised that if the further analysis does conclude that the material is suitable for brick manufacture and that prior extraction is viable and the

applicant intends to do this as part of their proposals, the County Council would have no objection to the application on grounds of Policy CSM: 5 Land-won Mineral Safeguarding, of the Kent Minerals and Waste Local Plan 2013-30 (as Early Partially Reviewed 2020).

7.137 In response, the applicants proposed a Grampian condition to enable further mineral testing to be undertaken, with the resource to be extracted (if viable) before any development commenced on site. This approach has been discussed with KCC Minerals and Waste, who have advised that given the outline nature of the planning application it is considered that a Grampian condition is acceptable in this instance, as it does not dilute the safeguarding presumption.

7.138 A Grampian condition has been discussed between the case officer and KCC Minerals and Waste which would allow for further testing of the mineral to determine whether this is viable or not. If a viable deposit is found, full extraction of the deposit would be required before any development or prior to development permitted operations occur on site. This is condition (1).

7.139 A condition is also included that would seek details of a Brick Earth Extraction Method Statement to ensure there would be no adverse impacts on residents, or the highway network. This is condition (18).

### **Archaeology**

7.140 Part of the application site is located within an area of Archaeological Potential; this comprises land to the south of the High Street (A2) up to approximately 20m into the site. The wider local area has been subject to archaeological finds. The application has been supported by an Archaeological Desk based Assessment by SWAT Archaeology (July 2021) which has been reviewed by KCC Archaeology.

7.141 The supporting document recognises the high potential in Newington for remains of Iron Age and Roman date. KCC Archaeology conclude that there is potential for significant archaeological remains to occur on this site and to be affected by proposed development. They are satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate. Given the illustrative layout this could be achieved through design and layout of open space. The evaluation should be timed to be undertaken ahead of any reserved matters application so that archaeological measures can be taken account of in development design. A condition is recommended to enable a staged approach to evaluation and mitigation of the site's potential impacts on archaeology" (See condition 7).

### **Affordable Housing**

7.142 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.

- 7.143 The proposal would provide a policy compliant on-site provision of 40% which would equate to 18 units. At this stage the housing mix, and layout of units are a reserved matter, and therefore any reserved matters application would seek good social integration for affordable units within the site, and size of units to accord with local housing needs.
- 7.144 In accordance with Local plan policy CP3, a good choice of housing types should be provided, including as affordable, to ensure the delivery of a reasonable and proportionate mix to the open market homes, including larger 4-and 5-bedroom houses were provided on development sites. The Affordable Housing Manager has commented on the submitted indicative housing mix for affordable units and suggested a more comparable housing mix to the policy requirements with 2 x 1 bed units; 3 x 2 bed units; 10 x 3 bed units and 3 x 4+ bed units. An affordable housing mix closer to this will be sought at reserved matter stage.
- 7.145 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.
- 7.146 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.
- 7.147 The provision of a 25% First Homes and 75% socially rented tenure was sought in line with the emerging government guidance. This would result in a split of 4 First Home units and 14 socially rented units.

### **Developer Contributions**

- 7.148 Policy CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met.
- 7.149 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.
- 7.150 Kent County Council Highways have requested a contribution of **£63,248.64** 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. Kent County Council Public Rights of Way have requested contribution of **£10,764.00** to improvements to Public Footpath ZR59 (to provide a 1.5m wide all-weather surface).
- 7.151 Kent and Medway Clinical Commissioning Group also made comment noting that the proposal would generate a requirement for an additional 118 patients. The comments note that the proposal would fall within the current practice boundaries of several 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 **£42,372.00**

7.152 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 based on £593.00 per dwelling on formal sports and £446.00 per dwelling for play and fitness. The total would amount to **£46,755.00**

7.153 Further, to the above Swale would require contribution towards the provision of wheelie bins of approximately. Administration/monitoring fees, SPA mitigation as referenced above, and Air Quality Damage Cost Calculations will be sought via the S.106 agreement.

7.154 The requested contributions are outlined below, given the outline nature of the scheme the per dwelling figure will be used for the purposes of the S.106 agreement.

7.155 KCC Primary Education	(£6800 per house) & (£1700 per 'applicable' flat)
KCC Secondary Education	(£5176 per house) & (£1,294.00 per 'applicable' flat)
KCC Secondary Land	(£2,635.73 per house) & (£658.93 per 'applicable' flat)
KCC Special Education	(£1,051.82 per house) & (£262.97 per 'applicable' flat)
KCC Community Learning	(£16.42 per dwelling)
KCC Youth Service	(£65.50 per dwelling)
KCC Library Bookstock	(£55.45 per dwelling)
KCC Social Care	(£146.88 per dwelling)
KCC Waste	(£183.67 per dwelling)
KCC Highways	(request of £63,248.64)
KCC PROW	(request of £10,764)
NHS CCG	(request of £42,372)
Air Quality Mitigation (Damage Cost)	(£22,022)
SBC Formal Sports	(£593.00 per dwelling)
SBC Play	(£446.00 per dwelling)
SBC refuse/bins	£109.40 per house and £196.98 per flat
SAMMS	£275.88 per dwelling
Air Quality Mitigation (Additional measures)	
Administration and Monitoring (TBC)	

7.156 The contribution per dwelling equates to approximately **£19,025.29**

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

#### **Titled Balance**

7.158 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 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.

7.159 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 considering the titled balance.

7.160 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. The development would support the provision of pedestrian links to access existing PROW and wider amenities in Newington. The proposal would include a contribution to improve the surfacing of Public Footpath ZR61 (to provide a 1.5m wide all-weather surface).

7.161 The proposal would as identified above result in some low-end less than substantial harm to the setting of the High Street Conservation Area. 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.*

7.162 The site is not isolated as it is located adjacent to existing residential dwellings. The land is not a designated landscape either nationally or at the local level.

7.163 Further, the proposal would provide additional housing addressing an identified need in the borough, including the provision of affordable housing.

7.164 The proposal would also result in some localised landscape harm in seeing the loss of an open field which sits outside of the defined development boundary, and from changes to localised views from immediate public footpaths. However, as above the proposal would see additional landscaping to an area and provide a landscape buffer to a new edge in Newington. The site is not isolated as it is located adjacent to existing residential dwellings. The land is not a designated landscape either nationally or at the local level.

7.165 There would be other benefits from the scheme including the 37% Net Gain in Biodiversity and aim to achieve 50% reduction in CO<sub>2</sub>.

7.166 The limited localised harm to the landscape and setting of the Conservation Area is not considered significant. In applying the titled balance, the proposal is considered to tip the balance in favour of approval.

## **8. CONCLUSION**

8.1 The proposed development would result in new residential development outside the defined settlement boundary of Newington. 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 localised landscape harm and impact to the setting of the High Street Conservation Area.

- 8.2 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.
- 8.3 The proposal would provide additional housing, including the provision of 18 on-site affordable units in the Borough adjacent to a settlement boundary on the development hierarchy strategy. There would be modest positive benefits of improving the economic and social vitality of the area (during construction and through the introduction of new residents).
- 8.4 The site is locational sustainable, being within walking distance to the facilities and services within Newington, and with walking distance to public transport facilities (bus and train station) that serve Newington. There would be other benefits from the scheme including the 37% Net Gain in Biodiversity and aim to achieve 50% reduction in CO2. The proposal would be considered to have a moderate weight in meeting an environmental objective.
- 8.5 The proposal would include a contribution to improve the surfacing of Public Footpath ZR61 (to provide a 1.5m wide all-weather surface), which will enhance pedestrian connectivity within Newington.
- 8.6 The proposal is considered on balance acceptable and is recommended for approval.

## 9. 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 to include**

#### **Grampian Conditions**

- 1) No development or prior to development permitted operations, shall occur on site until it is fully concluded that prior extraction of the Brickearth mineral is either:
- A. unviable or;
  - B. further testing of the mineral demonstrates it is not usable or;
  - C. full prior extraction of the viable deposits of the Brickearth has been completed to the satisfaction of the planning authority

The above criteria a.to b. to be agreed as appropriate, in writing, with the Local Planning Authority (who shall consult Kent County Council)

The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the safeguarded mineral is not sterilised

- 2) No dwellings shall be occupied, until the Key Street highway improvement contract has been awarded.



Reason: In the interest of highways capacity

**Related to outline nature and requirements of the RMA**

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

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

- 4) Application for approval of reserved matters referred to in Condition (3) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

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

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

- 6) Prior to the submission of a reserved matters application, a design code shall be submitted to and approved in writing by the Local Planning Authority. The design code shall be based upon the Site Parameter Plan drawing 23254C/150\_A; and Design and Access Statement, and shall include the following –

- A local study (regarding urban design, landscape character and architecture).  
The local study will cover.
  - i. Urban form,
  - ii. Block pattern and size,
  - iii. Development to space relationships, such as building heights to street widths,
  - iv. Open space typologies,
  - v. Built response to topography,
  - vi. Local Landscape Characters at national and Local levels,
  - vii. Local habitats and species as well as patterns of vegetation,
  - viii. Boundary treatments,
  - ix. Architectural vernacular and details
- A design strategy for buildings, to include housing mix, density and massing, architectural treatment, the use of feature buildings in key locations, principles for the use of external materials, boundary treatments, and provision of car parking. The masterplan shall be based on a design response to the local study.
- Principles for establishing character areas
- Principles for road hierarchy, pedestrian and cycle connections, including the alignment, width, lighting and surface materials to be used
- A strategy for street tree planting

- Principles for the layout to accommodate and respond to existing landscape features within the site.
- Design of the public realm, including principles for the design and layout of public open space, areas for play, lighting, street furniture and sustainable urban drainage
- A strategy to provide open space, footpath and cycle linkages.

The reserved matters shall be designed to accord with the approved Design Code.

Reason: In the interests of providing a high-quality layout and design for the development.

- 7) A) Before the submission of reserved matters, the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.

B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording with a specification and timetable which has been submitted to and approved by the local planning authority.

C) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
- b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
- c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

D) The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 8) The development hereby permitted shall be carried out in accordance with the following approved drawings, documents and mitigation set out within:

Site Location Plan (23254C/25\_D); Proposed Site Access (15809-H-01 Rev P4); Parameter Plan (23254C/150\_A); Transport Statement (dated September 2021) and Addendum (dated March 2022); Landscape and Visual Appraisal (dated September 2021); Planning Statement (dated October 2021), Design & Access Statement (dated October 2021); Preliminary Ecological Appraisal (dated October 2021); Noise Assessment (dated September 2021); Flood Risk Assessment (dated August 2021); Arboricultural Report (dated September 2021); Air Quality Assessment (dated August 2021, Addendum (dated January 2022) and Air

Quality Mitigation Statement (dated July 2022); Minerals Resource Assessment (dated August 2022).

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

- 9) The development hereby permitted shall consist of no more than 46 residential units (Use Class C3) and the detailed design shall strictly accord with the following Parameter Plan 23254C/150\_A

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

- 10) An accommodation schedule shall be provided with the reserved matters application. The accommodation schedule shall demonstrate a range of housing types (including both market and affordable units) are provided which reflects the findings of the current Strategic Housing Market Assessment or similar needs assessment (or most recent standard) as well as making provision for wheelchair adaptable dwellings and wheelchair user dwellings as part of the housing mix.

Reason: To ensure there is a mix and size of dwellings to meet the future needs of households

- 11) The details submitted pursuant to condition (3) shall show adequate land, reserved for the parking or garaging of cars; suitable storage for cycle parking; and electric vehicle charging provision (in accordance with the currently adopted Kent County Council Vehicle Parking Standards and Swale Parking SPD or most recent relevant standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted. All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users, and interests of air quality.

- 12) The development shall be completed strictly in accordance with details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels which shall have been submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application.

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

- 13) With the first reserved matters application, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. This will be in general accordance with the recommendations in section 6.2 of the Ecological Appraisal (Aspect Ecology, October 2021) unless

otherwise agreed in writing by the Local Planning Authority. The scheme shall achieve a biodiversity net gain of at least 37% against the existing site conditions. The approved details will be implemented and thereafter retained in perpetuity.

Reason: to ensure appropriate ecological protection and enhancement is undertaken along with ensuring that biodiversity gains are delivered for the enhancement and improvements of habitats.

- 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) The details submitted pursuant to Condition (3) above shall demonstrate how principles relating to minimising the opportunities for crime and anti-social behaviour have been incorporated in the layout, landscaping and building design.

Reason: In the interests of minimising the opportunities for crime and anti-social behaviour.

- 16) The details submitted pursuant to Condition (3) above shall show dwellings extending to no more than 2 storeys in height.

Reason: In the interests of complementing the character and appearance of existing development in the vicinity of the site.

- 17) The reserved matters application shall include the following reports along with all other drawings and documents as required for validation purposes:
- Tree Protection Plan
  - Design and Access Statement
  - Landscaping Design Statement
  - Landscaping and Visual Impact Assessment; and
  - Energy and Sustainability Statement

Reason: In order that the Council is satisfied with the details of the proposed development and in the interest of proper planning

### **Pre-Commencement**

- 18) Prior to the commencement of the development, a Brick Earth Extraction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The extraction of brick earth shall then be carried out in accordance with the approved Brick Earth Extraction Method Statement and in line with IAMQ's 2016 Mineral Dust Guidance which shall include mitigation measures to minimise any potential impacts and shall include the following where relevant:
- Routing of lorries between the site and the brickworks
  - An indicative programme for carrying out the works
  - Measures to minimise the production of dust from the site

- Measures to minimise noise (including vibration) generated by the extraction process to include the careful selection of machinery and use of noise mitigation barriers
- Maximum noise levels expected 1m from the affected facade of any residential unit adjacent to the site
- Measures to prevent the transfer of extraneous material onto the public highway
- The location and design of any site administration building or structure.

Reason: In the interests of residential and highway amenity.

- 19) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:
- a) A site investigation (phase 2), based the phase 1 assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - b) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (phase 2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should 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. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.
  - c) A Verification Report shall be submitted upon completion of the works and shall include full verification details as set out in the verification plan. This should 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.

Reason: To ensure any contaminated land is adequately dealt with.

- 20) Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
  - (ii) The loading and unloading and storage of plant and materials on site;
  - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

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

Reason: In the interests of the amenities of the area

- 21) Prior to commencement of development, a detailed strategy for the control of noise and vibration during any piling activities shall be submitted to and approved by the Local Planning Authority and all measured approved shall be implemented throughout the construction phase.

Reason: In the interests of the amenities of the area

- 22) Prior to the commencement of the relevant part of the development, an ecological and landscape management plan, including mitigation measures during demolition and construction, long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, shall be submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:
- a) Preliminary Ecological Appraisal demonstrating the details of all features of ecological value on the site and setting out measures for their protection during construction works.
  - b) Detailed phase II roosting bats' and nesting birds' surveys
  - c) A detailed method statement for the removal or long-term management /eradication of invasive species on the site.
  - d) Details to protect the established vegetation from any damage that could be caused during demolition and construction. All works should be undertaken by a suitably qualified and experienced specialist contractor and should conform to current industry best practice, i.e. BS 3998: 2010 'Tree Work - Recommendations'. The details should ensure that existing commuting/foraging routes currently utilised by bats and other wildlife are maintained.
  - e) If more than one year passes between the most recent bat survey and the commencement of demolition and/or tree works, an update bat survey must be undertaken immediately prior to demolition or tree works by a licensed bat worker. Evidence that the survey has been undertaken shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of demolition and/or tree works.
  - f) Details from a suitably qualified ecologist specifying how the landscape features have been developed for biodiversity and ecological enhancement.
  - g) Details of management and maintenance regimes to ensure biodiversity and ecology is protected, including a schedule for seasonal maintenance of the

landscaping with appropriate support systems and health checking of planting to ensure it is performing as intended;

- h) The mitigation and enhancement should include, but is not limited to, the following:
- i. Native species
  - ii. Bird and bat sensitive lighting
  - iii. Artificial nesting and roosting sites (including bird and bat boxes)

Evidence that the ecological measures approved have been installed in accordance with the approved details should be submitted to and approved by the local planning authority prior to occupation of the relevant part of the development.

The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.

Reason: To contribute to protecting and enhancing biodiversity, protect aviation and improving the aesthetic value of the development as well as resident's well-being.

- 23) 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 prepared by DHA dated August 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

- 24) Submission of a Construction Management Plan before the commencement of any development on site to 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) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

The development shall be carried out in accord with the approved Construction Management Plan at all times unless otherwise agreed in writing by the local planning authority (who shall consult Kent County Councils Highways).

Reason: In the interests of highway safety

- 25) 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.

- 26) 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.

Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.

#### **Prior to above ground level works**

- 27) No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials, including hard surfaces to be used in the construction of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 28) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate the biodiversity net gains in as per Condition 13. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity ), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, lighting, bollards, street furniture (including waste bins), cycle linkages, wayfinding, permeability of all hard surfaces, materials, use of planting to provide privacy and defensible areas and an implementation programme. All new streets must be tree lined.

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



in writing with the Local Planning Authority.

The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs 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.

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

### **Pre-Occupation**

- 29) Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: In the interests of sewer network capacity

- 30) 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.

- 31) 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 the suitable modelled operation of the drainage system where the system constructed is different to that 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 neighbouring 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.

- 32) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 33) Prior to the occupation of any of the units hereby permitted the approved access as show on the approved plans including 15809-H-01 Revision P4 shall have been completed and brought into use and maintained as such thereafter.

Reason: In the interest of the local highway network.

- 34) Prior to first occupation of the development herby approved details of a motorbike inhibitor at the junction of the proposed pedestrian link with public footpath ZR61 shall be submitted to and approved in writing by the Local Planning Authority (in consultation with KCC Public Rights of Way). The inhibitor shall meet KCC specifications, and be sited within the development site at the boundary to restrict access to the public footpath. The approved details shall be implemented prior to first occupation of the development and maintained as such thereafter.

Reason: To protect pedestrian users of the footpath and prevent unauthorised (cycles and motorbikes) accessing to the footpath.

- 35) 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.

- 36) 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 interests of amenity

- 37) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :- Monday to Friday 0900 - 1700 hours (to include reasonable periods of reprieve) unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of amenity

## **INFORMATIVES**

Southern Water: 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.

### **The Council's approach to the application**

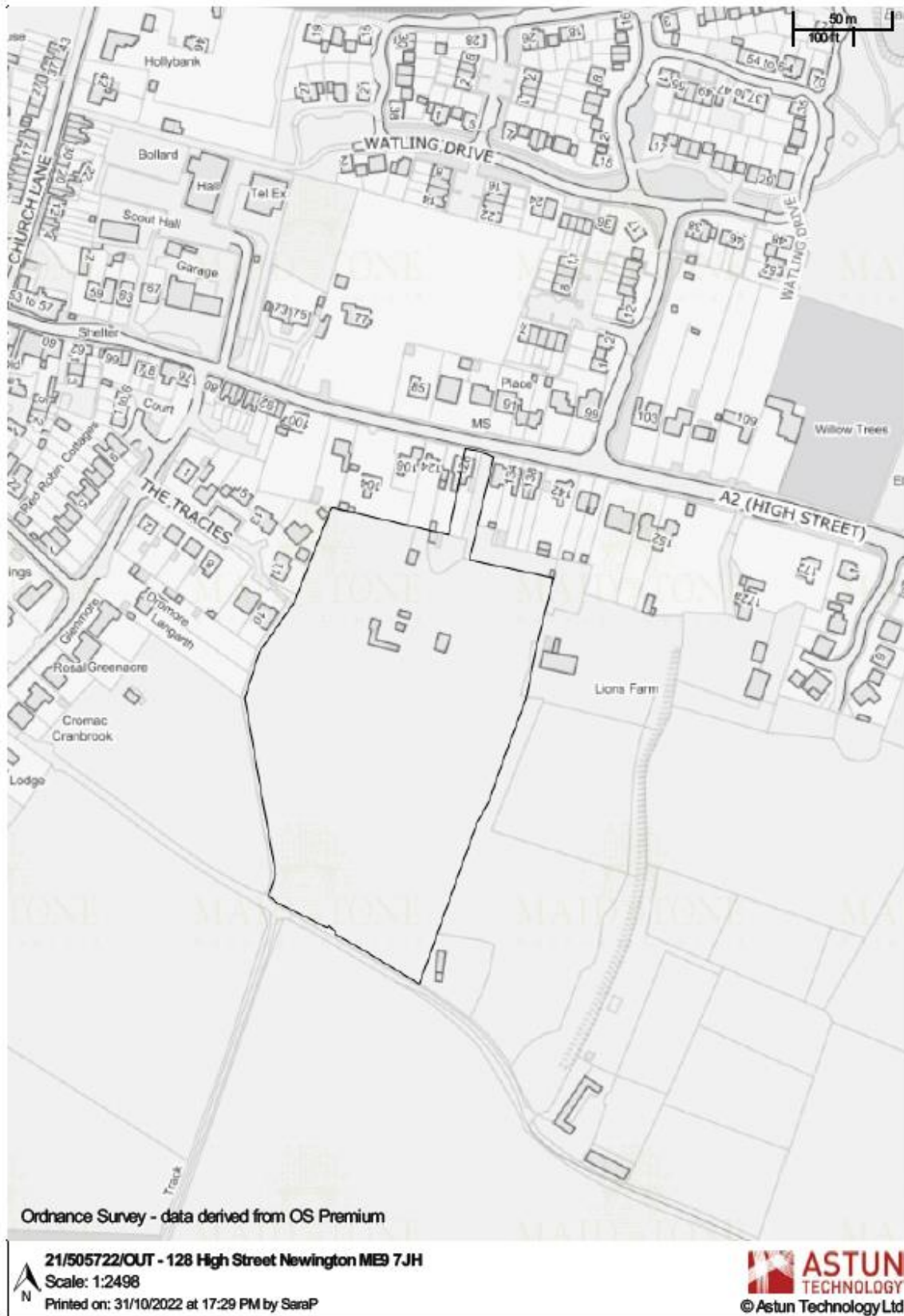
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused

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 1**Application: 21/505722/OUT 128 High Street, Newington ME9 7JH

Proposal: Outline application for demolition of existing residential dwelling and erection of up to 46 residential dwellings, including affordable housing, with access from A2 High Street (Access only being sought).

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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 The location of the proposed development

128 High Street is located on the main A2; this property is within the defined built-up area of existing properties along the A2. The proposal is to demolish this house to provide access to the BMV farmland behind.

The land on which housing is proposed is outside the established built-up boundary of Newington. It borders a public bridleway from which there are outstanding views south towards Wormdale and north over the countryside leading to the estuary

128 High Street is a semi-detached property. We note that the owner of 126, the other half of the pair that form the overall building, has expressed surprise and concern at the proposal – clearly no consultation from the developer. This proposal would mean the demolition of part of a building to provide access to the field behind.

A 2019 application for development behind 132 High Street was rejected and the subsequent appeal to the Planning Inspectorate dismissed (details below). NB 132 High Street is adjacent to this application; there is no number 130.

The access and proposed housing development is between the High Street and Newington Manor Conservation Areas.

The applicant is the same developer as for the Eden Meadow proposal which is pending decision. Eden Meadow is 225 metres to the East and the proposal (20/501475/FULL) has been reduced from 40 to 20 homes, to join the existing 9 homes in Eden Meadow built following a 2017 planning appeal decision. At the 2019 Design Review Panel and in the presentation at a January 2020 Newington Parish Council Planning Committee meeting attended by many local residents Esquire Developments made no secret of their ambition for an extensive development stretching from Eden Meadow to the village centre behind properties south of the A2. They define this as 'public consultation' in their planning statement.

We anticipate submitting additional comments when the additional reports requested by the planning officer have been added to the Midkent portal.



## APPENDIX 1

2

2 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 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: Total already built in Newington 2014 to now is 183 properties; for the target six years to date that is 206%

Since the Census in 2011 (population 2551 in 1089 household spaces; data from 2021 not yet available), this village has grown by 18%. (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 applicant's documentation is misleading in places as it is out-of-date; eg referring to restaurants that closed several years ago

The Parish Council is sure that Members will understand the cumulative effect of this increase and that of the proposal for a further 46 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, albeit not extensively farmed in recent years.

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

3

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

We give detail of three recent inspectorate decisions 2018-2021 near to the site of this application where dismissal of the appeals was due to the proposal being outside the defined built-up area. There is another inspectorate decision (2016) in Newington which we believe to be relevant and we quote also from the 2020 decision in a neighbouring village, dismissed on the same grounds.

The Eden Meadow development at Boyces Hill Newington, from the same applicant. This is 225 metres east of 128 High Street, also on the south side of the A2. (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 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. This application was not included in the recent Regulation 18 consultation.

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

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

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

*NB 132 High Street is next door to this application; there is no 130 High Street*

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

## APPENDIX 1

4

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 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

**b) 148 High Street, Newington (2 appeals)**

*This is 80 metres east of 128 High Street, also on the south side of the A2.*

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 Application17/500946/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 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



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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 relatives 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 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

*This is 270 metres east of 128 High Street, also on the south side of the A2.*

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:

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"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 National Planning Policy 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 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 East of St Mary's View, Church Lane,

*St Mary's View is off Church Lane, in the village centre, north of the A2*

Land to East of St Mary's View, Church Lane, 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

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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.

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.

e) Land Off Jubilee Fields, Upchurch

*Upchurch is 2 miles from Newington. We cite this appeal decision as it was made 12 months ago.*

We also refer to 19/501773/OUT 'Land Off Jubilee Fields Upchurch Kent ME9 7AQ', Outline application for residential development of 41 no. 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".*



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

#### 4 Newington Air Quality Management Area

The proposed development is 200 metres East of Pond Farm. The effect on air quality 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)'

46 homes cannot be seen as a modest proposal and 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.

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 a 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 mitigation measures.

The total damage cost is £22,022 over five years from 2019. This is an estimate of the costs to society due to the impact of increases in emissions associated with the proposed development. As defined by the IAQM/EPUK guidance<sup>16</sup> the damage cost relates to the value of mitigation that should be applied, preferably on-site.

This modest amount does nothing to reduce pollution in the village centre. More important, it does nothing to prevent further harm to the residents and pedestrians in the village – especially the vulnerable elderly and children walking to the village school or older children walking to bus stops to access secondary education in Rainham or Sittingbourne.

As well as the Pond Farm 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.

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 (1km East of Newington) 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

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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 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 2017 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.

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 has commented on the effect of the application to the proposed improvements to A249 junctions:

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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. 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

6.4.3 At worst, the cumulative impacts of predicted NO<sub>2</sub> concentrations from both the proposed and committed developments is considered moderate or substantial depending on the location of the existing receptor

We note there are no proposed mitigation measures that would effectively prevent an increase in traffic pollution. The suggestion of a 'community orchard' would have little mitigation effect. Newington is classified as part of the 'fruit belt' and is surrounded by orchards growing many varieties of fruit, some maintained by large growers, others as individual smallholdings. Residents are therefore unexcited by the prospect of a community orchard.

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 attached**

The Air Quality report for 128 High Street is prepared by Lustre Consulting, who has also compiled the reports for (20/501475/FULL) Eden Meadow and (21/504028/FULL) Land at School Lane. It is therefore curious that

83. **The AQA for 128 High Street does not consider School Lane or (20/505059/FULL) Willow Trees. The AQA does consider (20/501475/FULL) Eden Meadow**

However

84. **The AQA for 128 High Street and the AQA for School Lane are identical in terms of modelling. (!!)**

Therefore

... All of the arguments regarding model uncertainty and initial accuracy therefore also apply to 128 High Street

And from comments on 'Land at School Lane'...

75. ...The model systematically under-predicts (every location)

80. ...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 NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> within Newington exceed WHO guidelines for health.

9. The Newington AQMA has exceed NO<sub>2</sub> 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.



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5 Visual Amenity

This proposal would lead to serious loss of visual amenity (footpaths ZR65 and ZR67/1) The proposed site would be visible from the Boyces Hill footpath, the Cranbrook Lane footpath, from Callaways Lane, which leads to Cranbrook and Cromas Woods (known locally as Monkey Island), is near to listed buildings and adjacent to the Newington Manor conservation area. This is a very popular bridleway and footpath, well-used by residents and hikers due to the fine views.

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): Third of the nine main issues 'The effect of the appeal proposals on landscape, character and the form of Newington'

The Inspector decision was that the proposals would have caused substantial harm to landscape character

Swale Borough Council's October 2019 Landscape Sensitivity Assessment  
Pp 478-479 A1.214-A1.215

Natural Character: 'Cranbrook Wood is priority habitat deciduous woodland'  
Overall Assessment: 'The landscape has a very undulating topography, a moderate sense of rural character with limited modern human influences, limited time depth with some heritage assets, limited valued natural features and semi-natural habitats, is visually enclosed and acts as an important rural gap between Sittingbourne and Newington. These attributes, in combination with the absence of landscape designations, indicate a moderate overall sensitivity to future change from residential development'

There is also a further detrimental effect on the grade II listed buildings Ellen's Place and Lion House, both located on Newington High Street

When commenting on the Eden Meadow application, the 'Heritage Addendum' by the Swale Conservation Officer, dated 17 September 2020 states:

The site is located immediately to the south of the grade II listed building known as Ellen's Place. ...The original outline application for 9 dwellings (allowed on appeal) and the subsequent reserved matters application failed to take adequate account, and as a result, the setting of this listed building has been harmed. ...through the suburbanisation of its setting. The proposed additional housing area would (as the proposal stands at present) exacerbate this impact through the process of cumulative change

I continue to have concerns about various design aspects of the proposal, including the siting and design of the proposed houses and flats and their juxtaposition with the road layout, my primary concern at this juncture remains the principle of allowing an extra 40 houses at this location, particularly when it is clear that there is an ambition to ultimately develop significantly beyond this. I believe my initial view and concern in this respect is effectively backed up by the conclusions set out in the David Huskisson landscape review report which inter-alia references the '*...tightness of the development in relation to its open countryside boundaries where either vegetation is proposed to be retained or augmented or new planting provided. There is simply not enough space to deliver an appropriately robust landscape structure on the present layout*'.

The applicant's heritage consultant makes reference to this document (Historic England Good Practice in Planning Advice Note 3 on The Setting of Heritage Assets 2<sup>nd</sup> Ed, Dec. 2017) but his assessment is in my view compromised in its degree of authority because of the failure to carefully and methodically work through the five steps (1-4 of which are for the applicant to action) provided in the guidance to allow for an objective conclusion to be reached. Furthermore, he has failed to completely take into account the section of the guidance which requires cumulative change to setting to be taken into account and factored into the assessment on the degree of (in this case) harm that would arise.

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The proposed development would impact on views across the open countryside from public footpath ZR65 looking northwards towards the A2. If the proposed development is approved as shown, it is very clear that this view of the listed building from this footpath will be lost and replaced with a strong sense of creeping urbanisation into the countryside separating Newington from Keycol. The concerns raised in this respect are not dissimilar to those raised by the planning officer in the report to planning committee on the 2016 outline application. I therefore strongly object to this application on principle for the reasons outlined above,

#### Swale Landscape Character and Biodiversity Appraisal, 2011

2.34 The stated guidelines for Area NN2 south-east of Newington are:

Conserve the rural setting of the Newington Manor Conservation Area, including:

- Maintain and enhance the well-integrated edges of the settlement so that development is not generally visible from the surrounding rural landscape.

Provide guidance to promote the retention of traditional rural boundaries and hedges including the use of native plants and avoid urban style boundaries/fencing;

We anticipate submitting additional comments when the additional reports requested by the planning officer have been added to the Midkent portal.

## 6 Ecology

The ecological survey appears to study the habitat in isolation: i.e. it may be "low quality" but a large contiguous area of low quality habitat may nonetheless be an important resource for a range of widespread but potentially threatened invertebrate species and birds. This is especially the case where they note valuable plants like burdock and teasel are present which are important to pollinators and winter birds. There is nothing here to say the developer would ensure there is no net loss of resource for the actual species currently supported!

The ecological survey does not explain the method used for the invertebrate survey, simply declaring "there aren't any important species there". There is no indication of how this was proved. We are puzzled that the report does not note that the site finding has a good chance of supporting some moderately noteworthy bees such as *Andrena gravida* and *Melitta leporine*. The "bee brick" mitigation seems to be 'greenwashing' as much better provision could be made via maintained bare ground with light sandy soil, dead wood and leaving some hollow plant stems around the site.

There is nothing in the report's proposals to make sure that the hedgerow is protected; this continuous stretch of hedgerow down supports a lot of birds and insects (incl. linnets). There is a danger of loss through increased traffic.

For the proposed 'Community Orchard' there is nothing on:

- staffing - for harvest, pruning, mowing and year-round maintenance work
- management
- an ecologically appropriate integrated pest and pollinator management scheme
- monitoring to ensure it does not become a reservoir of pests or diseases that will affect surrounding farms

There has been no consultation to see if there is sufficient interest in doing the work long-term and it is unclear how the developer intends to make sure the alleged biodiversity net gain lasts beyond the development period.

## 7 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



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with those via other local villages and taking more than 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.

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 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.”

The proposed development has pedestrian access to The Tracies, leading to Callaways Lane. Please note there is no westbound pedestrian footpath from the proposed new development entrance road to the High Street without crossing the busy A2.

In Planning Statement 6.4.7.

discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies. *How is this to be achieved?*

A welcome pack online .... encourage the use of sustainable transport modes *How effective?*

Weighting given to local eV car clubs where possible *What does this mean?*

Working with Swale environmental protection to identify suitable NOx and PM abatement measures ... not entailing excessive cost *The final 4 words are very significant*

The KCC response seems to treat this application as a single allocation – not linking it to the further applications as outlined in the applicant’s planning statement Phase 1: the completed nine houses at Eden Meadow; Phase 2: Application Reference: 20/501475/FULL; Phase 3 this application : and a possible further phase three of potential additional land (see Figure 1-1: Site Location Plan page 26 of the Transport Assessment).

The Transport statement states

4.4.3 Policy CP2 seeks to encourage sustainable development in Swale.

Newington PC would have wished to see KCC responding to the whole scheme. The A2 at Newington is at capacity and this site on highway grounds is unsustainable.

## 8 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 SYHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

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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.

## 9 Conclusion

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.

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 December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/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. Although we welcome the inclusion of heat source pumps we regret the absence of solar panels.

We have major concerns for the health of Newington residents with potential further harm due to cumulative development in addition to the traffic which passes through our village each day. Please see the University of Kent School of Health Studies report which evaluates the unacceptable pollution levels in the village the potential increase if further housing development is permitted.

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.

*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, 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

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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
<b>Total 2011 pre 2014</b>	<b>18</b>		
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
The Vicarage	3	Aug- 19	19/503528
Cromas (Land Adjacent)	1	Jan-20	19/506356
<b>Total 2014 to 2020 (March)</b>	<b>183</b>		
<b>Overall Total Since 2011</b>	<b>201</b>		

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**PLANNING COMMITTEE – 10 NOVEMBER 2022****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 20/505046/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of 2no. holiday homes			
<b>ADDRESS</b> High Hopes Poot Lane Upchurch Sittingbourne Kent ME9 7HL			
<b>RECOMMENDATION</b> Refusal			
<b>SUMMARY OF REASONS FOR RECOMMENDATION FOR REFUSAL</b> This site is located in the countryside, is not previously developed land and the proposal does not represent the re-use of an existing rural building or farm diversification. Although proposed for holiday accommodation, the design and layout of the units would appear as and be capable of occupation as dwellings and no business case has been provided to demonstrate that there is a clear unmet need and market for such holiday accommodation, with a resultant risk of future pressure to convert to dwelling houses. Overall, the proposal to erect new buildings to create new holiday let accommodation in this countryside location represents an unnecessary, undesirable and unsustainable form of development. The unsustainable location of the site and harm to the countryside that would result from this proposal is not outweighed by the limited contribution made to the rural economy when assessed against the policies of the Local Plan and NPPF.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Support from Upchurch Parish Council			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Upchurch	<b>APPLICANT</b> Mr Curtis <b>AGENT</b> Woodstock Associates	
<b>DECISION DUE DATE</b> 24/12/20	<b>PUBLICITY EXPIRY DATE</b> 04/08/22	<b>CASE OFFICER</b> Rebecca Corrigan	
<b>RELEVANT PLANNING HISTORY</b>			
<b>PLANNING REF.</b>	<b>DESCRIPTION</b>	<b>DECISION</b>	<b>DECISION DATE</b>
SW/10/1429	Single storey pitched roof car port and store	Approved	03.11.2020
SW/08/0686	Extensions and Improvements to provide lounge/bedroom/conservatory to ground floor with additional bedroom in roof void	Refused	20.06.2008
SW/94/0019	Single storey extension to provide bedroom and dining room	Approved	12.01.1994

SW/88/1441	Erection of three loose boxes and garage	Approved	16.12.1988
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## 1. DESCRIPTION OF SITE

- 1.1 The application site relates to a parcel of land to the east of Poot Lane, situated adjacent to the residential curtilage of the host property identified as 'High Hopes'.
- 1.2 The site is a regular shaped plot and measures 40m across - north to south, and 62m east to west, with a total site area of 0.24ha. The site is essentially flat and open. It has been cleared during the course of this application having previously been grass/scrub with a small detached outbuilding. A row of dense hedging comprised of shrubs and small trees lines both the northern side boundary and eastern rear boundary. To the southeast is High Hopes, a large residential property with a detached garage and associated hardstanding to the front.
- 1.3 Within the immediate area there is a cluster of residential, commercial and farm buildings largely grouped to the east of the site. Further afield, the area is predominantly undeveloped open countryside.
- 1.4 The site and the property known as 'High Hopes' - are both located in relatively close proximity to a Scheduled Monument which is spread out in two large, separate areas (intercepted by the site of Upchurch Poultry Farm) and which together are listed as the site of a "World War II Heavy Anti-aircraft gunsite (TS3) at Wetham Green, 460m north of Red Brick Cottage." (List entry 1020387).
- 1.5 The site is located approx. 0.61km north, as the crow flies, from Upchurch and falls outside of the built confines of the village and therefore in the countryside. Upchurch itself 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.
- 1.6 The front part of the site falls within a coastal change management area and most of the site falls within flood zone 3. There is a public right of way (footpath, ZR3) situated further north of the site. The land on the west side of Poot Lane falls within an Area of High landscape Value. Poot Lane itself is a designated rural lane.

## 2. PROPOSAL

- 2.1 Planning permission is sought for the erection of 2no. detached, one bedroom holiday homes with associated access, parking and landscaping.
- 2.2 The application has been revised since being originally submitted. The original submission proposed a semi-detached development of 1 x 2 bedroom and 1 x 3 bedroom units. The building was located in the centre of the regular shaped plot and designed with a half hipped roof profile and abundant fenestration including rooflights to the front and rear elevations with a dormer window at the rear.
- 2.3 Under the revised proposal, the applicant has reduced the size and altered the design of the proposed holiday lets. A Design and Access Statement was provided and at the request of SBC Design and Conservation, a Heritage Statement was submitted. At the request of the

Environment Agency, Lower Medway Internal Drainage Board and Natural England a revised Flood Risk Assessment including Drainage Strategy was provided.

- 2.4 The revised proposal comprises of two detached, 1 x bedroom, buildings of contemporary design. The units would have varying eaves heights of 1.9m and 2.5m with a high pitched roof reaching to a height of 6.25m at the ridge. Internally, the ground floor would have an open plan kitchen/living area. A mezzanine level would accommodate one bedroom and on-suite with each unit having a total floor area of 94m<sup>2</sup>. The units would have large glazed frontages and would be finished in timber cladding with a brick base.
- 2.5 A new site access would be created with a large area of hardstanding. Two parking spaces are proposed for each unit. A landscaping plan shows a belt of landscaping to the front and side boundaries to include Hawthorn, Hazel, Dogwood, Holly, Field Maple and Guelder Rose.

### 3. PLANNING CONSTRAINTS

- 3.1 Environment Agency Flood Zone 3 and partially within a coastal change management area
- 3.2 Located within close proximity to a scheduled monument - "World War II Heavy Anti-aircraft gunsite (TS3) at Wetham Green, 460m north of Red Brick Cottage." (List entry 1020387).
- 3.3 Potential Archaeological Importance
- 3.4 Poot Lane is a designated rural lane
- 3.5 Grade I Agricultural Land

### 4. POLICY AND CONSIDERATIONS

#### 4.1 National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) (published in 2012 and revised in 2021) and National Planning Practice Guidance (NPPG) encourage the provision of new dwellings within the defined built up areas, or outside of those areas in certain exceptional circumstances such as for the provision of agricultural worker's accommodation, or the provision of affordable dwellings to meet an identified local need.

At paragraph 80 the NPPF says:

*"Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b)
- c) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- d) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- e) *the design is of exceptional quality, in that it:*

- *is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas;*
- *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

4.2 Paragraphs 84 and 85 of the NPPF seek to support sustainable growth of business in rural areas, including sustainable rural tourism developments which respect the character of the countryside. The NPPF recognises that sites for such development may have to be found beyond existing settlements, and that sites on previously developed land and physically well related to existing settlements should be encouraged. The NPPF makes clear that in such locations it will be important to ensure that development is sensitive to its surroundings.

#### 4.3 Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies

Policy ST1 Delivering sustainable development  
 Policy ST3 The Swale Settlement Strategy  
 Policy ST5 The Sittingbourne Area Strategy  
 Policy CP1 Building a strong, competitive economy  
 Policy CP3 Delivering a wide choice of high quality homes  
 Policy CP4 Requiring good design  
 Policy CP8 Conserving and enhancing the historic environment  
 Policy DM3 The rural economy  
 Policy DM7 Vehicle Parking  
 Policy DM14 General development criteria  
 Policy DM19 Sustainable design and construction  
 Policy DM21 Water, flooding and drainage  
 Policy DM23 Coastal Change Management Areas  
 Policy DM24 Conserving and enhancing valued landscapes  
 Policy DM26 Rural Lanes  
 Policy DM29 Woodlands, trees and hedges  
 Policy DM28 Biodiversity and geological conservation  
 Policy DM31 Agricultural Land  
 Policy DM34 Scheduled Monuments and archaeological sites

4.4 Supplementary Planning Document (SPD): “Parking Standards” (May 2020) was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.

4.5 The Swale Landscape and Biodiversity Appraisal SPD was adopted in 2011 and is a material consideration in the determination of planning applications.

## 5. LOCAL REPRESENTATIONS

5.1 None received.

## 6. CONSULTATIONS

6.1 Upchurch Parish Council - *The proposal supports the local economy and local services. Upchurch Parish Council supports the application.*

6.2 Health and Safety Executive – No objection

6.3 Environmental Health – No objection, subject to conditions



- 6.4 Lower Medway Internal Drainage Board - 1<sup>st</sup> response – A Drainage Strategy or plan is required. We would recommend that the proposed strategy is supported by ground investigation to determine the infiltration potential of the site and the depth to groundwater.

2<sup>nd</sup> Response (summarised) – *The proposal may need land drainage consent (specifically byelaw 3). If the proposal involves alteration of a water course consent would be required under the Drainage Act 1991 (Byelaw 4)*

- 6.5 Natural England – (latest response) – No objection subject to securing the appropriate financial contribution (SAMMS) to mitigate impacts on the Medway Estuary and Marshes SPA and Ramsar site.

- 6.6 Historic England - *On the basis of the information available to date, we do not wish to offer any comments.*

- 6.7 KCC Highways – Do not comment on the application.

- 6.8 SBC Destination and Place Manager -*The proposal meets the aspirations of the visitor economy framework which in part is about having a diverse range of accommodation available for guests and the location is well placed to take advantage of those who want to be relatively close to urban for access and egress for wider geographical exploration but also responds well to those seeking a rural location for more local leisure pursuits. To compete with existing accommodation - particularly that held by Airbnb - the accommodation will need to be of high specification and offer an exceptional rural experience to have a competitive edge. It has the potential to form part of a wider offer in conjunction with nearby and neighbouring visitor attractions and venues supporting either those seeking a staycation and/or wedding and conference market. It will require a significant amount of marketing to establish within the local and wider Kent offer.*

- 6.9 SBC Design and Conservation – 1<sup>st</sup> response (summarised) - *On its own merits, I would not tend to support the holiday homes since they – as a semi-detached pair – are designed in such a way as to be neither a utilitarian agricultural building or conversion nor domestic looking holiday cottages. I would tend to encourage the construction of clearly domestic looking cottage type homes with domestic vernacular materials, treatments and detailing rather than faux- agricultural buildings that blur the boundaries between two typologies. I would not therefore support this application in principal as it stands, since I am at this time, unable to provide a properly considered decision until the necessary missing heritage information is submitted.*

**(Following receipt of revised drawings)** 2<sup>nd</sup> Response (summarised) – *From a Design and conservation perspective, the proposed scheme is acceptable as presented and is considered to not have an impact on the historic environment but may be subject of planning policy considerations.*

- 6.10 KCC Biodiversity – Following the submission of additional information, no objection is raised, subject to conditions

- 6.11 Environment Agency – No objection, subject to conditions

- 6.12 KCC Archaeology – No objection subject to conditions

## 7. APPRAISAL

### Principle of Development

- 7.1 Paragraph 84 c) of the National Planning Policy Framework supports sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 85 of the National Planning Policy Framework also states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The NPPF states that in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist. Notwithstanding, the National Planning Policy Framework (NPPF) is clear that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 7.2 In this case, the application site is located outside of the built-up area boundary of Upchurch village, in a rural location, in the designated countryside and therefore subject to countryside restraint policies in the adopted Local Plan.
- 7.3 The main relevant policy is ST3 of the Local Plan (see above), which states that *'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, tranquility and beauty of the countryside, its buildings and the vitality of rural communities'*.
- 7.4 In this instance, there is potential support for development (with conditions) that facilitates a prosperous rural economy in the NPPF, as set out above. In addition, Policy DM3 of the Local Plan specifically relates to the rural economy and states at criteria 1.b, for all proposals, *firstly consider the appropriate re-use of existing buildings or the development of other previously developed land, unless such sites are not available or it is demonstrated that a particular location is necessary to support the needs of rural communities or the active and sustainable management in the countryside.*
- 7.5 Policy DM3 No.2.b continues, for tourism and leisure, that planning permission should *'provide for an expansion of tourist and visitor facilities in appropriate locations where identified needs are not being met by existing facilities in the locality or where able to increase facilities available to local communities as well as visitors.'*
- 7.6 The application lacks any supporting statement or business plan, other than a short letter from an Estate Agents based in Strood which states that there is a demand for holiday lets in rural and village locations such as Upchurch. The application provides no information or business case to demonstrate that there is a clear unmet demand for holiday accommodation of this scale and type in this location, or that the development proposed would be viable as holiday accommodation.

- 7.7 The NPPF and Policy DM3 support the location of business development within existing rural settlements first, and if not available that the conversion of buildings or use of previously developed land should be preferred. In this instance, the proposal does not relate to development within a settlement, on previously developed land, or involve the conversion of existing buildings. The impact of the development on the character and appearance of the countryside is considered further in the sections below.
- 7.8 In terms of demonstrating a need for development, I would direct members to a recent appeal decision at Rides House in Eastchurch (W/21/3274235). Whilst this appeal decision relates to the creation of a new caravan park rather than new units, the principle of new tourism development on previously undeveloped land in the countryside has similarities to this application. The Inspector placed great weight to the lack of supporting information under the requirements of policy DM3 in the following paragraphs

*To be supported by national planning policy paragraph 4.3.17 of the LP explains applications should be accompanied by evidence to show how it will support the viability of existing services and/or how it will bring new services to the community. The Council's Cultural and Leisure adviser suggests the development would have some benefits to nearby facilities. Paragraph 7.1.23 of the LP acknowledges holiday parks provide direct employment, and their users support shops, pubs, restaurants, and visitor attractions. This development would meet some of the broad policy objectives of CP1, DM3, ST3 and ST6 of the LP and paragraph 84a) of the Framework. However, little substantive evidence has been provided by the appellant of its practical effects in this regard. Given the scale and nature of the development, it is likely the support would be limited. (para 7)*

*Policy DM3 of the LP supports the sustainable growth and expansion of rural businesses. This is provided amongst other things, the design and layout is sympathetic to the rural location, it is in appropriate locations where identified needs are not being met by existing facilities, or, where able to increase facilities available to local communities and visitors, and, proposals are a [sic] in accordance with Policy DM4. (para 8)*

*It is not clear that other previously developed sites have been considered as sought by DM3 1)b). Even if it had, the evidence provided does not identify needs not met by existing facilities in the locality, as expected by DM3 2)b). The text at paragraph 7.1.25 of the LP suggests to the contrary on Sheppey. While there may be some limited support to existing services, it is not demonstrated this development would increase facilities available to local communities as well as visitors sought by DM3 2)b). (para 10)*

- 7.9 In balancing the material planning considerations the Inspector concluded the following:

*For the reasons set out above, given the benefits visitors would bring in supporting services, facilities and tourism assets, the proposal gains support from some objectives and criteria in Policies ST3, CP1 and DM3 of the LP and the Framework. However, it conflicts with the strategy for and would not be in a suitable location having regard to policies for such development, in conflict with Policy DM3 and DM4 as a whole, the relevant provisions of which I have set out above. The broad support from the other aspects of policies, does not overcome the conflict identified. (para 12)*

*In a similar manner to Policy ST3, paragraph 84c) of the Framework states that planning decisions should enable sustainable rural tourism and leisure developments which*

*respect the character of the countryside. Therefore, my findings in respect of meeting that aspect of ST3 and paragraph 84c) will be dependent upon my findings in respect of character and appearance. (para 13)*

- 7.10 In a similar thread as the Rides Farm application set out above, I consider that the application fails to demonstrate that there is an identified need in the area for holiday accommodation that is not being met by existing facilities in the locality. I am also concerned that in the absence of a business case to demonstrate the viability of the proposed development, there is a risk that the use as holiday lets may not succeed, with resultant pressure to allow occupation of the units as permanent dwellings. Nor does the application provide any supporting information as to why this site has been selected in preference to other sites – including sites within village confines, on previously developed land, or through conversion of existing buildings. I consider this to be in conflict with Policy DM3 of the Local Plan.
- 7.11 In this regard, applications for new build holiday lets in the countryside, as in this case, raise similar issues to those of a proposal for a new dwelling albeit with some economic benefits; hence the preference for the conversion of existing buildings. Such new build development, especially if repeated, would lead to the creation of an unlimited number of new dwellings in remote unsustainable locations to serve a market that could be met from existing rural assets which is, in itself, a more sustainable approach. Policy DM3 makes clear that the expansion of tourism facilities should be on the basis that identified needs are not being met by existing facilities, again which has not been demonstrated.
- 7.12 The applicant has drawn attention to a scheme which was approved for new holiday development at Willow Farm, Ospringe (Ref 19/502483/FULL approved 27.10.2021) for the ‘*Erection of 4no. specialist equestrian holiday lets and 2no. stable buildings, installation of new sand school and associated site works.*’ However, under that application the proposed holiday lets were connected to long-established and large scale equestrian use of the site and need for the on-site facilities, to allow owners to stay over with their horses. As this was very much linked to an existing equestrian operation, I consider that to be materially different to the scheme now under consideration.
- 7.13 Moreover, the Council has further examples of refusals for the construction of new build holiday lets in the countryside. Perry Oaks, Selling (Ref: 20/505248/FULL) and Dickens Inn, Eastchurch (Ref: 21/504668/FULL). Both applications were refused on the basis that they provided no supporting information to demonstrate need and were refused on the basis that they represented unjustified and unacceptable development within the countryside contrary to policies ST3 and DM3 of the adopted Swale Borough Local Plan 2017; and the National Planning Policy Framework.

#### Impact upon character and appearance of countryside

- 7.14 Poot Lane is a largely single track rural lane, often enclosed by hedging but also providing open views towards the estuary in places. Although located by a small loose-knit cluster of farm, business and residential buildings, the application site and surrounding area is predominantly rural in character and appearance. The site is located some distance from the nearest settlement which has a limited range of services and facilities, and on a rural lane with no footpath or lighting. Occupants of the holiday lets would be likely to rely on the private car for access to services and facilities.

- 7.15 Due to the absence of development on the existing plot, the proposed development would urbanise and fundamentally alter the character and appearance of the site. Landscaping would soften this to a degree but the appearance of the site would change markedly.
- 7.16 The proposal is for holiday accommodation that would offer all facilities for day to day living and be constructed to a standard that could be suitable for permanent residential use. The units would appear as dwellings. The application site, while grouped within a small cluster of development, visually functions as part of the wider countryside which is sensitive to new development. The proposed development and associated access and parking and domestic paraphernalia would have an urbanising impact upon the land and would significantly change its undeveloped character, resulting in significant harm to the intrinsic character, appearance and beauty of the surrounding countryside contrary to policies ST3 and DM14 of the adopted local plan.
- 7.17 The site is designated as being within the Upchurch and Lower Halstow Fruit Belt under the Swale Landscape Character and Biodiversity Appraisal SPD. Although this is an undesignated landscape, the appraisal recognises the sensitivity of the distinctive coastal edge landscape and the need to conserve the undeveloped and distinctive character of Horsham Marsh, which is located on the west side of Poot Lane. Landscape condition and sensitivity are both rated as moderate, although it is acknowledged that coastal edge areas are more sensitive. Whilst there is built form in the surrounding area, in my opinion, the development and further consolidation of built form in this location would not be compatible with the sensitive marshland and coastal edge landscape. This would be in conflict with Policy DM24 of the Local Plan.

#### Heritage Impact

- 7.18 Obligations fall upon the council in determining any application which affects a listed building or its setting or within a conservation area, including its setting. The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) at section 66 places a 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.
- 7.19 Furthermore, at section 72 it is required that Local Planning Authorities pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. When considering potential impacts, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be) at para 199 of the NPPF; and any harm/loss of a designated heritage asset requires clear and convincing justification (at para 200). The NPPF gives presumption in favour of the conservation of heritage assets and applications that directly or indirectly impact such assets require appropriate and proportionate justification.
- 7.20 The subject site is in relatively proximity to a Scheduled Monument which is spread out in two large, separate areas (intercepted by the site of Upchurch Poultry Farm) and which together are listed as the site of a "World War II Heavy Anti-aircraft gun site (TS3) at Wetham Green, 460m north of Red Brick Cottage."
- 7.21 Neither the SBC Design and Conservation Manager or the KCC Archaeological Officer raise objection to the proposal (as amended), based on the separation distance to the Scheduled

Monument and intervening landscaping. Therefore, it is considered that the proposed development will have a neutral impact on the significance of ancient scheduled monument.

#### Residential Amenity

- 7.22 I have no concerns relating to overlooking or loss of privacy arising from the location of the windows or door openings. The bedroom windows shown within the first-floor rear elevation would afford views of the rear garden area of 3A Upchurch Poultry Farm however, due to the distances between properties and the presence of the existing row of trees and hedges this would, overall, obstruct views to a degree that overlooking would not be harmful, in my opinion.
- 7.23 In terms of noise and disturbance, holiday uses are not inherently noisy or disturbing over or beyond what would occur from the usual comings and goings of a residential property. The two immediately neighbouring properties, enjoy spacious curtilages with the houses set well away from the boundary with the application site. With these factors in mind, the proposed development is unlikely to cause any significant harm to the living conditions of local residents and would not conflict with Policy DM14 of the Local Plan.

#### Highways

- 7.24 The application proposes a new site access from Poot Lane which is a designated rural lane. The submitted application provides for an access point leading direct from Poot Lane with a minimum width of 5m. This distance is sufficient to allow for two cars to pass. A distance of 6m would also be retained immediately forward of the proposed entrance gates (details of which would be subject to condition should the application be approved) and this would provide sufficient space for cars to pull safely off of the highway to ensure that no highway obstruction would occur on Poot Lane. Overall, I am satisfied that the new access would not lead to highway safety concerns consistent with the aims of policy DM7 of the local plan.
- 7.25 In line with the adopted SBC Parking Standards SPD, one bedroom properties in this rural location should provide one/ two parking spaces and two spaces are provided. I am satisfied that the proposal complies with the requirements of the SBC parking standards SPD and the development would provide suitable parking provision.
- 7.26 The proposal would lead to increased use of a designated rural lane. However, taking into account the existing use of the lane for access to dwellings, farms, businesses, and recreational activities, I do not consider the traffic generated by two additional units would be likely to cause harm to the character of the lane. As such I do not consider there would be a conflict with Policy DM26 of the Local Plan.

#### Flood Risk

- 7.27 The site is located within flood zone 3. The Environment Agency and Lower Medway Drainage Board both raised concerns specifically in relation to ground water drainage. Groundwater is particularly sensitive in this location because the proposed development site is located upon a secondary aquifer with a very shallow water table.
- 7.28 Further information was provided namely a revised Flood Risk Assessment which also included a Foul Drainage Strategy which sets out that the foul drainage plans have been

amended to include sealed cesspools, and subsequently this raised no further objection from the Environment Agency, subject to conditions. In addition, the Lower Medway Drainage Board is also satisfied with the additional information as provided subject to land drainage consent, specifically byelaw 3 and 4. However, Byelaws are separate from planning and in this instance I am satisfied that the proposal is in accordance with policy DM21 of the Local Plan.

#### Ecology and Biodiversity

- 7.29 The NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity, where possible. 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. The application includes an ecology report and following the submission of further information, KCC Ecology are satisfied that the development would not adversely affect protected species and raise no objection to the development, subject to conditions including a scheme of ecological enhancements. I find the proposal acceptable under Policy DM28 of the Local Plan.

#### Swale SPA

- 7.30 The site lies within 6km of the Swale SPA and subject to the approval of any new residential unit a contribution would be required to mitigate against the potential impacts of the development upon that protected area in accordance with the Council's standing agreement with Natural England. This is otherwise referred to as a SAMMS payment. Had I been minded to approve the application I would have requested this mitigation payment however as the application already fails I have not, and this constitutes an additional reason for refusal. For the sake of thoroughness, I have set out an appropriate assessment at the end of this report

#### Archaeology

- 7.31 The site lies adjacent to an area of archaeological potential and was previously identified as being archaeologically sensitive due to some findings of prehistoric and roman remains to the north of the site. Therefore, a planning condition will be required in the event of any future consent relating to the implementation of a programme of archaeological work.

#### Agricultural Land

- 7.32 The site is classed as Grade 1 agricultural land. Policy DM31 of the Local Plan states that development on such land will only be permitted where there is an overriding need that cannot be met on land in built up areas. Whilst the area of land is small, no evidence has been provided of alternative sites that would not involve the loss of BMV land. On this basis, the application would conflict with Policy DM31 of the Local plan.

### **8. CONCLUSION**

- 8.1 The site is located some distance from local services and public transport and occupants would be likely to rely on the private car for most journeys. The development would result in the erection of two holiday lets that would appear as dwellings in a rural location and this

would be harmful to the character and appearance of the area and the intrinsic beauty of the countryside and landscape. The proposal would also result in the loss of best and most versatile agricultural land, albeit on a small scale. Whilst the provision of sustainable tourism facilities is generally supported under Policy DM3 of the Local Plan, the application fails to provide any detailed evidence that there is clear and viable demand for this type of holiday accommodation in this location, or whether other less harmful sites (such as on previously developed land or through conversion of an existing building) have been considered.

- 8.2 The proposal would bring some benefits to the local economy, primarily through increased tourism facilities and local spending. However, this would be limited due to the number and size of the units proposed. In addition, I would raise concern that were the holiday let enterprise not to succeed, the Council would most likely be put under pressure to remove the any holiday let occupancy conditions and to permit the units as permanent dwellings. This risk of this is greater in the absence of any information to support the business case for the development. On this basis I consider that the adverse impacts of the proposal would outweigh any benefits, and that the application would be contrary to policies ST3, DM3, DM14, DM24 and DM31 of the Local Plan.

## 9. RECOMMENDATION

That planning permission is REFUSED for the following reasons:

- 1) The proposal would represent an unnecessary, undesirable, and unsustainable form of development, harmful to the character, appearance and intrinsic beauty of the countryside and landscape, and which would also result in the loss of Best and Most Versatile agricultural land. Although proposed for holiday accommodation, the design and layout of the units would appear as and be capable of occupation as dwellings and no business case has been provided to demonstrate that there is a clear unmet need and viable market for such holiday accommodation, with a resultant risk of future pressure to convert to dwellinghouses. The proposal would fail to comply with policies ST1, ST3, DM3 DM14, DM24 and DM31 of Bearing Fruits 2031: The Swale Borough Local Plan 2017; and paragraphs 8, 84 and 174 of the National Planning Policy Framework. The identified harm that would result from this proposal is not outweighed by the limited contribution made to the rural economy when assessed against the policies of the Local Plan and NPPF.
- 2) The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. 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, DM14, and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and paragraph 181 of the National Planning Policy Framework.

## APPROPRIATE ASSESSMENT

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.

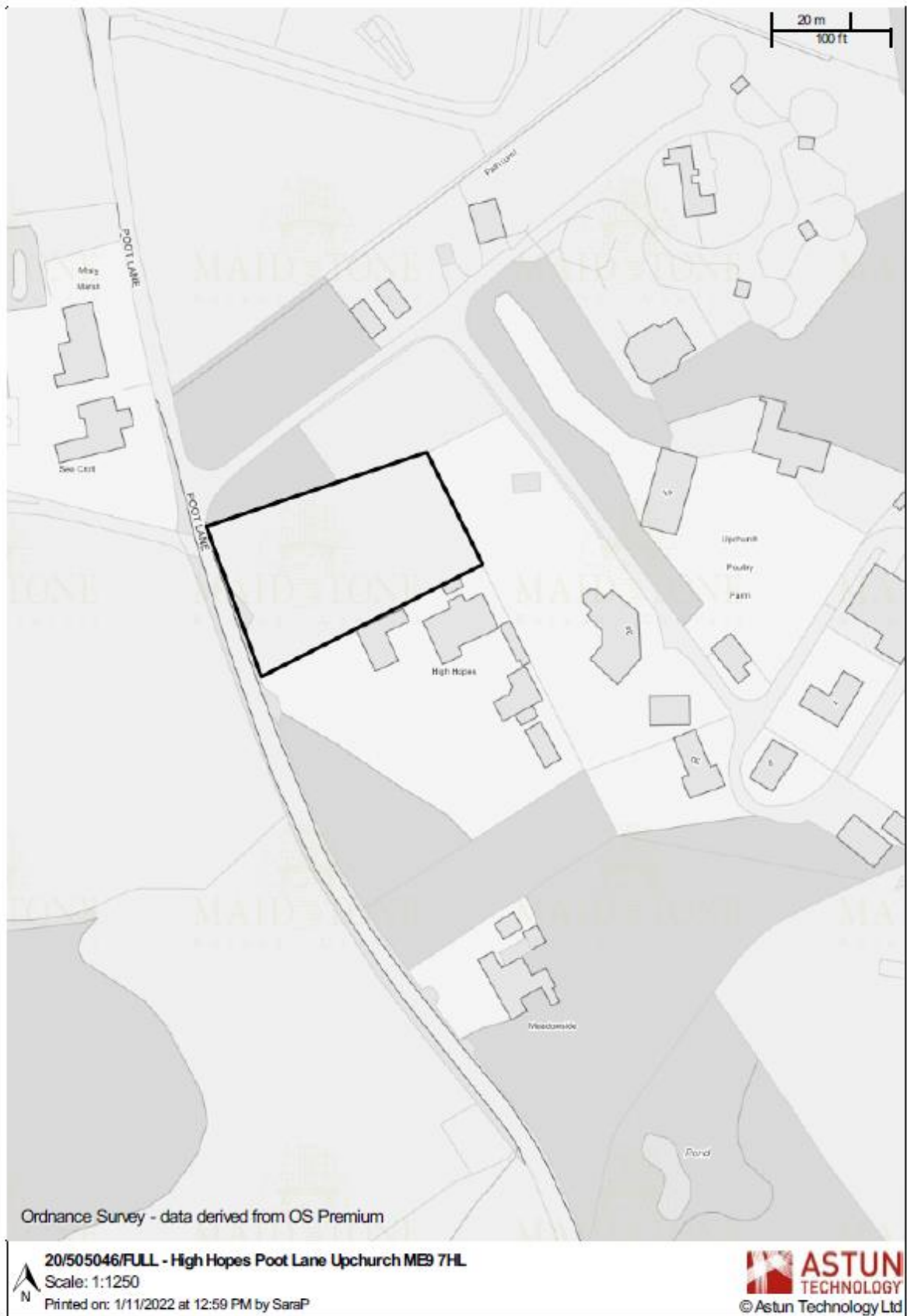
### **The Council's approach to the application**

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.



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