

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 12 January 2023

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT*

Membership:

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

Quorum = 6

Pages

Information about this meeting

*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website by 11 January 2023.

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1. Emergency Evacuation Procedure

Visitors and members of the public who are unfamiliar with the building and procedures are advised that:

- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
 - (b) Exit routes from the chamber are located on each side of the room, one directly to a fire escape, the other to the stairs opposite the lifts.
 - (c) In the event of the alarm sounding, leave the building via the nearest safe exit and gather at the assembly point on the far side of the car park. Do not leave the assembly point or re-enter the building until advised to do so. Do not use the lifts.
 - (d) Anyone unable to use the stairs should make themselves known during this agenda item.
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 8 December 2022 (Minute Nos. 507 – 511) as a correct record.

Part B reports for the Planning Committee to decide

5. Deferred Item

5 - 128

To consider the following application:

21/505722/OUT 128 High Street Newington Sittingbourne Kent ME9 7JH

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

Requests to speak on these items must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 11 January 2023.

6. Report of the Head of Planning Services

129 -
306

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 11 January 2023.

Issued on Tuesday, 3 January 2023

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

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

12 JANUARY 2023

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 12 JANUARY 2023

- Minutes of last Planning Committee Meeting
- Deferred Items
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DEFERRED ITEMS

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PART 2

2.1 22/504876/FULL SHEERNESS Masters House Trinity Road
2.2 22/500601/FULL TONGE Radfield House & Farm London Road
2.3 22/500602/LBC TONGE Radfield House & Farm London Road
2.4 22/505172/FULL HARTLIP 11 Dane Close
2.5 22/504622/FULL TEYNHAM 42 Station Road

PART 3

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PART 5

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5.1 21/506568/FULL MILSTEAD Broadoak Farm Broadoak Road
5.2 21/504825/FULL EASTCHURCH Land adj The Sherries Church Rd
5.3 21/506431/FULL MINSTER 22 Chapel Street
5.4 21/501784/FULL BREDGAR Westfields Park Dairy Swanton Street
5.5 20/502391/FULL FAVERSHAM 40 Willement Road
5.6 21/504909/FULL FAVERSHAM The Shipyard Upper Brents Ind Est

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PLANNING COMMITTEE – 12 JANUARY 2023**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 21/505722/OUT		
APPLICATION PROPOSAL 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).		
ADDRESS 128 High Street Newington Sittingbourne Kent ME9 7JH		
RECOMMENDATION Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and of conditions as may reasonably be required.		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would provide additional housing both market and affordable adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. 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. No objection has been raised by statutory consultees and the scheme has been subject to an independent highway review which has concluded that the proposal is compliant with local and national highway policies. On balance, the proposal is considered to be acceptable and is recommended for approval.		
REASON FOR REFERRAL TO COMMITTEE Newington Parish Council Objection This application was originally deferred by the Planning Committee on 10 th November 2022		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Mr Andrew Wilford AGENT
DECISION DUE DATE 03/02/22	PUBLICITY EXPIRY DATE 15/09/22	CASE OFFICER Corinna Griffiths

1. BACKGROUND

- 1.1 This application was first reported to the Planning Committee on 10th November 2022 where Members resolved "*That application 21/505722/OUT be deferred to allow an independent highways assessment of the application to be undertaken.*"

- 1.2 The independent highway advice as referred to above has been obtained and is included at Appendix 1.
- 1.3 I have also included the original committee report at Appendix 2, which sets out the description of the site, relevant policies, local representations, consultations and the appraisal of the scheme - as such I will not repeat these details here. The original appendix of the original committee report (Newington Parish Council Comments) is reattached an Appendix 3, and the previous tabled papers for this item included at Appendix 4 and 5. As a result, the form that this supplementary report will take will be to discuss the independent highway advice received and how this has informed the recommendation reached by Officers.

2. CONSULTATIONS

- 2.1 The following consultation responses have been received since the last committee report:
- 2.2 Newington Parish Council have commissioned further highway advice from Railton dated 14th November. A copy of this is attached at Appendix 6. The Railton comments raise the following concerns;
- *Visibility splay would require third party land (132 High Street), and not been demonstrated that the proposed access achieves the necessary visibility standards.*
 - *The submitted Technical Note has presented selective information to exaggerate the risks associated with the existing situation for vehicular access to 132 High Street*
 - *It has not been demonstrated that the proposed access arrangements do not lead to a reduction in highway safety in relation to access to the parking area of No. 132 High Street*
 - *The applicant has failed to demonstrate that the proposed development will not have an unacceptable impact in relation to highway safety.*
 - *The Technical Note does not deal with the absence of a safe pedestrian route to local facilities, the absence of feasible mitigation at the Key Street roundabout, the lack of credible air quality mitigation and the failure to consider cumulative impact.*

3. APPRAISAL

- 3.1 As set out above, in addition to the detailed assessment of highway related matters undertaken by KCC Highways during the course of the application, since the application was deferred at the 10th November 2022 committee meeting, an in depth independent review of the highway issues has been carried out.
- 3.2 The independent review is provided in full in Appendix 1. As part of this review a site visit was carried out. The following conclusions by the Council's Consultant have been reached:
- 3.3 *"Overall, the design of the access is in line with the Kent Design Guide and is acceptable in principle, subject to detailed design.*
- 3.4 *In relation to the visibility assessment reviewed:*

- *Visibility is achievable to the required splays, at an offset of 0.29m, which is minor and is deemed acceptable.*
 - *These types of direct access on the High Street (A2) seem commonplace, with several vehicles required to reverse onto or from High Street (A2) for residential access.*
 - *A review of the Personal Injury Collision (PIC) data provided as part of the TA does not show any apparent cause for accident when accessing these dwellings.*
 - *We accept the comments made by KCC Highways in relation to the slight offset in visibility splay and acknowledge that the 20mph speed reduction to the west of the access will also help mitigate vehicle speeds on this approach.*
 - *With that said, we advise that should outline planning permission be granted, a condition is attached requiring the visibility splays to be reassessed using topographical data to ensure confidence in accuracy of the achievable splays.*
- 3.5 *We have our concerns relating to retaining access to 132 High Street, however, acknowledge that no other alternative can be provided which suits both existing and proposed land uses. It is also acknowledged that the manoeuvre into the existing access is not ideal, and the proposal appears no worse.*
- 3.6 *The identified section of PROW ZR61 should be upgraded to facilitate pedestrian movements to and from the site. If this is not considered feasible, then a formal crossing point should be provided in the vicinity of the main site access to fully facilitate journeys on foot, especially trips to and from Newington train station.*
- 3.7 *The TRICS assessment is considered suitable for a development of this size.*
- 3.8 *A Travel Plan (TP) is required to support the application, should it be progressed to help mitigate the issues identified and promote sustainable travel within the immediate area. This should be secured via a planning condition.”*
- 3.9 *Therefore, subject to conditions regarding visibility splays and a travel plan, the independent highways advice raises no objection regarding the proposed site access sought under this outline planning application. The additional conditions are as worded below and are included at numbers 35 and 36.*
- 3.10 *Visibility splays; “No part of the development shall be brought into use until visibility splays of 2.4m x 42.5m to the west and 2.4m x 38.4m to the east (or 2.4m x 43m if measured 0.29m from the channel line) of the access are provided at the junction with High Street (A2) as demonstrated on topographical survey base map have been submitted to and approved in writing by the Local Planning Authority. The development shall only then be carried out in accordance with the approved details.*
- Reason: To ensure safe and suitable visibility splays can be fully achieved at the proposed site access point in the interests of highway safety.”*
- 3.11 *Travel Plan: “Prior to the occupation of the units hereby approved, a Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local*

Planning Authority. The Travel Plan shall include objectives and modal split targets, a programme of implementation, proposals to promote alternative forms of transport to and from the site, other than by the private car and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: To reduce dependency on the private car"

- 3.12 I do recognise that local residents and Members have raised concerns regarding the impact of the proposal upon highway safety and amenity. However, now in addition to KCC Highways raising no objection (subject to conditions which have been recommended), I am in receipt of very detailed independent highway advice which clearly sets out that the design of the access is in line with the Kent Design Guide and is acceptable in principle, subject to detailed design. On this basis I can reach no other conclusion than that the proposal would not give rise to harm to highway safety and amenity nor give rise to a severe impact upon the road network (the tests set out in the relevant policies) and is acceptable in this regard.
- 3.13 With regard to 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, and a financial contribution of £10,764.00 is sought to the enhance the public footpath network (as per para 7.150 and 7.155 of the original committee report at Appendix 2). The comments by KCC Highways and the independent highway advice advise that if the link is not viable or feasible for any reason, then they request the creation of a crossing point in the vicinity of the main site access to fully facilitate journeys on foot. This would be controlled via the S.106 agreement to ensure the site has suitable pedestrian connection links.
- 3.14 The comments provided by Railton on behalf of Newington Parish Council notes that the applicants Technical Note does not deal with the absence of a safe pedestrian route to local facilities, the absence of feasible mitigation at the Key Street roundabout the lack of credible air quality mitigation and the failure to consider cumulative impact. The first point has been addressed in the paragraph above; and these points have been addressed in the original committee report at Appendix 2 at paras 6.25-6.41; 6.55-6.66; 7.49-7.58; 7.109-7.126; and 7.148-7.157 of the original committee report at Appendix 2.
- 3.15 Further to the original committee report at para 7.11 which set out that the Council had a 4.8 year Housing Land Supply, the Council has an updated housing land supply position as published in December 2022. The latest published position within the 'Statement of Housing Land Supply 2021/22 Swale Borough Council December 2022', identifies that the Council has a 4.83 year 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.

4. CONCLUSION

- 4.1 The application was originally heard at Planning Committee on 10th November 2022 where Officers recommended approval. Since this time an independent highway review has been carried out. The review has been attached in full with a very clear conclusion being drawn

by the Council's consultant that the proposal is compliant with the relevant local and national highway policies, subject to conditions which are attached.

- 4.2 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.
- 4.3 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.
- 4.4 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).
- 4.5 The site is in a sustainable location, 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.
- 4.6 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.
- 4.7 The proposal is considered on balance acceptable and is recommended for approval.
- 4.8 On the basis of the above, in the event that the Planning Committee was minded to refuse the scheme for reasons related to highway impacts, I consider there would be a high likelihood that such a refusal would not be credible at appeal. This is based on the fact that both KCC Highways and separately an independent highway consultant has assessed the scheme in detail and concluded that the proposals are in accordance with the relevant local and national highway policies. At an appeal it would be expected that the Council was able to defend reasons for refusal with appropriate technical evidence. In this case, the lack of any technical evidence to support a reason for refusal on these grounds would, as well as likely resulting in an Inspector allowing an appeal, also mean in my view that there would be a high risk of costs being awarded against the Council at an appeal in such a scenario.

5. 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 shall occur on site until information has been submitted

demonstrating for the written approval by the Local Planning Authority that prior extraction of the Brickearth mineral is either:

- A. unviable or;
- B. further testing of the mineral demonstrates it is not usable or mineral extraction would result in significant adverse impacts upon protected species or habitats; neighbouring properties; land levels; or archaeology or;
- C. full prior extraction of the viable deposits of the Brickearth has been completed to the satisfaction of the planning authority in consultation with Kent County Council as the minerals authority.

The details shall include assessments to determine whether brickearth extraction would impact upon protected species or habitats; neighbouring properties; land levels; or archaeology. 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 and any brickearth extraction, 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 (including any brickearth extraction) 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 submission of the reserved matters application an ecological and landscape management plan, Must be submitted to the Local Planning Authority for written approval. The submitted report shall include:

- a) Overview of the habitats and species to be retained/create on site.
- b) Methodology to create / enhance the habitats on site.
- c) Overview of the management
- d) Detailed timetables of the proposed management – capable of being a 5 year rolling plan
- e) Habitat plans
- f) Updated BNG Metric
- g) Details of ecological enhancements to be incorporated in to the open space and buildings.
- h) Details of on going monitoring and management plan reviews
- i) The enhancement should include, but is not limited to, the following:
 - a. Native species
 - b. Bird and bat boxes/integrated features
 - c. Insect boxes and bricks
 - d. Hedgehog highways
 - e. Log piles

The plan 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, and improving the aesthetic value of the development as well as resident's well-being.

- 14) With the first reserved matters application, 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.

- 15) 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.

- 16) 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.

- 17) 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.

- 18) 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

- 19) 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.

- 20) 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.

- 21) 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

- 22) 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

- 23) Prior to the commencement of development (including vegetation clearance and prior to any brickearth works), an ecological mitigation strategy must be submitted to the Local Planning Authority for approval. The submitted report shall include:

- a) Updated Preliminary Ecological Appraisal assessing if the existing ecological information is still valid.
- b) Recommended specific species surveys.
- c) Overview of the mitigation required
- d) Detailed methodology to implement mitigation.
- e) Maps showing retained habitat and mitigation areas.
- f) Maps showing the location of any off site mitigation areas.
- g) Landowner agreements for the retention and management of the off site mitigation areas.
- h) A detailed method statement for the removal or long-term management /eradication of invasive species on the site.
- i) Timings of when the works will be carried out.
- j) Details of who will be carrying out the works.
- k) Interim management plan for habitats retained on site.

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

Reason: To protect biodiversity

- 24) 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

- 25) 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

- 26) 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.

- 27) 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

- 28) 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.

- 29) 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

- 30) 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

- 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 hereby 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) No part of the development shall be brought into use until visibility splays of 2.4m x 42.5m to the west and 2.4m x 38.4m to the east (or 2.4m x 43m if measured 0.29m from the channel line) of the access are provided at the junction with High Street (A2) as demonstrated on topographical survey base map have been submitted to and approved in writing by the Local Planning Authority. The development shall only then be carried out in accordance with the approved details.

Reason: To ensure safe and suitable visibility splays can be fully achieved at the proposed site access point in the interests of highway safety."

- 36) Prior to the occupation of the units hereby approved, a Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal split targets, a programme of implementation, proposals to promote alternative forms of transport to and from the site, other than by the private car and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: To reduce dependency on the private car

- 37) 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.

- 38) 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

- 39) 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

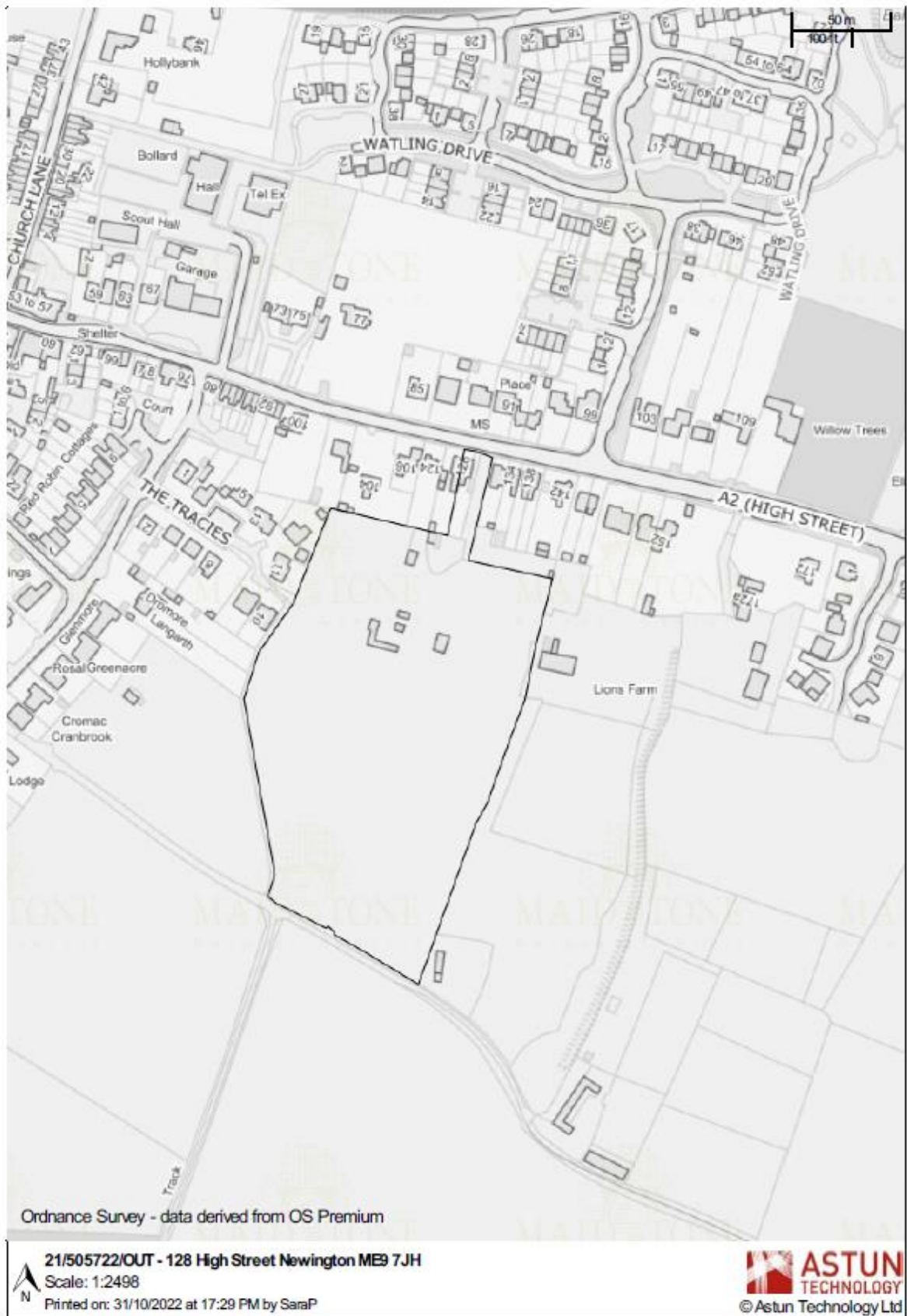
The Council's approach to the application

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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Technical Note

Highways Review

Project	21/505722/OUT - High Street, Newington	Job No	1000007836
Subject	Highways Review	Issue	02
Prepared by	OR/RF	Date	16/12/2022
Approved by	BM	Date	16/12/2022

Introduction

- 1.1 Swale Borough Council (SBC) commissioned Project Centre (PCL) to provide a Technical Note (TN) reviewing highway matters relating to:
- 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).
- 1.2 A Transport Assessment (TA) and Design and Access Statement were submitted in support of the application in October 2021.
- 1.3 Subsequent information has been submitted by the applicant for consideration, which is identified below.
- 1.4 To summarise:
- Overall, the design of the access is in line with the Kent Design Guide and is acceptable in principle, subject to detailed design.
 - In relation to the visibility assessment reviewed:
 - Visibility is achievable to the required splays, at an offset of 0.29m, which is minor and is deemed acceptable.
 - These types of direct access on the High Street (A2) seem commonplace, with several vehicles required to reverse onto or from High Street (A2) for residential access.



- A review of the Personal Injury Collision (PIC) data provided as part of the TA does not show any apparent cause for accident when accessing these dwellings.
- We accept the comments made by KCC Highways in relation to the slight offset in visibility splay and acknowledge that the 20mph speed reduction to the west of the access will also help mitigate vehicle speeds on this approach.
- With that said, we advise that should outline planning permission be granted, a condition is attached requiring the visibility splays to be reassessed using topographical data to ensure confidence in accuracy of the achievable splays.
- We have our concerns relating to retaining access to 132 High Street, however, acknowledge that no other alternative can be provided which suits both existing and proposed land uses. It is also acknowledged that the manoeuvre into the existing access is not ideal, and the proposal appears no worse.
- The identified section of PROW ZR61 should be upgraded to facilitate pedestrian movements to and from the site. If this is not considered feasible, then a formal crossing point should be provided in the vicinity of the main site access to fully facilitate journeys on foot, especially trips to and from Newington train station.
- The TRICS assessment is considered suitable for a development of this size.
- A Travel Plan (TP) is required to support the application, should it be progressed to help mitigate the issues identified and promote sustainable travel within the immediate area. This should be secured via a planning condition.



KCC Highways and Newington Parish Council Comments

- 2.1 KCC Highways has provided commentary in relation to highways matters, which are provided in Appendix A. Comments raised by Railton, an independent transport consultant, acting on behalf of Newington Parish Council are also provided.
- 2.2 We have taken into consideration the points raised by KCC and Railton as part of this review.

PCL Review

- 3.1 Our review of the submitted information relating to the proposed access arrangement is discussed below and includes:
- DHA's Transport Assessment (TA) dated September 2021,
 - DHA's Transport Technical Note (TN) dated March 2022,
 - Visibility Splay Drawing: H-01 – P4,
 - Vehicle Swept Path Drawing: T-03-P1,
 - Design and Access Statement (DAS),
 - Correspondence from or on behalf of KCC and Newington Parish Council.

Proposed Access

- 3.2 The applicant seeks outline planning permission for a vehicle and pedestrian access onto High Street (A2), for up to 46 residential dwellings.
- 3.3 To accommodate the proposed access, it is understood that 128 High Street (residential dwelling) is to be demolished to provide appropriate width for a minor access road, in line with the Kent Design Guide. This includes:
- 5.5m wide carriageway,
 - 6m kerb radii at access,
 - 1.8m wide footway and verge on western side of access (3.6m wide total).
- 3.4 We note the design outlined in the TA and that shown in Drawing: H-01 – P4, shows different kerb radii of 12m. We assume these radii were increased to
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accommodate larger vehicles accessing the site from High Street (A2), as shown in the refuse tracking plans provided in Appendix H of the TA.

- 3.5 We acknowledge that swept path analysis has been provided for a 4.71m estate car, demonstrating access to and from the site from High Street (A2).
- 3.6 Overall, the design of the access is in line with the Kent Design Guide and is acceptable in principle, subject to detail design. Additional comments in relation to access to 132 High Street are discussed in a later section.

Visibility

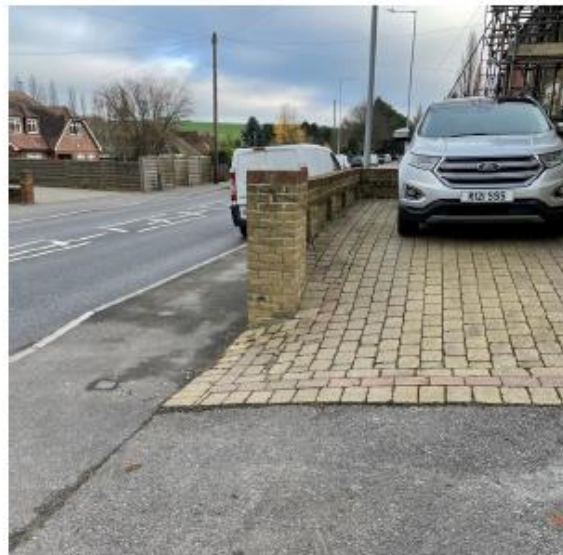
- 3.7 The applicants visibility assessment includes:
- Original visibility splay assessment of 2.4m x 42.5m to the west and 2.4m x 54.8m to the east, measured '1m from channel line'.
 - Following comments from KCC Highways, visibility plans were revised noting 2.4m x 42.5m to the west and 2.4m x 38.4m to the east (or 2.4m x 43m if measured 0.29m from the channel line).
 - The 0.29m offset was considered acceptable by KCC given the presence of drainage gullies to influence the positioning of motorbikes. In addition, it was noted that 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.
- 3.8 As per the latest access drawing appended to the submitted TN, third party land is used at 132 High Street to achieve the visibility splay. We acknowledge the concerns raised by Railton in relation to this, however, a 0.29m offset is considered relatively minor.
- 3.9 Following a site visit in December 2022 by PCL, we note:
- The neighbouring property at 132 High Street has an existing 1.5m high wall at the back of the footway. It is unlikely that this property will build the wall out any further as this would block their off-street parking access.
 - These types of direct access on the High Street (A2) seem commonplace, with several seeming to require vehicles to reverse onto or from High Street (A2) for residential access.
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- A review of the Personal Injury Collision (PIC) data provided as part of the TA does not show any apparent cause for accident when accessing these dwellings.
 - We accept the comments made by KCC Highways in relation to the slight offset in visibility splay and acknowledge that the 20mph speed reduction to the west of the access will also help mitigate vehicle speeds on this approach.
- 3.10 If the proposal is to be granted planning permission, we advise that a condition is attached requiring the visibility splays to be reassessed using topographical data to ensure confidence in accuracy of the achievable splays.
- 3.11 We note the applicants drawings are based on OS mapping, which does come with a degree of inaccuracy and does not accurately depict the existing wall at 132 High Street.
- [Access to 132 High Street](#)
- 3.12 In relation to 132 High Street:
- It is understood that vehicle access is to be retained, with vehicles relating to this dwelling anticipated to turn onto the new access road before reversing into the existing driveway.
 - The current arrangement requires vehicles to reverse onto the driveway from High Street (A2).
- 3.13 KCC Highways commented:
- The proposed access arrangement was reviewed and it was considered that the swept path analysis was assisted by the new junction when turning into the existing property.
 - Also, that the lower levels of activity and speed along the site access than the A2, would mean less chances of conflict than at present.
 - 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.
-

- 3.14 We acknowledge comments made by Railton, noting the RSA Stage 1 did not identify any safety issues relating to the parking area at 132 High Street, which was a potential omission by the safety auditor.
- 3.15 While we cannot confirm this, we do agree that no evidence has been provided to support the statement in the Technical Note that "adequate visibility to a vehicle accessing the parking space can be achieved from approaching vehicles on the A2".
- 3.16 As shown in Figure 1, the carriageway of High Street (A2) is set some distance below the parking area of 132 High Street, which could impede visibility for left turning vehicles into the site, when vehicles are reversing into the parking area of 132 High Street.

Figure 1: Visibility to East on High Street (A2) With Identified Parking Area



- 3.17 That said, we note that movements relating to the site and 132 High Street are relatively low and conflict between these two movements would be unlikely.
- 3.18 Although we have our concerns relating to retaining access to 132 High Street, we acknowledge that no other alternative can be provided which suits both



existing and proposed land uses. It is also acknowledged that the manoeuvre into the existing access is not ideal, and the proposal appears no worse.

- 3.19 In addition, it is considered under the discretion of the highway authority to make the final decision around the suitability of the access arrangement, which KCC Highway are satisfied with the additional information provided by the applicant.

Pedestrian Links

- 3.20 As mentioned, a 1.8m footway is proposed on the western side of the access, which is in line with the Kent Design Guide. It is understood that a 1.0m footway will be provided around the eastern junction shoulder, to facilitate crossing opportunities across the mouth of the junction which will be provided with tactile paving and dropped kerbs. This is supported.
- 3.21 We do have some concern relating to the lack of pedestrian crossing facilities on Hight Street (A2), which will allow future residents to access local facilities including Newington railway station.
- 3.22 KCC Highway comments relating to pedestrian accessibility to and from the site, note:
- 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 most pedestrians in safety.
 - 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 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 PROW 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 would therefore expect it to be realised if this site were to come forward for reserved matters.
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- 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.

- 3.23 It is acknowledged that High Street (A2) is constrained in relation to available carriageway width, however, providing no enhanced pedestrian connectivity goes against both KCC and Swale planning policy, specifically those relating to providing infrastructure to support trips by sustainable transport.
- 3.24 Callaways Lane and The Tracies does provide more direct access into the site from the High Street retail area and Newington train station, however, also provided narrow footpaths which will not be suitable for all users.

Figure 2: Callaways Lane Looking South



- 3.25 With that said, this route does avoid the need for crossing High Street (A2). If pedestrian access was to be only via the A2, pedestrians traveling to and from the west would be forced to cross the main road, due to the southern footway stopping abruptly approximately 100m west of the proposed access point.
- 3.26 A signalised crossing is provided on High Street (A2), within Newington (west of Callaways Lane), which will help accommodate those crossing the road, when travelling to and from the village centre and Newington train station.

Figure 3: High Street (A2) Looking West



- 3.27 In line with KCC Highway comments, we agree that at a minimum, the identified section of PROW ZR61 should be upgraded to facilitate pedestrian movements to and from the site. If this is not considered feasible, then a formal crossing point should be provided in the vicinity of the main site access to fully facilitate journeys on foot.
- 3.28 Failing to provide any improvements to pedestrian infrastructure within the immediate area, notably PROW ZR61 and then subsequently High Street (A2) (if upgrades to PROW ZR61 are not feasible), would result in a noncompliance with:
- Local Transport Plan 4 (LTP4): Delivering Growth without Gridlock 2016-2031
 - Outcome 3: Safer travel - Policy: Provide a safer road, footway and cycleway network to reduce the likelihood of casualties and encourage other transport providers to improve safety on their networks.



Trip Generation and Assessment

- 3.29 We have reviewed the trip generation analysis as part of the TA and the TRICS outputs provided in Appendix I. We consider these suitable for a development of this yield.
- 3.30 We note that the site will generate around 20 and 21 two-way trips in the morning and evening peak periods, respectively. This equates to around one vehicle exiting or entering the site every three minutes during the peak periods, which is considered low.
- 3.31 As highlighted by KCC, once these trips are further distributed across the network, the volume of traffic would not be considered severe in relation to NPPF and is unlikely to impact on this section of the highway network, which we would agree with.

Travel Plan

- 3.32 It is considered that a Travel Plan (TP) is required to support the application, should it be progressed.
- 3.33 The site is in Newington Air Quality Management Area (AQMA) and therefore sustainable modes of travel to and from the site should be promoted to ensure the already low levels of acceptable air quality are not exacerbated by increasing traffic on the network.
- 3.34 Although we acknowledge that this development as standalone would not cause severe traffic impacts, we are aware of several residential developments within the immediate area which are under consideration or committed.
- 3.35 These developments combined will have a cumulatively impact on the road network (in relation to capacity and air quality) and therefore sustainable incentives should be promoted from the start if outline planning permission is granted.
- 3.36 The TA notes that the proposals are seen to comply with all relevant national and local transport planning policies, however, no considerations have been made by the applicant relating to:
- Local Transport Plan 4 (LTP4): Delivering Growth without Gridlock 2016-2031,
-



- Outcome 2: Affordable and accessible door-to-door journey - Policy: Promote affordable, accessible and connected transport to enable access for all to jobs, education, health and other services.
 - Outcome 4: Enhanced environment - Policy: Deliver schemes to reduce the environmental footprint of transport and enhance the historic and natural environment.
 - Outcome 5: Better health and wellbeing - Policy: Provide and promote active travel choices for all members of the community to encourage good health and wellbeing and implement measures to improve local air quality.
 - Bearing Fruits 2031: The Swale Borough Local Plan (2017),
 - Policy CP2 – Promoting Sustainable Travel,
 - Policy DM6 - Managing transport demand and impact.
- 3.37 It is considered that a TP could help mitigate the issues identified and promote sustainable travel within the immediate area. The TP should be secured as part of a planning condition, should outline planning permission be granted.

Conclusions

- 4.1 To conclude:
- Overall, the design of the access is in line with the Kent Design Guide and is acceptable in principle, subject to detailed design.
 - In relation to the visibility assessment reviewed:
 - Visibility is achievable to the required splays, at an offset of 0.29m, which is minor and is deemed acceptable.
 - These types of direct access on the High Street (A2) seem commonplace, with several vehicles required to reverse onto or from High Street (A2) for residential access.
 - A review of the Personal Injury Collision (PIC) data provided as part of the TA does not show any apparent cause for accident when accessing these dwellings.



- We accept the comments made by KCC Highways in relation to the slight offset in visibility splay and acknowledge that the 20mph speed reduction to the west of the access will also help mitigate vehicle speeds on this approach.
 - With that said, we advise that should outline planning permission be granted, a condition is attached requiring the visibility splays to be reassessed using topographical data to ensure confidence in accuracy of the achievable splays.
- We have our concerns relating to retaining access to 132 High Street, however, acknowledge that no other alternative can be provided which suits both existing and proposed land uses. It is also acknowledged that the manoeuvre into the existing access is not ideal, and the proposal appears no worse.
- The identified section of PROW ZR61 should be upgraded to facilitate pedestrian movements to and from the site. If this is not considered feasible, then a formal crossing point should be provided in the vicinity of the main site access to fully facilitate journeys on foot, especially trips to and from Newington train station.
- The TRICS assessment is considered suitable for a development of this size.
- A Travel Plan (TP) is required to support the application, should it be progressed to help mitigate the issues identified and promote sustainable travel within the immediate area. This should be secured via a planning condition.



Appendix A – KCC & Newington Parish Council Commentary



KCC Highways Review Comments

KCC's Highways and Transportation Team has provided commentary in relation to highways matters, which are summarised below. We have therefore taken into consideration the points raised by KCC as part of our review.

Response Dated 4/02/22

- Trip Generation
 - KCC were satisfied with the submitted TRICS trip rates presented in the applicant's TA and considered these to be robust in accordance with accepted practice.
 - Trip rates were provided for the site, noting 46 dwellings would generate 21 vehicle movements in the AM peak hour and 20 vehicle movements in the PM peak hour.
 - Trip Distribution
 - KCC accepted that additional vehicle movements would not result in a very negligible impact on the local highway network., however, because additional movements would be generated, Section 106 contributions were sought, as part of a condition, to undertake planned highway capacity improvements at the nearby Key Street roundabout.
 - Access Proposals
 - New access road is noted to be provided in accordance with Kent Design Guide principles to adequately serve the proposed size of development and cater to pedestrian movements.
 - A stage 1 Road Safety Audit (RSA) was undertaken and its recommendations approved, however KCC requested tracking plans to be submitted to address the recommendations.
 - Visibility splays provided caused some concern to KCC Highways, who questioned whether the footway to the east of the access road was in fact 2.5m as shown on the access plan, and therefore whether adequate splays could be achieved.
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- Pedestrians travelling eastwards would have to cross the A2, where there is no crossing facility at present, and KCC notes there is insufficient width to install a pedestrian refuge.
- Parking Provision
 - Parking was acknowledged to be addressed at the reserved matters stage.

Response Dated 18/03/22

- Additional information submitted at this stage included access drawings addressing the Road Safety Audit, with revised sightlines shown. However, in regard to the visibility splays, KCC deemed that a 43m y-distance would be the requirement to be drawn from the carriageway edge.
- KCC noted that access arrangements for 132 High Street would need to be re-addressed, due to the existing vehicular access for Number 132 being directly on top of the proposed junction radius. The applicant was required to submit further details to alleviate this concern.

Response Dated 25/08/22

- The applicant submitted a Transport Technical Note (TN) dated March 2022 in light of comments previously made by KCC. The TN provided an update access drawing illustrating turning movements could be made from 132 High Street using the newly proposed junction (access road into the site) without vehicles having to overrun onto the A2.
- KCC were satisfied with the submitted swept paths, and therefore no further concerns were raised over the design of the access.
- Furthermore, the TN illustrated that the previously requested visibility splays could be achieved for a 30mph road. This was deemed acceptable and KCC also noted that a 20mph speed limit had been introduced west of the proposed access, outside No. 63 High Street, which, they reported, is likely to slow eastbound traffic down further.

Response Dated 5/09/22

- Additional information submitted at this stage concerned a Mineral Resource Assessment, which did not alter the Highway Authority's views on the development proposals.
-



- A number of conditions were requested by KCC, including:
 - Submission of a Construction Management Plan (CMP);
 - Provision and permanent retention of vehicle parking spaces and garages shown;
 - Provision of Electric Vehicle Charging Points (EVCP) for each dwelling;
 - Provision and permanent retention of cycle parking facilities;
 - Completion and maintenance of the access; and
 - Section 106 contributions towards highway improvements to Key Street.

Newington Parish Council Comments

[Response Dated 27/08/22](#)

Newington Parish Council commissioned Railton TPC Ltd to carry out a review of the transport and highways implications of the development associated with this planning application.

It is noted that this objection was submitted after the submission of the applicant's TN mentioned above (dated March 2022), however, the objection does not take the TN and its amendments into consideration.

The main objections raised by Railton on behalf of Newington Parish Council include:

- Highway safety at proposed site access, namely visibility splays, which the objection deems unacceptable due to being 1m offset from the carriageway and only achieving 39m visibility to the east of the access;
- Lack of a safe pedestrian route to local facilities and a critique of the highway authority's judgment that the carriageway at this section of the A2 is of sufficient width and visibility for the majority of pedestrians to traverse without difficulty, which, the objection deems unacceptable due to the difficulty posed to vulnerable road users of not having sufficient width for a pedestrian refuge island;
- Lack of mitigation for increased vehicle movements at the Key Street roundabout (KCC later request a S106 contribution for such improvements);
- Lack of credible air quality mitigation, namely:



- A contribution towards a local e-bicycle hire scheme being inappropriate for the location of the development; and
- Contributions towards an annual bus pass for each dwelling and a three-year National Railcard per dwelling being unlikely to shift 10% of vehicle trips to public transport due to lack of capacity on buses and infrequency of rail services.
- Failure to consider cumulative impact – the objection suggests the highway authority have not given enough consideration to other development sites locally and states that locally, the cumulative traffic impact could be severe.

[Response Dated 14/11/22](#)

Further to the Parish Council's objection dated in August 2022, a further submission was made having considered further submitted information from the applicant. This review highlights the following key highway concerns:

- That the new access road is inappropriate considering the proposed intensification of the site;
- That a further RSA should be undertaken due to the access arrangement having changed since the first drawings were submitted in support of the application;
- Once again concerns are mentioned in regards to the overall impact on highway safety and discourages additional vehicles being added to the local highway network.

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2.5 REFERENCE NO - 21/505722/OUT		
APPLICATION PROPOSAL		
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).		
ADDRESS 128 High Street Newington Sittingbourne Kent ME9 7JH		
RECOMMENDATION Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and of conditions as may reasonably be required.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed development would provide additional housing both market and affordable adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. Due to the Council's lack of 5-year housing supply the tilted balance in accord with the National Planning Policy Framework applies. The proposal benefits are considered, on balance, to outweigh the harm.		
REASON FOR REFERRAL TO COMMITTEE		
Newington Parish Council Objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Mr Andrew Wilford AGENT
DECISION DUE DATE 03/02/22	PUBLICITY EXPIRY DATE 15/09/22	CASE OFFICER 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.

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- 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
1 bed flat	0	6	6

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2 bed houses	2	4	6
3 bed houses	19	7	26
4 bed houses	5	1	6
5 bed houses	2	0	2
Total	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

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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

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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

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- 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.

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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.**

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- 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

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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
Primary Education	£1,700.00	£6,800.00	£265,200.00	Towards the construction of a new 2FE Primary School in Sittingbourne
Special Education	£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
Secondary Education	£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
Secondary Land	£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.

Per Dwelling (x45)	Total	Project
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Community Learning	£16.42	£738.90	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre
Youth Service	£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
Library Bookstock	£55.45	£2,495.25	Towards additional resources, services, stock, and works to Sittingbourne Library
Social Care	£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 Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£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.

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- 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

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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*

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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.**

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- 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) “*Weinerberger 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

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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 Brickeath. 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.”

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- 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 µm/m³ 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

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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*

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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

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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:

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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
TOTAL	45	27	18	18	4	14

- 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

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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

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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 date⁸, granting permission unless:

(i) the application of policies in this Framework that protect areas of particular importance provides a clear reason for refusing the development proposed⁷; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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:

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‘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 require 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

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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.

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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;

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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,

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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.

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- 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

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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

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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

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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 significant of any heritage assets affected, including any contributions made by their setting. The level of details should be proportionate to the assets'

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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 weigh 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

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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

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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.

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- 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

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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 CO₂ 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 CO₂ 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 CO₂ 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

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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_x, PM₁₀, and PM_{2.5}. The damage cost (without mitigation) associated with the additional vehicle movements associated with the development over a 5-year period was considered to amount to **£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.

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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 NO₂. 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.

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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.

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- 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.

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- 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

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- 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

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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.

APPENDIX 2**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 proposed⁷; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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.

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7.165 There would be other benefits from the scheme including the 37% Net Gain in Biodiversity and aim to achieve 50% reduction in CO2.

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

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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,

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- 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;

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- 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

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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.

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- 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

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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

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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

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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

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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.

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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.

APPENDIX 2

- 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

APPENDIX 2

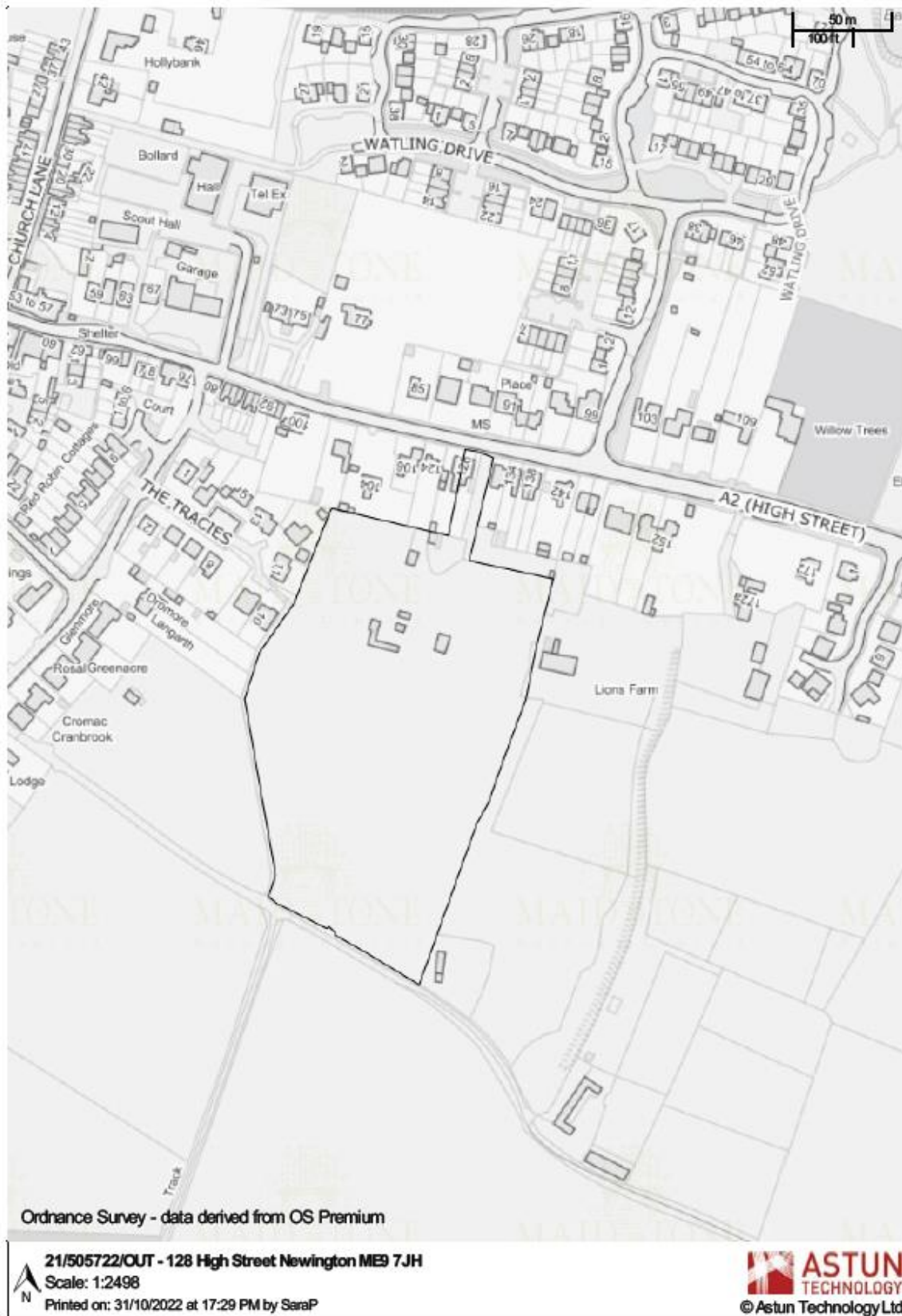
on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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 2



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).

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.

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

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

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 Application 17/500946/FULL
4 ...the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.

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

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

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

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

10. Notwithstanding the fact that Newington is an accessible village with a significant range of services, the Local Plan has defined its built-up area boundary. The supporting text of Policy ST3 recognises that development opportunities within the village are limited for a variety of reasons, including poor air quality and the surrounding high quality agricultural land. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.

15. I am aware that an Inspector granted planning permission for development of nine dwellings at Ellen's Place in March 2017. However, that scheme was assessed against different policies and when the Council was unable to demonstrate a five year housing land supply. The Inspector found that even though

that scheme did not conform to the development plan, the adverse impacts did not significantly and demonstrably outweigh the benefits. The particular circumstances of that site and the policies which applied at the time therefore justified allowing the appeal.

A further appeal was also dismissed

Land rear of 148 High Street, Newington, ME9 7JH. Decision date 14 August 2020 Appeal Ref: APP/V2255/W/20/3245359 19/505596/FULL *“conversion of former agricultural barn to a dwelling house including elderly dependent 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:

"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

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 41no. two, three and four bedroom houses. This planning appeal in our neighbouring village was rejected in December 2020 (APP/V2255/W/20/3246265)

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

and the conclusion:

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

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

Consistency of decision making is a fundamental principle of planning law and local authorities can only depart from it if they give cogent reasons for doing so.

<http://www.bailii.org/ew/cases/EWCA/Civ/2018/1519.html>

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

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

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

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 guidance¹⁶ 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

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:

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 NO₂ 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 NO₂, PM_{2.5} and PM₁₀ within Newington exceed WHO guidelines for health.

9. The Newington AQMA has exceed NO₂ objectives in the last reliable year

10. the planning applications should be rejected on the grounds of air quality at this time

This shows the likely damage to the health of Newington residents from the cumulative effect of further housing development in the village.

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 2nd 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.

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

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.

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 3

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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
Total 2011 pre 2014	18		
School Lane (Parsonage Farm)	14	May-15	SW/14/0486
Tractor shed (Bull Lane)	1	Oct-15	15/504706
Church Lane	1	Oct-16	16/505663
Former Workingmen's Club	11	Jul-17	16/506166
Chesley Oast	5	Aug-17	16/506159
Eden Meadow	9	Sep-17	16/505861
High Oak Hill (Harbex)	6	Nov-17	17/504376
The Willows (9 London Road)	1	Dec-17	17/503349
Land N. of the High Street (Persimmon)	124	Apr-18	60/501266
Callaways Lane	1	Sep-18	18/503564
The Tracies	5	May-19	18/505315
Car Wash (studio flat)	1	Jul-19	17/504813
The Vicarage	3	Aug-19	19/503528
Cromas (Land Adjacent)	1	Jan-20	19/506356
Total 2014 to 2020 (March)	183		
Overall Total Since 2011	201		

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TABLED UPDATE FOR ITEM 2.5
21/505722/OUT – 128 High Street, Newington, Kent, ME9 7JH

KCC Biodiversity Comments

1. Further to para 6.17 KCC Biodiversity have provided comments, which are included in full as an appendix to the tabled update. KCC Biodiversity advise that the submitted ecology report is comprehensive. However, the comments request clarification is sought regarding three areas: bats and lighting, reptiles and biodiversity net gain.
2. The comments outline conflict between potential brickearth extraction and proposed biodiversity net gain as the submitted documents do not consider brickearth extraction KCC Biodiversity advise that any further necessary mitigation measures will need to be submitted prior to determination of the planning application.
3. In this regard, further to the committee report (paras 7.134 – 7.139) it is not known at this stage whether there would be a viable brickearth deposit that would need extracting. As such, a Grampian condition has been proposed to address any potential brickearth extraction. In consultation with KCC Biodiversity it is recommended that this Grampian condition is amended to ensure it considers potential impacts upon ecology and biodiversity, but also regarding site levels; archaeology; and neighbouring properties. As such, it is recommended condition 1 is updated as below:

“No development shall occur on site until information has been submitted demonstrating for the written approval by the Local Planning Authority that prior extraction of the Brickearth mineral is either:

A. unviable or;

B. further testing of the mineral demonstrates it is not usable or mineral extraction would result in significant adverse impacts upon protected species or habitats; neighbouring properties; land levels; or archaeology or;

C. full prior extraction of the viable deposits of the Brickearth has been completed to the satisfaction of the planning authority in consultation with Kent County Council as the minerals authority.

The details shall include assessments to determine whether brickearth extraction would impact upon protected species or habitats; neighbouring properties; land levels; or archaeology.

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 sterilized”

4. Given the outline nature of the scheme, it is considered that the points raised re bats and lighting, reptiles and biodiversity net gain can be satisfactorily addressed by way of condition, and conditions are recommended to address the issues raised by KCC which include condition 22 (full details of a landscape and ecological management plan, which includes mitigation measures); condition 13 (biodiversity enhancements including 37% biodiversity net gain); and condition 30 (lighting designed for biodiversity).

APPENDIX 4

5. Further to the comments provided by KCC Biodiversity, they have advised that condition 22 as per the report is split into two separation conditions which would cover Ecological Mitigation and Ecological and Landscape Management Plan. As such, it is recommended that condition 22 is updated as below, and an additional condition (38) is added:

Condition 22: "Prior to the commencement of development (including vegetation clearance and prior to any brickearth works), an ecological mitigation strategy must be submitted to the Local Planning Authority for approval. The submitted report shall include:

- a) Updated Preliminary Ecological Appraisal assessing if the existing ecological information is still valid.*
- b) Recommended specific species surveys.*
- c) Overview of the mitigation required*
- d) Detailed methodology to implement mitigation.*
- e) Maps showing retained habitat and mitigation areas.*
- f) Maps showing the location of any off site mitigation areas.*
- g) Landowner agreements for the retention and management of the off site mitigation areas.*
- h) A detailed method statement for the removal or long-term management /eradication of invasive species on the site.*
- i) Timings of when the works will be carried out.*
- j) Details of who will be carrying out the works.*
- k) Interim management plan for habitats retained on site. The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.*

The plan must be implemented as approved.

Reason: To protect biodiversity"

Condition 38: "With the submission of the reserve matters application an ecological and landscape management plan, Must be submitted to the Local Planning Authority for written approval. The submitted report shall include:

- a) Overview of the habitats and species to be retained/create on site.*
- b) Methodology to create / enhance the habitats on site.*
- c) Overview of the management*
- d) Detailed timetables of the proposed management – capable of being a 5 year rolling plan*
- e) Habitat plans*
- f) Updated BNG Metric*
- g) Details of ecological enhancements to be incorporated in to the open space and buildings.*
- h) Details of on going monitoring and management plan reviews*
- i) The enhancement should include, but is not limited to, the following:*
 - a. Native species*
 - b. Bird and bat boxes/integrated features*
 - c. Insect boxes and bricks*
 - d. Hedgehog highways*
 - e. Log piles*

APPENDIX 4

The plan 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, and improving the aesthetic value of the development as well as resident's well-being."

6. KCC Biodiversity have requested that the lighting details for ecology form part of the reserved matters application. As such, it is recommended that condition 30 is amended as below:

"With the first reserved matters application, 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."

Archaeology and Brickearth

7. Further to the consultation comments provided by KCC Archaeology (paras 6.12-6.16) , and KCC Minerals and Waste (para 6.42 and 6.43) the recommended conditions requested by these consultees have been reviewed with regard to the potential for brickearth extraction at the site. As brickearth extraction would have a potential impact upon archaeology, additional wording has been added to condition 7 requiring the archaeological details (archaeological field evaluation works and safeguarding measures) to be submitted to an approved prior to any brickearth extraction; and before the submission of reserved matters. The updated working has been discussed with KCC Archaeology, and KCC Minerals and Waste and they raise no objection to the revised condition wording. As such, it is recommended condition 7 is updated as below:

"7) A) Before the submission of reserved matters and any brickearth extraction, 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 (including any brickearth extraction) 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

APPENDIX 4

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”

Other Matters

8. Further to para 7.3, whilst paddocks can be considered as previously developed land as per the NPPF definition, the definition also outlines exceptions such as *'land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'* Given the derelict nature of small scale outbuildings on the site; vegetation evident on the site; and lack of use as a paddock, it is not considered that the site would meet the definition of 'previously developed land'.

Neighbour Representations

9. A further representation has been received from a neighbouring property outlining they wanted to speak at the committee meeting against the item but did not register in time. The residents of The Tracies as a group have strong objections regarding the proposal, and a representation has been submitted by no. 10 The Tracies as below:
 - *“I own the land and boundary fence leading to ZR61 footpath from 10 The Tracies. I will object when requested to give authorisation for this route to be accessible. Esquire or whoever is leading the planning application will need to bulldoze or remove my boundary fence to gain access from the new development (objected by all residents) into the Tracies. This needs to be considered by the committee, the footpath is accessible of course it is but only by removing my fence.*
 - *126 The high road, has already objected and we support this decision, the human side is you cannot demolish a building that a person is living in called “home”*
 - *We the residents require the same support / objections that Eden Meadows had when the planning application was removed. There is no difference to the 2 sites, highway safety, appearance of the area and the most important traffic generation.”*

APPENDIX 4

10. The recommendation at section 9 of item 2.5 should be amended to read;

“GRANT – planning permission to be granted subject to the conditions and Section 106 agreement set out in the committee report, and amended conditions (1), (7), (22) and (30) and new condition (38) as set out in the tabled update and with authority to amend the wording of the S106 agreement and conditions as may reasonably be required.

11. Recommendation: planning permission to be granted subject to the conditions and Section 106 agreement set out in the committee report, and amended conditions (1), (7), (22), and (30) and new condition (38) as set out in the tabled update and with authority to amend the wording of the S106 agreement and conditions as may reasonably be required.

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ECOLOGICAL ADVICE SERVICE

TO: Corinna Griffiths
FROM: Emma England
DATE: 09 November 2022
SUBJECT: 21/505722/OUT / 128 High Street, Newington

The following is provided by Kent County Council's Ecological Advice Service (KCC EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the County Council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application; and whether sufficient and appropriate ecological information has been provided to assist in its determination. Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the Planning Officer, who will seek input from the EAS where appropriate and necessary.

SUMMARY - ADDITIONAL INFORMATION REQUIRED

We have reviewed the ecological information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application. The issues surrounding brickearth extraction are also dealt with below.

Any further necessary mitigation measures will need to be submitted prior to determination of the planning application. This is in alignment with paragraph 99 of the ODPM 06/2005, which states "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, and paragraphs 174 and 180 of the National Planning Policy Framework (NPPF) 2021, biodiversity should be maintained and enhanced through the planning system.

DETAILED COMMENTS

The submitted ecology report is comprehensive. However, KCC EAS request clarification regarding three areas: bats and lighting, reptiles and biodiversity net gain.

Bats and lighting

Some species of bats are priority species under the Natural Environment and Rural Communities (NERC) Act 2006 and therefore require consideration when making planning decisions. Further, all British bats are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) which is relevant with regards to the protection of commuting and foraging habitats.

It is noted that foraging and commuting bat surveys were not carried out in accordance with current guidelines. However, provided retained boundary features and the southern part of the site can be retained as unlit, bats should be able to continue to commute and forage around the site. But, it is noted that there are roads proposed near the boundary hedgerows and proposed orchard. It is requested that the applicant confirm whether it is realistic for boundary habitats to remain unlit during operation of the development.

Reptiles

British reptiles are priority species under the NERC Act 2006 and therefore require consideration when making planning decisions. These species are also protected under the Wildlife and Countryside Act 1981 (as amended) from killing and injury.

The southern part of the site (estimated to be about one third of the long grassland area on-site) is proposed for retention as a reptile receptor site. The submitted ecology report states that that retained grassland will be managed to create a more varied sward structure with more basking opportunities, and the creation of new refugia and hibernacula. However, this area is also proposed as a community orchard with recommended wildflower grassland. The planting of trees within this area is likely to create more shade, and whilst not incompatible with use of the area by reptiles, may not provide an enhancement for these species, especially if management practices are not carefully considered. Additionally, the creation and management of wildflower grassland is likely to be less favourable to reptiles than managing the area as tussocky grassland interspersed with scrub. Furthermore, it is unclear whether the retention of the area proposed will be sufficient to maintain current populations of reptiles found on-site. Clarification is requested regarding these points.

Biodiversity Net Gain

The submission of Defra Biodiversity Metric results is welcomed, along with a 37.55% biodiversity net gain. However, the linear features information is missing, and it should be noted that the latest Defra Biodiversity Metric is version 3.1 (version 3.0 has been used for submission). It is however noted that the application was validated prior to the updated version 3.1 becoming available. It is requested that the linear habitats information be submitted for review. We would also request to see the full calculation spreadsheet and condition assessment sheets during our review process.

Brickearth Extraction

If brickearth mineral on-site is to be fully extracted prior to development occurring, the measures outlined to provide a biodiversity net gain for the site, and to mitigate for impacts to protected species may not be viable.

The submitted ecology report does not address ecological effects resulting from brickearth extraction. For example, submitted plans are for the retention and enhancement of a third of the species poor semi-improved grassland on-site for biodiversity, including reptiles known

to occur on the site. If there is to be removal of habitats currently proposed for retention in order to extract brickearth this is also likely to change the biodiversity net gain score for the site.

The ecological effects as a result of brickearth extraction will need to be considered in advance of determination of the planning application to ensure that significant ecological effects from the project are adequately addressed. Where current proposed habitat retention is not possible, a reptile receptor area is likely to be required off-site, and there may also be a requirement for off-site compensation for the loss of habitats on-site in order to achieve a biodiversity net gain.

NORTH KENT SITES

The development includes proposals for new dwellings within the zone of influence (6km) of The Medway Estuary and Marshes, and Swale Special Protection Areas (SPA) and Wetlands of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is 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 still a need for an appropriate assessment to be carried out as part of this application.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Emma England
Biodiversity Officer

This response was submitted following consideration of the following documents:

Aspect Ecology (October 2021) Ecological Appraisal. Land to the Rear of 128 High Street, Newington.

Clague Architects (March 2021) Residential Sketch Scheme – 46 Units Site Layout Plan Hand Drawn with Green Buffer Zone. Proposed Residential Development. Land to the rear of 128 High Street, Newington, Kent. Drawing No: 23254C / 103_E.

Clague Architects (October 2021) Red Line Location Plan. Proposed Residential Development. Land to the rear of Eden Meadow, Boyces Hill, Newington, Kent, ME9 7JH. Drawing No: 23254C / 25. Revision D.

Clague Architects (October 2021) Design and Access Statement. Proposed Residential Development. Land Rear of 128 High Street, Newington.

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2.1 REFERENCE NO - 22/504876/FULL		
APPLICATION PROPOSAL		
Section 73 - Application for variation of conditions 3 (replacement roof details) and 10 (workshop studios construction) pursuant to 21/502661/FULL for - Change of use of garages, store and plant room to 3no. workshop studios. Refurbishment of main building, to include internal alterations, insertion of replacement windows and external doors, insertion of solar panels, accessibility improvements, external roof plant and drop down safety barrier, erection of screened plant compound to rear yard and erection of replacement of Western boundary fence and gate. Demolition of canopy, ramp, brick infills and flat roof to 1no. garage.		
ADDRESS Masters House Trinity Road Sheerness Kent ME12 2PF		
RECOMMENDATION that planning permission is Granted subject to conditions		
REASON FOR REFERRAL TO COMMITTEE		
The application relates to a council-owned building and the proposed development is being brought forward by the council.		
WARD Sheerness	PARISH/TOWN COUNCIL Sheerness Town Council	APPLICANT Paul Houghton, Astral Ltd AGENT Turner Jackson Day Associates
DECISION DUE DATE 13./01/2023	PUBLICITY EXPIRY DATE 01/12/2022	CASE OFFICER Rebecca Corrigan

Planning History

21/502661/FULL - Change of use of garages, store and plant room to 3no. workshop studios. Refurbishment of main building, to include internal alterations, insertion of replacement windows and external doors, insertion of solar panels, accessibility improvements, external roof plant and drop-down safety barrier, erection of screened plant compound to rear yard and erection of replacement of Western boundary fence and gate. Demolition of canopy, ramp, brick infills and flat roof to 1no. garage – APPROVED 09.09.21

1. DESCRIPTION OF SITE

- 1.1 The application is located along the western side of Trinity Road. The vicinity of the site is characterised by the presence of the church, Masters House and the former water tower as large high-quality buildings set within landscaped grounds. The site is located in the Sheerness Mile Conservation Area.
- 1.2 The original building comprises a two-storey building with a pitched roof. There is a later additional flat roof extension to the north and a further large, relatively modern (1960's) two storey flat roof extension to the southern side. Masters House itself is considered to be a 'non-designated local heritage asset'.
- 1.3 Masters House is located within the setting of a number of listed buildings most notably, the grade II listed Trinity Church immediately to the north.

2. PROPOSAL

- 2.1 The site benefits from planning permission for various external refurbishment works to the building and works to the existing garages, store and plant room to accommodate three workshops. Permission was granted for this development by the Planning Committee in 2021.
- 2.2 Conditions 3 and 10 of the planning permission require further details of the replacement roof and eaves detailing for the garage / workshops, and details of how the workshops will be constructed to meet BREEAM standards prior to commencement of the development. This means that no part of the development can be commenced until such details have been approved.
- 2.3 However, the applicant seeks to carry out the approved improvements to the main building before undertaking the development in relation to the garage/workshop building to the rear at a later date. Technically, under the terms of the existing planning permission they cannot commence development on the main building until they have submitted and received approval for the details required under conditions 3 and 10. For this reason, the applicant is seeking to vary these conditions to allow the works to the main building to begin in advance of providing the details for the workshops.
- 2.4 Members should note that there are no changes being made to the development itself, which remains as permitted under 21/502661/FULL. The only change sought is to the wording of the two planning conditions, and the assessment below deals solely with this.

3. PLANNING CONSTRAINTS

- 3.1 Mile Town Conservation Area
- 3.2 Potential Archaeological Importance
- 3.3 Environment Agency Flood Zone 3

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) 2021
- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017

Policy ST1 Achieving sustainable development in Swale

Policy ST3 The Swale settlement strategy

Policy CP1 Building a strong, competitive economy;

Policy CP2 Promoting Sustainable Transport;

Policy CP4 Requiring good design;

Policy CP7 Conserving and Enhancing the Natural Environment – providing for green infrastructure;

Policy DM6 Managing Transport Demand and Impact;

Policy DM7 Vehicle Parking;

Policy DM14 General Development Criteria;

Policy DM16 Alterations and Extensions;

Policy DM19 Sustainable Design and Construction;

Policy DM21 Water, flooding and Drainage;

Policy DM33 Development Affecting a Conservation Area.

4.3 Swale Borough Council Parking Standards 2020

5. LOCAL REPRESENTATIONS

6. Letters were sent to neighboring occupiers and a site notice was placed in the vicinity of the site to which no letters of representation were received.

6.1 **Sheerness Town Council** have not raised any objections to the proposal.

7. CONSULTATIONS

7.1 **Design and Conservation Officer** – No objection

7.2 **Environment Agency** – No objection

7.3 **KCC Highways** – No comments to make on this occasion

7.4 **Environmental Health** – No comments to make on the variation to conditions as sought

8. APPRAISAL

8.1 This application seeks to make variations to the wording of the two conditions in question, both of which are specific to the existing garage, store and plant room building to the rear of the site. The proposed variation allows the works to Masters House to come forward in advance of the further details relating to the garages. As the conditions are not actually relevant to the refurbishment works to the main building and are only relevant to the workshop proposals in the rear yard area, the proposed variation is considered to be acceptable.. It is therefore recommend that the application be granted..

9. CONCLUSION

8.1 For the reasons set out above, it is considered that the proposal is acceptable and it is recommend that the variation of conditions 3 and 10 is granted.

10. RECOMMENDATION

GRANT Subject to the following conditions

CONDITIONS to include

1. The development to which this permission relates must not be begun no later than 9th September 2024

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. No development shall take place other than in accordance with the following approved plans: Proposed Block Plan PL002 Rev PL2; Proposed Ground Floor Plan PL005 Rev PL1; Proposed First Floor Plan PL007 Rev PL1, Proposed Roof Plan PL009 Rev PL2; Proposed Elevations PL011 Rev PL2; Proposed Sections PL013 Rev PL 2; Proposed South and West Boundary Fence PL015; Proposed Plan Compound PL016

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

3. Prior to the commencement of development of the garages, store and plant room building to workshop studios, a sample and/or manufacturer brochure and technical details of the metal sheet product to be used on the replacement roof to garage/workshop 1 and a 1:5 vertical section of the eaves and verge detailing to the replacement roof shall be submitted to and approved in writing by the Local Planning Authority. The roof replacement work shall thereafter be carried out using the roof covering material and eaves/verge detailing agreed in relation to this condition.

Reason: In the interest of protecting the character and appearance of the Sheerness Mile Town Conservation Area.

4. Prior to the commencement of development, details of the replacement colour-coated windows to be used shall be submitted to and approved in writing by the Local Planning Authority.. The details to be submitted shall include a technical specification of the windows to be used, scaled sections through the frame and glazing and a section showing the proposed depth of the window reveal. The relevant window replacement work shall thereafter be carried out using the window product(s) agreed in relation to this condition

Reason: In the interest of protecting the character and appearance of the Sheerness Mile Town Conservation Area.

5. Prior to the commencement of development, a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for the replacement/new timber window and doors shall be submitted to and approved in writing by the Local Planning Authority. The sections to be provided shall include part of the surrounding masonry or joinery bordering the window or door opening and shall be set out clearly (annotated as necessary) to show the following details, as applicable:

- Depth of reveal
- Window head and cill/sub-cill detailing
- Glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panes of glass)
- Glazing bar profile(s)
- window frame

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

Reason: In the interest of protecting the character and appearance of the Sheerness Mile Town Conservation Area.

6. The guardrails to the solar array shall remain in the folded, flat position at all times, except when repairs and/or routine maintenance is being carried out to the solar array.

Reason: In the interest of protecting the character and appearance of the Sheerness Mile Town Conservation Area.

7. The development hereby permitted shall not be open to the public or any part thereof operational until the mitigation measures as set out in the Acoustic Planning Report prepared by ICP dated 22.04.2021 have been completed. The mitigation measures shall be retained in-situ thereafter.

Reason: In the interests of residential amenity.

8. No part of the building shall be occupied until details of secure and covered cycle parking facilities have been provided in accordance details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: To provide adequate bicycle storage in the interest of promoting energy efficiency and sustainable development.

9. The workshops located within the outbuildings to the rear of the site, shall be used for the purposes of Class E only and for not for other purposes whatsoever, of the Schedule to the Town and Country Planning (Use Class) Order 1987 (as amended) and any other use whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2020 (as amended) (or any order revoking or re-enacting that Order) of not.

Reason: To the interests of the amenities of the area

10. The workshop studios hereby permitted shall be constructed to BREEAM "Good" Standard or an equivalent standard. Prior to the commencement of development of the garages, store and plant room building to workshop studios, details of the measures to be undertaken to secure compliance with this condition shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

INFORMATIVES

Environment Agency

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

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

KCC Highways and Transportation

It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

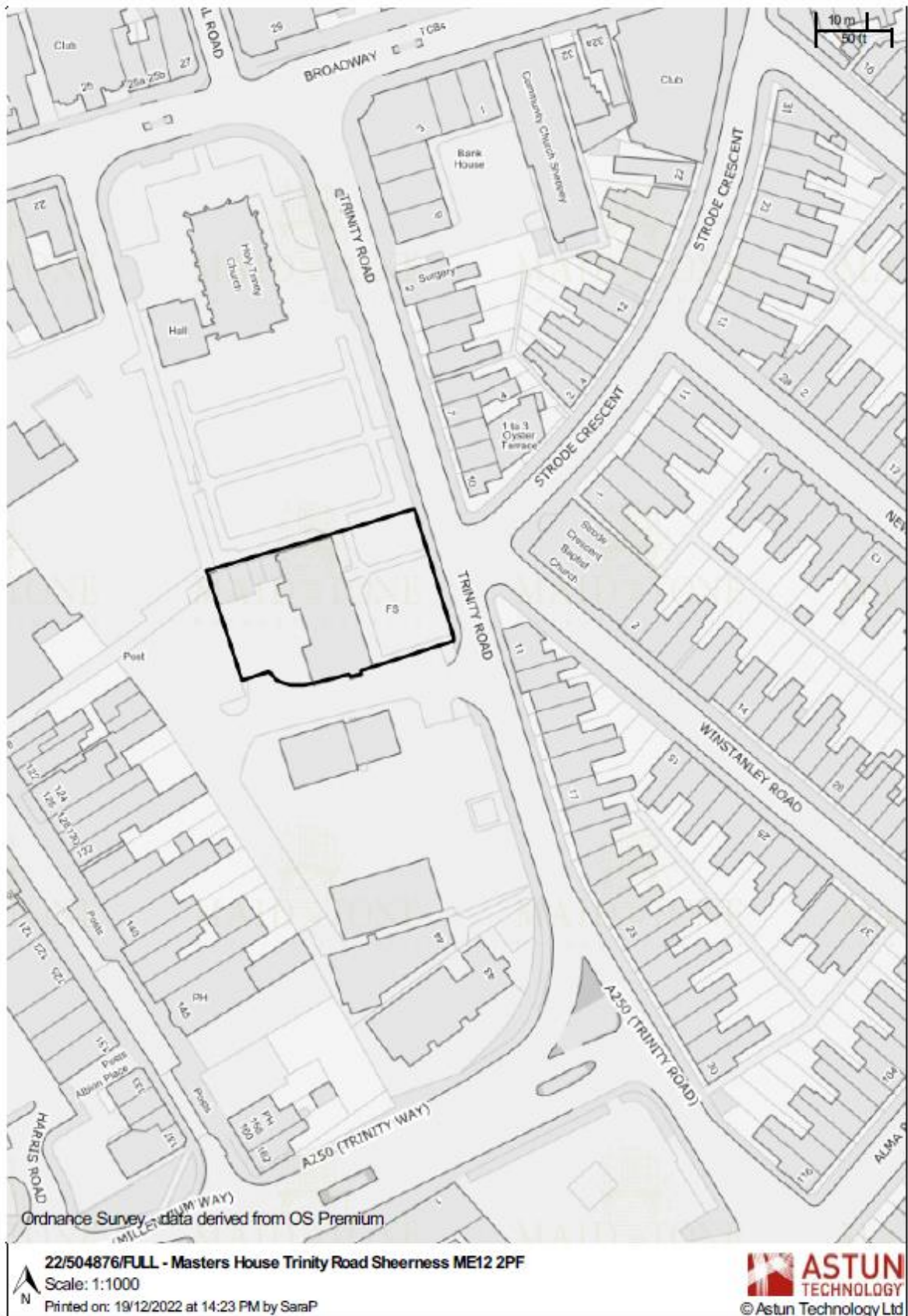
The Council's approach to the application

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

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

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

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



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2.2 REFERENCE NO - 22/500601/FULL		
APPLICATION PROPOSAL		
Sub- division of Radfield House into 2 no. separate residential units. Conversion and redevelopment of existing farm structures to create 9 no. residential units with associated landscaping and parking with improvements to existing access from Dully Road.		
ADDRESS Radfield House And Farm, London Road, Tonge, Sittingbourne, Kent, ME9 9PS		
RECOMMENDATION Grant		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposal would result in enhancement to the designated heritage asset, the setting of the asset and the landscape. The proposal would contribute to the Council's 5-year housing land supply, providing a net gain of 10 residential units. The proposal would be considered to be of benefit to the local context.		
REASON FOR REFERRAL TO COMMITTEE		
Parish Council Objection.		
WARD	PARISH/TOWN COUNCIL	APPLICANT GH Dean & Co Ltd
Teynham and Lynsted	Tonge	AGENT Hume Planning Consultancy Ltd
DECISION DUE DATE	PUBLICITY EXPIRY DATE	CASE OFFICER
	04/04/2022	Emma Gore

Planning History

SW/10/1523

Change of use of former granary, potato store and part of farmyard to office and commercial use with associated parking.

Grand of Unconditional (stat 3yrs) Decision Date: 27.04.2011

1.0 Description of Site

- 1.1 The application site is located to the south of the A2 (London Road). The site is located to the east of Bapchild and to the west of Teynham. The Built-up area boundary of Bapchild is located approximately 0.50km from the site. The Built-up area boundary of Teynham is also located approximately 0.51km from the site. The site contains a mix of uses including residential and former agricultural. The wider context of the site also includes some commercial uses. The site is approximately 1.5ha. The site comprises a detached Grade II Listed Building which fronts the highway, is two storeys, and in a state of disrepair. The dwelling known as Radfield House has attractive brick wall enclosures and frontage. The list description reads as follows:
- 1.2 To the east of the dwelling a vehicle access extends in a north-west trajectory. The access is also a Public Right of Way.

- 1.3 To the south of the dwelling the site extends to include a collection of former farm buildings (with a combined floor area of approximately 3015square metres). The agricultural buildings and former farm offices, located to the south of Radfield House, are associated with the wider Hempstead Farm. The buildings are predominantly open fronted and were used for storage associated with agriculture.
- 1.4 The buildings are arranged in a linear pattern and number 6 in total, and have a utilitarian character with mainly gable end pitches and clad in metal, breeze block and timber. The site is subject to a large degree of hardstanding which has a clear affiliation with the former agricultural use.
- 1.5 A secondary access to the site is located along Dully Road. The access is formed of an agricultural track which extends in an east west trajectory for a distance of approximately 307metres. Dully Road is a designated Rural Lane and contains mainly residential dwellings which are located sporadically along the road.
- 1.6 To the east of the site, three existing residential dwellings are located namely, Bailiffs House, Jubilee Cottage, Elizabeth Cottage. To the southeast, two commercial buildings and associated yards extend. Agricultural fields extend to the south and west of the site. The landscape surrounding the site is open although screened from the immediate public view and road by built form and landscape.
- 1.7 The Teynham Air Quality Management Area is located on the A2 and starts 1180metres to the east of the application site.

2.0 Proposal

- 2.1 The proposal seeks to sub-divide Radfield House to create a semi-detached property, each compromising three bedrooms.
- 2.2 The proposal would result in the demolition of five of the six buildings on site. The buildings are former agricultural units with a varying bulk, mass, and design. In place eight residential units would be created in two terrace style buildings with varying roof designs. The units would be comprised of three, four and five bedrooms. The proposed units would have on-site parking and include visitor parking spaces.
- 2.3 The proposal would also see the conversion of the existing southeast barn into a four bedroomed residential unit. The dwelling would include 3 parking spaces on site and wide curtilage.
- 2.4 The proposal would introduce retractable bollards to the southeast of the converted barn to ensure that traffic does not utilise the eastern access (directly linking to the A2) but instead traverses the western access to Dully Road (linking to the A2 further west and at a point where sight lines are better). Further, bollards would be located to the rear of Radfield House to ensure use of the western access.
- 2.5 The proposal would further introduce additional landscaping and a SUDS pond.

3.0 Planning Constraints

- Grade II Listed Building Radfield House,
- Public Right of Way – ZR 196 (a public footpath connecting to Dully Road approximately one kilometre to the south),

- Flood Zone 2 and 3 (Located on a narrow strip of the access to the west onto Dully Road),
- Grade I Agricultural Land (best and most versatile),
- Brickearth – Swale areas,
- Special Protection Area (SPA) for ecology – 6km consultation zone,
- Area of Archaeological Potential,
- Adjacent to Dully Road which is, as noted above, a Designated Rural Lane.

4.0 Policy and Considerations

Bearing Fruits 2031: The Swale Borough Local Plan 2017:

- ST 1** - Delivering sustainable development in Swale
- ST 2** - Development targets for jobs and homes 2014 – 2031
- ST 3** - The Swale settlement strategy
- ST5** - Sittingbourne area strategy
- CP 3** - Delivering a wide choice of high-quality homes
- CP 4** - Requiring good design
- CP 8** - Conserving and enhancing the historic environment
- 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 20** - Renewable and low carbon energy
- DM 21** - Water, flooding and drainage
- DM 24** – Landscape
- DM 26** - Rural Lanes
- DM 28** - Biodiversity and geological conservation
- DM 29** - Woodland, trees and hedges
- DM 31** - Agricultural Land
- DM 32** - Development involving listed buildings
- DM 34** - Scheduled Monuments and archaeological sites

The National Planning Policy Framework (NPPF):

- Paragraph 8 (Sustainable Development)
- Paragraph 11 (The Presumption in favour of sustainable development)
- Paragraph 174 (Landscape)

National Planning Policy Guidance (NPPG)

Supplementary Planning Guidance (SPG):

‘Swale Landscape Character and Biodiversity Appraisal 2011’ Rodmersham Mixed Farmlands which is of Moderate sensitivity

‘Swale Borough Council Parking Standards Supplementary Planning Document’ ‘Kent Minerals and Waste Local Plan 2013-30’

5.0 Local Representations

5.1 Letters were sent to neighbouring occupiers; a site notice was posted in the vicinity of the site and an advert was placed in a local paper. In response to these two letters of objections were received and can be summarised as follows:

- The development would compromise the setting and integrity of the listed building,
- Conversion of Radfield House will destroy the character of a listed building,
- A better option would be to convert the house as one or turn it into a pub/hotel,
- Development will significantly increase traffic in Dully Road which is a designated country lane,
- The Dully Road junction with the A2 is already problematic and accidents and near misses will increase,
- Dully Road joins the A2 at a point where there is no 30mph speed limit which increases the risks of entry onto the A2 from Dully Road,
- Many vehicles on the A2 are doing 60mph including HGVs,
- A2 has no cycle path and walking along the A2 is not much fun,
- The haulage company and reality golf company currently use the Dully Road track to access their properties. Prevents use of the original farm track. Will this continue to occur or will they be using the farm entrance? Could result in accidents.
- How wide will the road to the existing house be, and will it be wide enough for 2 vehicles to pass? Existing residents have to use the farmyard to do so.
- Why are the retractable bollards required and who would have access to them?
- The area surrounding the house is a working farm, how will farm vehicles gain access?
- What improvements will be made to the Dully Road track? Will it be widened to allow two cars to pass comfortably? Will a proper road be installed?
- How do the plans tie in with existing plans to lengthen the great Easthall estate and link road?
- How much land will be taken away from the farmland between Sittingbourne and Teynham due to other housing developments, how will this affect wildlife?

5.2 Tonge Parish Council:

Radfield House is an historically important Grade II listed house in Tonge Parish. It has fallen into considerable disrepair in recent times and so we would support any effort to restore this building as long as it is done sensitively and conforms to all rules pertaining to the development of listed buildings including the railings at the front, which are part of the listing.

We object to the conversion and redevelopment of the existing farm structures into 9 residential units.

Nine further houses would almost certainly create a minimum of eighteen extra cars accessing the A2. Accessing the A2 at Radfield House is obviously unacceptable as it is extremely dangerous because it is on a hill and a bend.

The application says that residents would use the existing track to drive to Dully Road and access the A2 from there. It says that the refuse vehicle would be able to circulate around the proposed development and retractable bollards would be installed so that residents could only access their houses from Dully Road. There is no mention of who would control these bollards.

Our main concern is that even if the residents used Dully Road to access the A2 it would still be dangerous. Although the site lines from this junction have been improved in

recent years it would mean a minimum of an extra 18 cars joining the busy, fast moving A2. At this point the A2 has the national speed limit of 60 MPH. This junction is regularly used by large, heavy agricultural vehicles, so more cars would make it more dangerous.

Any further cars using the A2 will also exacerbate the traffic problems through Teynham and Bapchild. National Highways in their response to the Regulation 18 Local Plan consultation also highlight the existing problems with congestion and pollution along the A2 corridor. There are already a further 120 houses currently under construction in Teynham and 300 houses given planning permission for the centre of Teynham, plus 600 houses currently being built at Stones Farm, Bapchild. Consequently, any further traffic feeding on to the A2 would only make the problems worse.

The 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' does not include this area for housing development. We are also extremely concerned that if this area is given permission for development then it leaves the land along the A2 from Radfield House to Dully Road a candidate for 'infill' development in the future. This part of Swale is currently undergoing considerable housing development without proper provision for the necessary infrastructure such as transport and services.

For these reasons, we object to this planning application.

6.0 Consultations

6.1 Kent County Council Highways:

"Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters :-

The proposals are for redevelopment of Radfield House and the existing farm structures to provide a development of 11 dwellings, with vehicle access to be provided via improvements to the western existing access which links the site to Dully Road. Pedestrians and cyclists from the proposed new development will use the existing access onto London Road, which has footway links to the existing highway network.

The site is not being offered for adoption, and as such Kent Council have limited interest in the site layout. I have however made comments below to assist the Local Planning Authority in making a decision with regards to this application.

Access

The existing access to the west of the site, which exits onto Dully Road will be used for all vehicle movements from this development. A Transport Statement has been submitted, and this states that improvements will be made to this road, it will be widened to 4.8m to allow a lorry and a car to pass each other safely. This will also ensure the other existing businesses that use this road will have improved access. This is acceptable.

Traffic calming measures will also be installed every 60m, to keep driven speeds low and this is acceptable.

The Transport Statement included TRICS data which demonstrates that the proposals will not increase traffic movements from the development, when compared to the movements of the business that previously operated from this site. This is acceptable.

Plans demonstrating visibility splays have been submitted, and whilst they are not required as the proposals do not increase traffic movements here, they are acceptable.

Plans demonstrating tracking have been submitted which demonstrate that a 11.4m refuse vehicle can safely access the site from Dully Road, and manoeuvre around the site. I note retractable bollards are proposed to ensure that the access onto Dully Road is used by refuse/emergency vehicles have the necessary access when required.

Parking

Dwellings B to H only have 2 parking spaces allocated to each dwelling, and as these are three and four bedroom dwellings, 3 parking spaces should be allocated as per Swale Borough Councils Residential Parking Standards. 10 visitor parking spaces have been allocated, only 2 would be required and they are located in 2 locations only and remote from some of the properties. The allocation could benefit from a revision that would result in more appropriate parking provision for the dwellings mentioned here.

An Electric Vehicle charging point is proposed for each dwelling, which will future proof the use of the site.

Bicycle storage has been indicated on the submitted plans, except for the two dwellings that are part of the conversion of Radfield House. There would appear to be small building next to the parking area, however I can find no details on this.

I refer to the above planning application and confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

- 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
- Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.
- Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.05metres above carriageway level within the splays, prior to the use of the site commencing.
- Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the vehicle parking spaces and/or car barns shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the Electric Vehicle charging spaces 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 charge point model list:

<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.

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

6.2 KCC Flood and Water Management:

Thank you for your consultation on the above referenced planning application. Kent County Council as Lead Local Flood Authority have reviewed the Flood Risk Assessment prepared by Herrington dated December 2021 and agree in principle to the proposed development.

The proposals seek to utilise infiltration via an infiltration basin and trenches.

Should your authority be minded to grant permission for the proposed development, we recommend the following conditions are attached:

Condition:

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 Herrington dated December 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.

Condition:

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.

This response has been provided using the best knowledge and information submitted as part of the planning application at the time of responding and is reliant on the accuracy of that information.

6.3 KCC Minerals and Waste:

Thank you for consulting the County Councils Minerals and Waste Planning Policy Team on the above planning application.

I can confirm that the application site is not within 250 metres of any safeguarded mineral or waste facility, and thus would not have to be considered against the safeguarding exemption provisions of Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 3013-30.

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, Brickearth, as shown in the extract from the Mineral Safeguarding Area for the Swale Borough area, as part of the adopted proposals maps of the Kent Minerals and waste Local Plan 2013-30.

Therefore, the application details should include a Minerals Assessment (MA) to determine if the safeguarded mineral deposit is being needlessly sterilised by the development proposed, 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. The application details do include a MA for this to be objectively determined. The MA demonstrates satisfactorily that the area of the application has limited quantities of potentially important resources of this economic mineral, this is also verified by a known mineral operator in the area.

Therefore, the County Council concludes that mineral safeguarding exemption criterion 2 of Policy DM 7 can be invoked with regard to this application.

The County Council has therefore no land-won minerals or waste safeguarding objections regarding this proposal.

6.4 Kent County Council Ecology:

“We advise that sufficient survey information has been submitted to enable the LPA to have a good understanding of the ecological interest of the site but additional information

is required, prior to determination, to demonstrate that the ecological mitigation will be implemented and what ecological enhancements will be carried out.

The submitted information has detailed that there is suitable habitat for breeding birds, at least 4 species of bats recorded within the site and 2 species of roosting bat within Radfield House. The surveys detail that Radfield House supports a non-breeding summer day roost of common pipistrelle (peak count of 3 bats recorded) and long-eared bats (peak count of 2 bats recorded).

Due to the presence/potential presence of protected /notable species a mitigation strategy has been provided and it has detailed the following:

- Precautionary approach to avoid impacts on breeding birds
- Bat sensitive lighting strategy
- An ecological clerk of works on site when works to strip Radfield House is being carried out.
- Erection of 2 bat boxes within the site grounds prior to works commencing
- Inclusion of at least 3 raised tiles within the building during renovation works
- The use of breathable roofing membrane **must** be avoided. Bats can get tangled and die in breathable membrane and therefore traditional roofing felt must be used in areas where bats can access.

The submitted site plans do not demonstrate that the proposed mitigation will be implemented and therefore prior to determination we require an updated plan to be submitted demonstrating that the mitigation will be implemented.

Ecological Enhancements

One of the principles of the National Planning Policy Framework 2021 is that *“opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity”*. The Preliminary Ecological Appraisal and Bat survey Report has made a number of recommendations to enhance the site for biodiversity including the use of native species planting (including the planting of native species hedgerows along the site boundaries) and the integration of bird boxes within the buildings and erection of bird boxes within the site. We highlight that more could be done including the inclusion of bat bricks/tiles (over and above what is required for mitigation) and insect bricks or towers.

It's not clear from the submitted information that the proposed enhancements will be implemented and therefore we advise that prior to determination there is a need for a plan to be submitted demonstrating what ecological enhancements will be implemented.

Designated Sites

The development includes proposals for new dwellings within the zone of influence (6km) of The Swale Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

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.

If you have any queries regarding our comments, please do not hesitate to get in touch”.

6.5 Kent County Council Public Rights of Way Officer:

1st Response:

“Thank you for giving me the opportunity to comment on this planning application.

Public footpath ZR196 as indicated in the application passes adjacent to the proposed development. A copy of the current Public Rights of Way Network Map showing the line of this path is enclosed.

I would make the following comments regarding the submitted plans;

- the area to the east of the proposed barn conversion appears to be incorporating land that is currently forms part of the public footpath. The footpath would be considered to the be the full width that is currently available for the public to use there should be no impingement on to the footpath and
- the proposed retractable bollard to the south east of the proposed barn conversion appears to be within the public footpath. Any such structure would need to be approved by this office and can only be installed if it can be clearly shown that it is required to safeguard the public using the footpath.

If the Proposed Site Block plan can be resubmitted to reflect the full width of the public footpath I would have no objection to the proposal.

Please make the applicant aware of the following informatives;

Informatives

- 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.

This response is made on behalf of Kent County Council Public Rights of Way and Access Service. The views expressed should be considered only as the response of the County Council in respect of public rights of way and countryside access matters relating to the application”.

2nd Response:

“Further to my response dated 17 March 2022 I have had the opportunity to meet the applicant on site to discuss how public footpath ZR196 can be incorporated into the proposed development.

In order to achieve the layout in the Proposed Site Block Plan the applicant will be required to submit an application to stop up part of the width of public footpath ZR196. S257 of TCPA 1990 may be the appropriate legislation to accomplish this.

If you are minded to grant permission I would request that the following condition is included in the decision notice:

Condition

A confirmed legal order is in place that defines the width of public footpath in the vicinity of the proposed barn conversion prior to the commencement of any works on this building.

Reason – In order to protect public rights to use the footpath

The applicant is advised to make an application at the earliest opportunity to minimise possible delays to the planning process.

The proposed retractable bollard would need the written agreement of this office before installation of the structure. It needs to be made clear that only reason for a structure being install in the public footpath is to safeguard public, pedestrian, use of the route.

Subject to inclusion of the above condition I would be happy to withdraw my holding objection on receipt of an application to stop up part of the width of the footpath.

An informative is also recommended as set out in their first consultation response.

6.6 Environment Agency:

“We have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee.

Please refer to the attached ‘When to consult the Environment Agency’ document for guidance on when to consult us.

Please note: If the application at a later stage proposes the use of non-mains drainage, we will need to be re-consulted”.

6.7 Natural England: To be provided as part of tabled updates.

6.8 Southern Water:

“Thank you for your letter dated 03/03/2022.

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

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

Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required.

This should not involve disposal to a public foul sewer and should be in line with the Hierarchy of H3 of Building Regulations with preference for use of soakaways.

gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).

Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDs component, adoption will be considered if such systems comply with the latest Design and Construction Guidance (Appendix C) and CIRIA guidance available here:

water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

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

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

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

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

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with the Design and Construction Guidance will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

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

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

6.9 Kent Police:

“Whilst this proposal falls outside our scope for SBD [Secure by Design], we recommend the site follows guidance set out in SBD Homes 2019, and if possible a condition to secure this.

If the applicant wishes to discuss site-specific security with us, please contact us on pandcr@kent.police.uk”.

6.10 Lower Medway Drainage Board: No response.

6.11 Scotland Gas Network: No response.

6.12 UK Power Network: No response.

6.13 NHS Swale: No response.

6.14 Client Services: No response

6.15 SBC Trees:

Based on the proposed site block plan the actual conversion of the buildings will not appear to throw up any arboricultural issues. However, the new access road and drainage bason shown towards the western boundary are likely to have an impact on a line of maturing trees that are growing along the existing field boundary. The application is not accompanied by any arboricultural information so the impact that this area of the development will have on the existing trees cannot be assessed. Therefore, to ensure the trees can be successfully integrated within the scheme an arb impact assessment (AIA), arb method statement (AMS) and tree protection plan (TPP) need to be submitted by a suitably qualified arboriculturist in accordance with the recommendations of British Standard 5837:2012.

6.16 Environmental Health:

COMMENTS: I have no adverse comments or objections to this application subject to the following suggested conditions:

Construction Hours: 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.

Construction Dust Control: The commencement of the development shall not take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

EV Charging: The commencement of the development shall not take place until a scheme for the adequate provision of active electric vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development hereby approved”.

6.17 Kent County Council Archaeology: No response.

6.18 Kent County Council Development Contributions:

	Per Applicable House (x10)	Per Applicable Flat (x0)	Total	Project
Primary Education	£4,642.00	£1,160.50	£46,420.00	Towards a 1FE expansion at Teynham CE Primary School and/or provision of new places within the Sittingbourne East education planning group
Secondary Education	£5,176.00	£1294.00	£51,760.00	Towards a new Secondary school within the Borough serving this development
Secondary Land	£2,635.73	£658.93	£26,357.30	Towards the land costs for a new secondary school within the Borough serving this development
Special Education	£1,051.82	£262.97	£10,518.20	Towards expansion of capacity through a satellite school of Meadowfield School, Sittingbourne and/or increased SEND capacity in the Borough

‘Applicable’ excludes: 1 bed units of less than 56 sqm GIA, and any sheltered accommodation.

	Per Dwelling (x10)	Total	Project
Community Learning	£16.42	£164.20	Contributions requested towards additional equipment and remote capacity at Adult Education Centres within the vicinity of the development, including at Sittingbourne Adult Education Centre.
Youth Service	£65.50	£655.00	Towards additional resources and upgrading 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.
Libraries	£55.45	£554.50	Towards additional resources, services, stock, and works to libraries within the vicinity of the development, including Teynham Library and Sittingbourne Library.
Social Care	£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 Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£183.67	£1,836.70	Towards additional capacity at the HWRCs & WTS' within the borough
Broadband:	Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre		

	<p>Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.</p>
<i>Highways</i>	<i>Kent Highway Services will respond separately</i>

Please note that these figures:

- are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (Apr-20 Index 360.3)
- are valid for 3 months from the date of this letter after which they may need to be recalculated due to changes in district council housing trajectories, on-going planning applications, changes in capacities and forecast rolls, projects and build costs.

Justification for infrastructure provision/development contributions requested

The County Council has modelled the impact of this proposal on the provision of its existing services and the outcomes of this process are set out below and in the attached appendices.

6.19 Rural Planning:

“Further to your request for advice, this proposal appears to follow on from the pre-application submission which I commented upon in my email dated 10 November 2020 (copy attached).

In that email I referred to my understanding of relevant changes to the owners’ farm business, but suggested that any Planning Application could usefully confirm the reasons why the farm buildings are no longer needed for agriculture.

In this regard, I note that para 6.4 of the Planning Statement states:

*“The existing buildings are underutilised and no longer required for storage due to the consolidation of the Applicant’s agricultural operations at Hempstead Farm, Tonge. [located approximately one kilometre to the west]
There are no employees currently operating from these buildings and as they are open fronted, they cannot be easily converted to other employment uses because of the associated costs. Therefore, there will be no impact on rural employment related to the use of these buildings as a result of the proposals”.*

This appears to confirm the redundancy point. I don't believe I can add anything else but please let me know if you think I can be of further assistance”.

7 Background Papers and Plans

- Site/Location Plan – 21_257-01 Rev B
- Topographical Survey – 1
- As Existing Ground Floor Plan of Barn 1 - 2

- As Existing First Floor Plan of Barn 1 – 3
- As Existing Elevations of Barn 1 – 4
- As Existing Elevations – 5
- Existing Site Block Plan – 21_257-02 Rev A
- Radfield House – Existing Plans and Elevations – 21_257-30
- Radfield House – Proposed Plans and Elevations – 21_257-31
- Proposed Site Block Plan – 21_257-03 Rev D
- Roof Plans – 21_257-05 Rev B
- Proposed Floor Plans – Ground Floor 21_257-10 Rev B
- Proposed Floor Plans – First Floor – 21_257-11 Rev D
- Proposed Floor Plans - Second Floor – 21_257-12 Rev D
- Proposed Elevations – Sheet 1 – 21_257-20 Rev C
- Proposed Elevations – Sheet 2 – 21_257-21 Rev B
- Proposed Elevations – Sheet 3 – 21_257-22 Rev B
- Proposed Elevations – Sheet 4 – 21_257-23 Rev B
- Flood Risk Assessment
- Air Quality Assessment
- Transport Assessment
- Structural Assessment
- Preliminary Ecological Appraisal and Bat Survey
- Landscape and Visual Appraisal
- Approach to Climate Change
- Planning Statement
- Heritage Statement
- Land Contamination Assessment
- Design and Access Statement
- Mineral Survey
- Drainage Statement

8.0 Appraisal

Principle of Development:

- 8.1 Policy ST 3 of the Local Plan seeks to secure development on previously developed land and within the defined built-up area boundaries of settlements within Swale. The settlement strategy identifies the settlement of Sittingbourne would be the primary urban focus for growth. Faversham and Sheerness would act as the secondary urban centres for growth with Rural Local Services Centres forming part of the tertiary areas for development. Other villages within built-up area boundaries are identified as having the potential to provide limited infill development.
- 8.2 The application site is located outside of built-up area boundaries. The site is located in between the settlement of Teynham, which is a Rural Service Centre, and Bapchild which is listed as an ‘Other’ village. The site is located 0.51 and 0.50m respectively from the aforementioned settlements. Development in said locations would be supported if they demonstrate they would contribute to protecting and where appropriate enhancing the intrinsic value, landscape setting, tranquillity, and beauty of the countryside.
- 8.3 The application site is comprised of several buildings including Radfield House, agricultural storage buildings, and a commercial/farm office. The existing built form of Radfield House and its associated residential curtilage constitutes previously developed land.

- 8.4 While outside of the built-up area boundaries the subdivision of the residential unit would not result in additional built form and such development is supported by the NPPF. The restoration and subdivision would be considered principally acceptable, subject to other planning considerations.
- 8.5 However, the definition of Previously Developed Land as per the Framework excludes land that was occupied by agricultural buildings. The built form of the agricultural storage units would not be considered to represent Previously Developed Land. Limited details about the precise use of the barn to be converted has been provided and given its association with farming on balance the barn is also considered to represent an agricultural building.
- 8.6 The application site is located on Agricultural Land which in accord with the Council's mapping system is classified as Best and Most Versatile Land. Policy DM 31 allows development where there is an overriding need which cannot be met within the built-up area boundaries. The loss of BMV land is permitted whereby it can demonstrate compliance with one of the below criteria:
- 8.7 The site is allocated for development by the Local Plan; or
- 8.8 The application is not allocated for development by the Local Plan. The following two criteria must therefore be considered.
- 8.9 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
- 8.10 The Local Planning Authority cannot demonstrate a 5-year housing land supply and wider swathes of the Borough are designated as Best and Most Versatile Land. The land tends to be located in areas close to designated built-up area boundaries. The application site in question is formed of a series of buildings formally used for agricultural storage.
- 8.11 The land in question is covered to a wider degree in hard core and/or foundations and is not used for the cultivation of crops. The site would connect to the A2 (London Road) which has a pedestrian footpath into Bapchild which has services and links to Sittingbourne. To the east the site is also near Teynham.
- 8.12 The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.
- 8.13 As above the buildings on site have formally been used for storage in connection with the agricultural holding. The applicant has noted that the existing buildings are underutilised and no longer required for storage due to the consolidation of the agricultural operations at Hempstead Farm (Tonge). Further due to the open fronted nature of the buildings and the overall form could not be easily converted into commercial uses.
- 8.14 The Council's Agricultural consultant responded to the proposal and considers the applicant's statement confirms the redundant nature of the buildings for agricultural purposes. As a result, the proposal would not be considered to impact the viability of the agricultural holding. Further, given the limited scale of the site and its current use the proposal would not be considered to result in significant losses of high-quality agricultural land.

- 8.15 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.
- 8.16 The latest published position Statement of Housing Land Supply illustrates that the Council has a 4.8 Housing Land Supply (HLS). As the Council cannot demonstrate a 5 year supply a presumption in favour of sustainable development maybe applied under paragraph 11 of the NPPF.
- 8.17 Paragraph 11 of the National Planning Policy Framework states that:
- 8.18 Plans and decisions should apply a presumption in favour of sustainable development....

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

(i) the application of polices in this Framework that protect areas of particular importance provides a clear reason for refusing the development proposed⁷; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 of the NPPF identifies areas and assets defined as 'protected areas or assets of particular importance'. The application site is bound by a defined asset as a designated heritage is contained within the red line boundary. An assessment of the impact to the heritage asset will play a deciding factor as to the application of the tilted balance.

In light of the above a review of the site's 'sustainability' will be considered below:

- 8.19 Paragraph 8 of the National Planning Policy Framework (2021) states that:
- 8.20 '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)'. These will be assessed below:
- 8.21 a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- 8.22 Policy DM 3 of the Local Plan states that planning permission would be granted for the sustainable growth and expansion of business enterprise in the rural area. Planning permission for residential development will not be permitted where this would reduce the potential for rural employment.

- 8.23 As identified above the proposal would see the loss of agricultural use on site. However, the use has been found and established by the Councils Rural consultant to be largely redundant. The agricultural holdings operations have largely been re-located and the barn has been used in connection with the farm as an ancillary office.
- 8.24 The proposed units do not have, under planning legislation, a commercial use. Further, the site currently does not provide a wide-ranging employment area as the buildings are used for ad hoc storage. The proposal would not see the loss of an active rural employment area.
- 8.25 The framework recognises that residential development can add vibrancy and economic spending power in the local vicinity. Further, ancillary temporary benefits can be found through spend during the construction period.
- 8.26 The proposal would be considered to have a neutral economic impact.
- 8.27 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
- 8.28 The Local Planning Authority cannot demonstrate a 5-year housing land supply and as such requires all types of homes to meet its overall needs. The site is located in a rural location although in close proximity to settlements with a variety of services. The proposal would see a net gain of 10 residential units.
- 8.29 The scheme overall would provide 6 three-bedroom properties and 5 four plus bedroom properties. The mix does not wholly accord with the provision of policy CP 3 of the Local Plan. However, the proposal would see the provision of a wide range of semi-detached, detached, and terraced units. The units would be well designed and have drawn specific architectural merit from the context of the site.
- 8.30 The proposal would see a small communal space for residents in the form of landscaped courtyard. Further, a SUDS pond and other landscaping would enhance the site which is currently subject to a wider degree of hardstanding and utilitarian style buildings which are not reflective of the historic and varied design of properties in the vicinity.
- 8.31 The provision of residential units would add a degree of vibrancy to the site which currently is underutilised. The site would be located approximately a 9/10 minute walk to Bapchild which is within the recommended walking distances of the Manual for Streets guidance. The proposal would be considered to have social benefits.
- 8.32 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.
- 8.33 Paragraph 119 of the National Planning Policy Framework states that:
- 8.34 'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions...'

- 8.35 As above the application site is not wholly considered Previously Developed Land. However, the site is subject to hardstanding, built form and could be actively used for farming practices. The site does already have an existing impact on the environment. The site does have an existing residential use and the proposal while not technically brownfield land in whole provides a unique opportunity to improve the degree of soft landscaping, impact visually to the surrounding area and improvement to heritage assets.
- 8.36 The site is not comprised of green fields and would make efficient use of land which can be redeveloped for other purposes than agricultural storage. The site while located outside of the built-up area boundary it would be located in a confined setting of built form. The site's location between two settlements in fairly close proximity there would be access to services.
- 8.37 The site would be considered to meet environmental impacts which will be considered further below. The site would be considered to represent an area where sustainable development could be achieved.
- 8.38 Due to the technical status of the site as partially Previously Developed Land and the presence of a Heritage asset the application of the titled balance will be determined through an examination of the heritage impacts. The proposal does illustrate clear benefits in terms of design, landscape, and the provision of housing. These matters will be considered in light of heritage assessment to be undertaken below.
- 8.39 Impact to the Landscape**
- 8.40 Policy CP 7 of the Local Plan seeks to protect and enhance Swale's natural assets and green infrastructure network. Policy CP 3 of the Local Plan seeks to protect and enhance the open countryside.
- 8.41 The application site is located outside of a designated landscape area. Policy DM 24 of the Local Plan states that in non-designated landscapes the minimisation and mitigation of adverse landscape impacts is required.
- 8.42 The application site sits adjacent to the A2 and is comprised of several buildings. To the east of the application site a series of dwellings are situated in a linear row in a north south direction. To the northeast and east of the site, adjacent to the A2, a mixture of residential and commercial units sits between Bapchild and Teynham.
- 8.43 To the south of the site extend a wider extent of field networks. Although part of the site does not technically meet the definition of Previously Developed Land the site is subject to built form which has a distinct presence. The buildings on site are contained by other built form to the east, south and north with existing screening in the form of tree cover to the east.
- 8.44 In accord with the Swale Landscape Character and Biodiversity Appraisal the site is located within the Rodmersham Mixed Farmlands character area. The area's key characteristics are defined as gently rolling landscape with steeply slopping rounded dry chalk valleys. The appraisal notes that the land is largely used for grazing and arable production. In amongst this lie isolated properties and farmsteads and occasional small scale historic villages. The character appraisal does note that in places un-sympathetic large scale modern agricultural buildings can be observed.
- 8.45 Some views of the built form can be seen when travelling along the A2 and observed when traversing the eastern adjacent public right of way. Due to the existing built form

on site, there is an expected and existing view of roof forms, bulk, and massing associated with the site. The modern agricultural buildings and their associated materiality detract from the character of the area.

- 8.46 Views from the south of the site along Dully Road and close Public Rights of Way would see some limited views of the site. Given the distance and some intervening landscaping this would mainly be comprised of ridgelines. Development is already present in these views and an existing commercial unit sits between the site and the more open field to the south. The impact is considered limited.
- 8.47 Furthermore, the proposed ground floor coverage of the proposed development would not exceed that of the existing barns. The siting of the units within the area currently covered by built form means the proposal would remain contained in an area already subject to an existing bulk and mass. The site is contained by built form and existing screening to the west which would be retained reducing viability of the proposal.
- 8.48 The style and form of the proposed units and conversion would, in landscape impact terms, reflect the agricultural character of the area. The proposal would not be considered to have an undue adverse effect on local landscape character or visual amenity. The proposal would be considered to preserve the landscape and provide some improvements.
- 8.49 Mitigation would also be provided in the form of additional landscaping to soften the impact of the proposal. Such landscaping would be secured through the imposition of conditions should members be minded granting the proposal. The improvements to the façade of Radfield House would be considered an enhancement and longer-term management of the site would generally improve the character of the landscape. Conditions could also secure appropriate materials.
- 8.50 Policy DM 26 of the Local Plan states that planning permission would not be granted for development that would either physically, or as a result of traffic levels significantly harm the character of Rural Lanes. Dully Road is a designated Rural Lane, the development's western access would enter onto said lane.
- 8.51 The proposal for a net gain of 10 units with 11 utilising the access to Dully Road would not be considered to result in significant traffic movement in comparison to the existing uses on site. Further, the development would be separated by the lengthy access road and so the development would not have an un-due impact on the character of the rural lane.
- 8.52 **Design and Layout:**
- 8.53 Policy CP 4 of the Local Plan seeks to ensure that development proposals will be of a high-quality design that is appropriate to its surroundings. Policy DM 14 of the Local Plan requires development to reflect the positive characteristics and features of the site and locality. The development should be well sited and of a scale, design, appearance, and details that is sympathetic and appropriate to the location.
- 8.54 The proposed development would re-introduce a traditional agricultural courtyard design to the rear of Radfield House. The layout would reflect the historical use of the site and would provide a pedestrianised permitter block.
- 8.55 The proposed layout would provide a degree of informality which is reflective of rural development. Further, pockets of open green space would be incorporated within the scheme providing relief from the built form. The layout allows the movement of people

along the Public Rights of Way and directs cars towards Dully Road, preserving the use and experience of the area.

- 8.56 The provision of SUDS ponds, additional planting and varied design would also aid in providing a rural character to the design of the scheme. The proposal has made careful use of varied ridgelines and roof forms to provide different characters to the replacement buildings. The roofs reflect the more traditional low eaves and slopes of agricultural buildings and modern conversions.
- 8.57 The overall design approach utilises materials that would be reflective of the rural setting. Openings, enclosures, and hard landscaping has also been provided in a form which would blend into the local environment.
- 8.58 The individual character of each of the units would ensure that the development retains the appearance of small-scale development. The character and appearance of the converted units and the new dwellings would be considered appropriate to the area and in compliance with local and national policy.

8.59 **Heritage**

- 8.60 Policy CP 8 of the Local Plan seeks to support the Borough's heritage assets. The policy outlines that development will sustain and enhance the significance of designated and non-designated heritage assets. Policy DM 32 of the Local Plan permits development that affects a listed building and/or its setting provided that the buildings special architectural or historic interest and its setting are preserved.
- 8.61 Policy DM 32 provides three criteria to consider when assessing the impact of a development to a Listed Building and its setting. The criteria includes:
- 8.62 design, including scale, materials, situation and detailing;
- 8.63 appropriateness of the proposed use of the building; and
- 8.64 desirability of removing unsightly or negative features or restoring or reinstating historic features.
- 8.65 Paragraph 197 of the National Planning Policy Framework states that:

*In determining applications, local planning authorities should take account of :
the desirability of sustaining and enhancing the significance of the heritage assets
and putting them to viable uses consistent with their conservation;*

*the positive contribution that conservation of heritage assets can make to sustainable
communities including their economic vitality; and*

*the desirability of new development making a positive contribution to local character
and distinctiveness.*

- 8.66 Radfield House is a Grade II Listed Building which is currently listed as 'at risk' within the 'A Heritage Strategy for Swale 2020-2032 Adopted March 2020'. Radfield House was historically in use as a farmhouse. Historic mapping layers show an outline of a former range of barns and cart sheds etc. The building is considered by the Historic consultant and the Conservation Officer to be 15th century in origin and part of a 'Wealden Hall House' arrangement. A number of these buildings have been largely replaced with modern-steel-framed agricultural storage buildings.

- 8.67 The proposed conversion of Radfield House would retain a residential use of the building. However, the conversion of the dwelling into two units would see minimal internal alteration and external alteration and would preserve the historic character and interest of the building.
- 8.68 The proposal would see a minimal loss of historic fabric through conversion. The addition of some windows and the conversion of a window into an entrance door to the western unit would preserve much of the historic fabric and bring the unit back into use. The reinstatement of previous extensions and retention of the existing outbuilding would all preserve the historic character and interest of the building.
- 8.69 The steel framed agricultural storage buildings are located to the rear of Radfield House. The buildings, due to the scale and materiality, have a negative impact on the setting of the Listed Building (particularly the two western barns). Aside from the farmhouse and its associated 19th century brick wall and part weather boarded building, the remaining modern farm buildings are utilitarian steel-framed buildings, which in the current redundant state fail to make a positive contribution to the setting of Radfield House.
- 8.70 Historically, Radfield House has been in use as a farmhouse and historic mapping layers show the outline of former barns and cart sheds etc. These elements have by in large been lost over time to modern steel framed buildings which have a negative impact on the setting of Radfield House. The setting has been altered by evolving agricultural practices and growth of nearby settlements.
- 8.71 The removal of the modern agricultural buildings would be considered a betterment to the setting of the Listed Building. In reviewing the historic mapping layers that the proposed siting and layout of the proposed 8 units (in combination with the retained barn) would in terms of footprint reflect the historic farmstead setting that the Listed Building previously enjoyed.
- 8.72 The proposed layout of the units would reflect a traditional farm layout. The proposal would therefore improve the setting of the listed building in the creation of units which in design, materiality and scale would be more appropriate to the character of the site and its historic agricultural association.
- 8.73 The proposed 8 units three-dimensional form of blocks in a strongly barn-like form further serves the re-creation of the historic farmstead. The varied scale and form of the proposed roof lines would be considered a positive feature of the development in design terms. The scheme is intended to take on a traditional farmstead range rather than a pastiche replication.
- 8.74 The proposal was originally considered to contain too many roof lights, which have now been reduced. While there remain several roof lights this is acceptable given building control requirements and amenity standards. The Conservation Officer has accepted the distribution of the rooflights given the spread and roof variations proposed. The staggering of the proposed roof lights would result in a more organic/informal character. A condition is recommended below to remove permitted development rights to prevent further insertions.
- 8.75 The proposal would also seek to retain the southern most barn on site. The barn is a late 19th century/ early 20th century building. The building is not considered to be curtilage listed but is considered to represent a non-designated heritage asset. The retention of the building would add additional character and authenticity to the overall proposal.

- 8.76 The degree of openings to the barn conversion was initially of concern. However, the proposed conversion seeks to re-open existing openings in the building which have in place been blocked up. The proposal is considered to conform to the adopted guidance for such conversions. Again, approval of the development would offer the opportunity to re-generate the building and remove permitted development rights to prevent alteration of the external aspect of the barn.
- 8.77 A revised landscaping plan was submitted with the proposal. The landscaping includes details of the SUDS pond which is to be situated to the west of Radfield House. The SUDS Pond was reduced in scale to ensure protection of the listed wall. The pond, subject to landscaping (to aquatic and marginal plants) and management of the details such that the minimum water level is controlled to prevent it emptying out completely, would add character to the site as a whole. The landscaping including hard standing is designed to ensure a degree of informality to reflect the wider agricultural character. Some concerns with the formality of the central courtyard have been identified. These can be addressed through a landscaping condition which would secure a more informal scheme.
- 8.78 The proposal would secure the Listed Building residential use and would allow for the restoration of the asset which has longer term heritage benefits. The proposal would also see an improvement to the Listed Buildings setting.
- 8.79 Overall the proposal is considered to preserve the setting of the Listed Building and therefore in accord with policy CP 8 and DM 32 of the Local Plan and the NPPF.
- 8.80 **Living conditions:**
- 8.81 Policy DM 14 of the Swale Local Plan states that development should cause no significant harm to amenity other sensitive uses or areas.
- 8.82 The nearest residential dwellings to the application site are located to the east of the site. The properties comprised of Bailiffs House, Jubilee Cottage, and Elizabeth Cottage. The new dwellings are in excess of 21m away from existing dwellings and as such this aspect of the proposal is considered to have an acceptable impact upon the living conditions of these dwellings. In terms of the conversion of the existing building, while it is proposed to be subdivided the impact upon the adjoining dwelling known as Bailiffs House is no worse than the existing arrangement.
- 8.83 In terms of noise impacts, the proposal would see residential activity taking place near the existing residential units. However, the site can be used for agricultural purposes and other business are located close to these units and as such a degree of expected activity would be anticipated in this location and as such any impact is no worse than the existing arrangements. Furthermore, retractor bollards would be located to direct traffic to the western access rather than the eastern access utilised by the existing properties. The direction of traffic would limit the noise implications.
- 8.84 To ensure control of the construction process a condition requiring a Management Plan would be applied to any grant of consent to ensure amenity during the construction process.
- 8.85 The proposed development would be considered to have an acceptable impact to neighbouring amenity levels in accord with Local and National policy.
- 8.86 *Living conditions of future occupiers*

- 8.87 The proposed dwellings are suitably laid out to ensure that there is no adverse impact upon the living conditions of future occupiers. Based on the submitted plans, the proposed dwellings would provide internal accommodation that meets national space standards and sufficient garden space to meet the requirements of the Local Plan, including secure cycle and bin storage.
- 8.88 The proposed development is considered to comply with Local and National Policy and would provide appropriate amenity levels.
- 8.89 **Biodiversity:**
- 8.90 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.
- 8.91 A Preliminary Ecological Appraisal and Bat Survey Report was submitted with the application. KCC Ecology has considered this information and considers sufficient detail has been provided.
- 8.92 The site was considered to have suitable habitat for breeding birds, at least 4 species of bats recorded within the site. From within Radfield House two roosting bats were found and the survey also details a non-breeding summer day roost of common pipistrelle (peak count 3 bats recorded) and long eared bats (peak count of 2 bats recorded).
- 8.93 Due to the presence of protected species on site a mitigation strategy has been provided with the application. The mitigation approach has detailed a number of measures including:
- Precautionary approach,
Bat sensitive lighting strategy,
A ecological clerk of works on site when works to strip Radfield house is being undertaken,
Provision of 2 bat boxes within the site grounds prior to works commencing,
Inclusion of 3 raised tiles within the building during renovation,
Use of breathable roofing membrane must be avoided.
- 8.94 A plan of these measures will be required, and these will be sought prior to the commencement of the development through the imposition of condition.
- 8.95 The Preliminary Ecological Appraisal and Bat Survey Report indicated a number of ecological enhancements on site could be achieved including native species planting, integration of bird and bat boxes. The Ecology Officer has recommended further measures could be provided such as bat bricks and tiles. A plan of ecological enhancement measures would be required prior to the commencement of the development to ensure sufficient enhancement on site.
- 8.96 The proposal is considered to provide sufficient information in regard to the ecological impact and the development would comply with local and national policy.
- 8.97 *Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017:*
- 8.98 The application site is located within the 6km buffer of the Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of

Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention.

- 8.99 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.
- 8.100 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 8.101 The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£275.88 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.102 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment.
- 8.103 The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.
- 8.104 The proposal would have an impact upon the SPAs. However, the scale of the development (net 10 new residential units) is such that it would not be considered, alongside the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff, that the impacts would be significant or long-term.
- 8.105 Based on the potential of a net gain of 10 residential units being accommodated on the site A SAMMS contribution of up to £2,758.80 could be secured under the Section 106 agreement. The legal agreement could be worded such that it sets out that the SPA mitigation contribution is to be secured prior to the occupation of any dwelling. Therefore, taking into account the above it is considered that there will be no adverse effect on the integrity of the SPAs.
- 8.106 Finally, it can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers

and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>).

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

8.108 Highways:

8.109 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.

8.110 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'.

8.111 The proposed development would see a net gain of 10 residential units. The site has previously been used for commercial/agricultural use which has generate a degree of traffic. The Transport Statement submitted as part of the application. The TRICS data demonstrates that the proposal would not increase traffic movements from the development in comparison with the movements of the businesses that previously operated from the site. The proposal would not be considered to result in a severe impact to the highway network.

8.112 The proposed access would be located to the west of the site and not the east access directly onto London Road. Vehicles would be directed to the western access which adjoins Dully Road, which in turn leads onto the London Road (A2). To secure use of the western access bollards would be placed to the south of Radfield House rear access. The western access would be widened to 4.8m to allow a lorry and car to pass each other safely. Further, the western access would be subject to traffic calming measures every 60m to keep speeds low.

8.113 The improvements to the western access would benefit not just the proposed residential unit but the business located around Radfield House which also utilise this access. Visibility Splays have also been illustrated onto Dully Road. The Highways Officer has noted that these are not required due to the same level of traffic movement. However, the splays are considered acceptable.

8.114 Initially the KCC Highways Officer noted that the parking provision did not meet the required terms of the Swale Borough Council Parking SPD. The site layout was adjusted so that all the units would have the provision to park at 3 vehicles, some within the curtilage and others within allocated on site parking. The proposal would also provide 3 visitor parking bays which would be in accord with policy parameters.

8.115 As per local policy each unit would have electrical vehicle charging point including one for the visitor bays. No objection has been raised by the Highway Authority and no part of the development would be adopted. A list of conditions was suggested and these would be applied should Members be minded to grant the application.

8.116 The proposal is considered to comply with Local and National policy and would provide suitable access and parking arrangements. The proposal would have an acceptable impact on the local highway network.

8.117 **Water, Flooding, and Drainage**

8.118 Policy DM 21 of the Local Plan states that development will be avoided in areas liable to flooding. The policy also seeks to include where possible sustainable drainage systems to restrict run-off. SUDS are the preferred approach of the Local Planning Authority.

8.119 The application site is in Flood Zone 1 and therefore is at low risk of flooding. The proposal seeks to utilise several methods to provide adequate drainage. The surface water would be managed using infiltration via an infiltration basin, trenches and Geocellular create soak away.

8.120 The multi-pronged approach has been selected to introduce character through the provision of a SUDS pond. However, to ensure the pond would not undermine the Radfield House listed wall the size of the pond has been reduced and thus other methods for drainage have been introduced to ensure adequate drainage.

8.121 KCC Flood and Water Management have stated that they agree in principle to the proposed drainage measures. KCC have commented that in accord with the KCC Drainage and Planning Policy Statement (2019) it is recommended that drainage measures are located within common land or public open space.

8.122 The current drainage strategy would locate the Geocellular create soakaway in the gardens of dwellings A and B. The site has limited opportunities to located drainage systems within open space due to the need to ensure such measures do not undermine the integrity of the heritage asset. A section 106 could ensure access to these areas for maintenance. KCC Officer has noted that such matters and investigation could be undertaken with detailed design works.

8.123 The site is located in Ground Source Protection zone 3. As per the Phase 1 contamination report this area is not a drink water protection area. The site lies on the periphery of this designation which is the outer layer of this protection area. In order to ensure that the proposal would be designed to prevent contamination to the catchment area a condition for both foul and surface water drainage would be applied to any consent. The Environment Agency declined to comment on the proposal.

8.124 In line with the comments from KCC Drainage condition relating to Surface Water Drainage would need to demonstrate that surface water run off would generate by the development can be accommodated and disposed of within the site in accord with critical 100-year storm in compliance with the Local Plan and NPPF

8.125 **Contamination**

8.126 A Phase 1 Land Contamination Assessment has been undertaken and submitted with the application. The assessment identifies that the site former use as agricultural. A Preliminary Risk Assessment was produced based on the relevant pollutant linkages. The following had been identified:

(Future End Users) Moderate Risk of inhalation of indoor and outdoor dust and vapours from Made Ground and infilled land,

(Groundwater) A moderate risk of vertical soil leaching to principal and secondary 'A' Aquifers,
(Surface Water) A low risk of surface water run-off to Mill Pond,
(Building and Structures) High risk associated with gas accumulation, Moderate/Low Risk associated with aggressive ground to sub-surface concrete, Moderate Risk associated with VOC permeation of plastic utilities pipes,
(Off-Site Sources) Low Risk associated with lateral migration of contaminants from surrounding agricultural historic tank and neighbouring roads.

8.127 The results of the Phase 1 Land Contamination Assessment led to the recommendation that a Phase 2 intrusive investigation be undertaken to assess the presence of Made Ground, infilled land, and potential contamination levels. Although not required by Environmental Health in reviewing the Phase 1 a condition to secure appropriate remediation would be applied to any grant of permission. The condition would seek to ensure the land has been adequately remediated for residential use in compliance with the Local Plan and the NPPF.

8.128 Air quality:

8.129 Policy ST 3 of the Local Plan seeks to ensure that development does not negatively impact Air Quality management areas specifically located along the A2 (including at Teynham, just to the east of the site). An Air Quality Impact Assessment was submitted with the application.

8.130 The Air Quality Assessment considers both construction and operational impacts of the development. The assessment illustrates that limited releases of dust and particulate matter realise may be effectively mitigated and considered negligible. The Environmental Health Officer has requested the imposition of a condition to ensure this detail is provided prior to commencement.

8.131 The proposal is not considered to generate significant traffic. ADMS Roads dispersion modelling was carried out which indicated that the predicted concentrations of relevant pollutants would be well below the relevant objectives. The impact is considered negligible.

8.132 While the damage cost calculation was indicated at £2, 008.27, the report argued this would not be payable as EV charging points and low NOX (nitrogen oxides) boilers would exceed this amount. However, these cannot be counted as mitigation as they are standard requirements. The contribution would therefore be secured via a section 106 agreement in accord with the Local Plan and the NPPF.

8.133 Minerals:

8.134 The application site is located within a Brickearth protection area. Policy DM 7: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 2013 – 30 is a relevant consideration.

8.135 The Kent Minerals and Waste Planning team from Kent County Council have commented on the application. The team have confirmed that the site is not within 250m of any safeguarded minerals or waste facilities. Regarding land won minerals safeguarding matters the site is within a safeguarded mineral deposit in the area (Brickearth). A Minerals Assessment was provided with the application which has demonstrated that the area has limited quantities of potentially important resources of these economic minerals, which has been confirmed by a mineral operator in the area.

8.136 Kent County Council has considered that exemption criterion 2 of Policy DM 7 can be invoked. The development is considered appropriate without the requirement for extraction.

8.137 Area of Archaeological Potential

8.138 Policy DM 34 of the Local Plan seeks to preserve important archaeological sites in-situ and to protect their setting. The application site is located in an area highlighted for potential for archaeological remains.

8.139 A Heritage Statement was submitted with the application including an Archaeological Investigation. The assessment mainly references Radfield House and its development over the centuries. No response has been provided by Kent County Council Archaeological Officer. Given the site and its surroundings may be subject to finds in associated with the house use and association with farming a condition would be secured to ensure any finds are adequately recorded.

8.140 Developer Contributions:

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

8.142 Kent County Council have outlined the contributions required in association with the development to ensure the additional service pressure is mitigated by the proposal (see paragraph 6.19 above). Members will note the consultation response from Kent County Council above. The contributions would fund Primary and Secondary Education and associated land requirements including special educational needs. Further contributions would be sought for community learning, youth services, libraries, social care, waste and broadband.

8.143 Based on a net gain of 10 residential dwellings being constructed Kent County Council have requested a contribution of approximately (excluding index rate) of £139,734.70. Such an amount would be secured via a section 106 agreement.

8.144 Based on a net gain of 10 additional residential units Swale Borough Council would require a contribution towards the provision of wheelie bins this would amount to approximately £1,059.00. Again, this would be secured via a section 106.

8.145 No comments have been received from the Open Space Manager. However, the proposal would not, given the scale of the proposal, provide an open space which would accommodate a play area or of a scale that could be used for meaningful recreation. As such, 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 £10,390.00 on a net gain of 10 residential units.

8.146 The contributions above, in addition to those secured in relation to the SPA, will be secured via a section 106 agreement and the securing of appropriate monitoring fees.

8.147 Affordable Housing:

8.148 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.

8.149 In this instance the proposal is seeking the provision of 9 new residential dwellings and the subdivision of Radfield House which would see a net gain of a single unit. The development would generate a net gain of 10 residential units. As a result, an affordable housing contribution would not be sought in accord with policy DM 8 of the Local Plan

8.150 Public Right of Way:

8.151 Public Right of Way ZR196 runs to the eastern access of the site. Concerns were initially raised by the Public Rights of Way Officer in regard to the retractable bollards to the southeast of the proposed barn conversion which appears to be within the public footpath. The Public Right of Way Officer conducted a site visit and considered that an application could be made to allow for such a structure to be erected on the Public Right of Way as it is designed to direct traffic away from the Public Right of Way.

8.152 Further, comments initially drew concern in regard to the proximity of the barn conversion incorporating land as part of the Public Footpath. Again, the Officer considers an application in relation to the footpath can resolve these concerns. A condition has been recommended by the Officer to ensure such an application is made to the County Council.

8.153 The proposal would be considered subject to the conditions as laid out to retain the Public Rights of Way in an acceptable condition.

8.154 Titled Balance:

8.155 The development is not considered to have negative impacts to the heritage asset. The proposal would see repair works to Radfield House undertaken which would be considered of benefit to the 'At Risk' asset. The subdivision and development would aid in the longer-term maintenance of the unit through occupation.

8.156 The proposed re-development of the site for residential purposes would be well designed and in keeping with the character of the area. The proposal would see the provision of additional residential units which is given significant weight. Given the improvement to both the heritage assets, the provision of housing, ecological and smaller term economic benefits it is considered that the titled balance is engaged and that the proposal should be approved.

8.157 Other Matters:

8.158 Third parties raised comments that alternative uses could be considered for the application site such as Hotels etc. Planning committee can only consider the proposal before them for which residential use has been set out.

9.0 Conclusion

The proposed development would be considered appropriate in terms of the impact to the landscape, heritage and character of the area. The proposal would provide additional dwellings in a location which, on balance, would be considered sustainable under the Framework's definition.

The proposal would provide additional residential units which would aid in addressing the Council's housing needs. The proposal would be subject to a number of conditions, should Members be minded to approve the scheme, to ensure the quality of the final development and that mitigation is adequately addressed.

- 10. Recommendation** – Grant, subject to conditions and a completed Section 106 agreement with delegated authority to amend the wording of the section 106 agreement and of conditions as may reasonably be required.

Conditions

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

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

2. The developments hereby approved shall be carried out and maintained in accordance with the following approved plans:

- Site/Location Plan – 21_257-01 Rev B
- Topographical Survey – 1
- As Existing Ground Floor Plan of Barn 1 – 2
- As Existing First Floor Plan of Barn 1 – 3
- As Existing Elevations of Barn 1 – 4
- As Existing Elevations – 5
- Existing Site Block Plan – 21_257-02 Rev A
- Radfield House – Existing Plans and Elevations – 21_257-30
- Radfield House – Proposed Plans and Elevations – 21_257-31
- Proposed Site Block Plan – 21_257-03 Rev D
- Roof Plans – 21_257-05 Rev B
- Proposed Floor Plans – Ground Floor 21_257-10 Rev B
- Proposed Floor Plans – First Floor – 21_257-11 Rev D
- Proposed Floor Plans - Second Floor – 21_257-12 Rev D
- Proposed Elevations – Sheet 1 – 21_257-20 Rev C
- Proposed Elevations – Sheet 2 – 21_257-21 Rev B
- Proposed Elevations – Sheet 3 – 21_257-22 Rev B
- Proposed Elevations – Sheet 4 – 21_257-23 Rev B
- Proposed site Access Option 2 - 20-092/002 Rev A

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

3. Prior to the commencement of the development hereby approved the following information shall be submitted to and approved in writing by the Local Planning Authority:
4.
 - (i) details of the proposed width of the public footpath in the vicinity of the proposed barn conversion,
 - (ii) a confirmed legal order (issued by Kent County Council Public Rights of Way team) is in place that secures the defines the width of public footpath in the vicinity of the proposed barn conversion

The application shall be carried out in accord with the approved details.

Reason: In order to protect public rights to use the footpath

5. Prior to the commencement of the development hereby approved details of a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The following details shall be provided within the Construction Management Plan:
 - (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.

The development hereby approved shall be carried out in accord with the approved details at all times.

Reason: In the interest of highways safety.

6. Prior to bringing any part of the development hereby approved into first use the completion and maintenance of the access shown on the approved plan 20-092/002 Rev A shall have been implemented in full.

Reason: In the interest of highway safety.

7. Prior to bringing any part of the development hereby approved into first use the provision and maintenance of the visibility splays shown on the approved plan 20-092/002 Rev A with no obstructions over 1.05metres above carriageway level within the splays, shall have been implemented in full and maintained as such thereafter.

Reason: In the interest of highway safety.

8. Prior to bringing any part of the development hereby approved into first use the provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the approved plan 21_257-03 Rev D shall have been implemented.

Reason: In the interest of highway safety.

9. Prior to bringing any part of the development hereby approved into first use the provision and permanent retention of the vehicle parking spaces and/or car barns shown on the approved plan 21_257-03 Rev D shall have been implemented.

Reason: In the interest of highways and sufficient parking.

10. Prior to bringing any part of the development hereby approved into first use the provision and permanent retention of the Electric Vehicle charging spaces shown on the approved plan 21_257-03 Rev D shall have been implemented. 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 sustainability and the provision of sufficient infrastructure.

11. Prior to reaching slab level on the development hereby approved details of the provision and permanent retention of the retention of secure, covered cycle parking facilities prior to the shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accord with the approved details and maintained as such thereafter.

Reason: In the interest of sustainable transport.

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

Reason: In the interest of amenity.

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

Reason: In the interest of Air Quality.

14. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
 1. An intrusive site investigation (phase II intrusive investigation) scheme, based on the information provided in the submitted Phase 1 Land Contamination Assessment (Radfield House and Farm, London Road, Teynham, Sittingbourne, Kent, ME9 9PS) Ecologica report, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The report shall include results of sampling and monitoring carried out in accord with the verification plan to demonstrate that the site remediation criteria have been met. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution or contamination.

15. Prior to the commencement of the development hereby approved 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 Drainage Statement prepared by Herrington Consulting Limited dated 1st November 2022 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site 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.

16. No part of the development hereby approved 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.

17. 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, this shall be submitted prior to the commencement of the

development hereby approved. 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.

18. Information shall be submitted to (and approved in writing) by the Local Planning Authority that demonstrates that the surface water drainage works are appropriately secured and protected and subsequently implemented prior to the occupation of any part of the development hereby approved.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water.

19. Prior to the commencement of the development hereby approved an Arboriculture Impact Assessment and a Arboriculture Method Statement, and Tree Protection Plan in accordance with the BS5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accord with the approved details at all times throughout the construction process.

Reason: To ensure protection of the tree both within and adjacent to the site are adequately protected.

20. Prior to reaching Damp Proof Course of the development hereby approved a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall provide images together with relevant sizes/ dimensions of the relevant shrubs, trees, surfacing materials (hard surfaces), marginal and aquatic plants for the attenuation pond and boundary treatments to be used. The development shall indicate a landscape buffer along the western boundary of the site which shall include a strong mix of native species trees. The development shall be carried out in accord with the approved details and in accordance with a program that shall first have been agreed in writing by the Local Planning Authority (see informative B, below).

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

21. 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.

22. No 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. The development shall be carried out in accord with the approved details.

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

23. The development shall be designed to achieve a water consumption rate of no more than 110 litres 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.

24. No gas boilers shall be fitted in the dwellings hereby permitted other than a low emission boiler of a minimum standard of <40mgNO_x/kWh. No dwellings shall be occupied until details of the boilers to be installed have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with such details.

Reason: In the interests of minimizing air quality impacts.

25. Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) 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 112 NPPF.

26. 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 other than those approved under this application.

Reason: In the interest of visual amenity and heritage provisions.

27. Upon completion of the development, no further development permitted by Classes A, B, C, D, E and F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out to the dwellings hereby approved.

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

28. Prior to commencement of the development hereby approved, a schedule (including colour images) of the specific facing and roofing materials (including the specific colour finish(es)) and ridge and hip tiles to be used, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accord with the approved plans.

Reason: In the interest of visual amenity and conservation of the setting of the Listed Building.

29. Prior to commencement of the development hereby approved, details of the specific conservation rooflights to be used shall be submitted to and approved in writing by the Local Planning Authority (details to include section showing how the

placement within the roof slope achieves a near flush finish). The development shall be carried out in accord with the approved details.

Reason: In the interest of visual amenity and conservation of the setting of the Listed Building.

30. Prior to commencement of the development hereby approved, a 1:10 elevation detail and 1:1 or 1:2 plan and vertical section of each timber window and timber door type to be used shall be submitted to and approved in writing by the Local Planning Authority (see informative A, below). The development shall be carried out in accord with the approved details.

Reason: In the interest of visual amenity and conservation of the setting of the Listed Building.

31. Prior to commencement of the development hereby approved, details of the following key construction details shall be submitted to and approved in writing by the Local Planning Authority:
- (a) roof ridge detailing (via a 1:1 or 1:2 scale vertical section drawing)
 - (b) eaves detailing, including guttering and guttering brackets (via a 1:1 or 1:2 scale vertical section drawing)
 - (c) roof verge detailing (via a 1:1 or 1:2 scale vertical section drawing)
 - (d) roof hip detailing (via a 1:1 or 1:2 scale vertical section drawing)

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

Reason: In the interest of visual amenity and conservation of the setting of the Listed Building.

32. Prior to first occupation of any of the residential units forming the scheme, including the two contained within the listed building, a scheme for the management of the communal/shared landscaped spaces and of the heritage interpretation board (approved in relation to condition 34) within the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be maintained in accord with the approved details.

Reason: In the interests of amenity.

33. Prior to commencement of the development hereby approved, details of the sustainability measures to be implemented, shall be submitted to and approved in writing by the Local Planning Authority, building on the principles/framework set out in the submitted statement on 'The development's approach to climate change'. The details shall set out a 50% CO2 reduction. The development shall be carried out in accord with the approved details.

Reason: In the interest of sustainability.

34. Details of any flues, vents, grilles, energy meter boxes or external wiring/cabling or piping to be inserted into or mounted to the external faces of the new buildings and retained barn shall first have been agreed in writing by the Local Planning Authority prior to installation, and thereafter installed strictly in accordance with the approved details.

Reason: In the interest of heritage.

35. Prior to first occupation of any of the residential units forming the scheme, a scheme for the heritage interpretation of the site shall have been implemented in accordance with details previously submitted to and agreed in writing by the Local Planning Authority (see informative C, below).

Reason: In the interest of heritage.

36. Prior to the commencement of the development hereby approved a plan to demonstrate the proposed ecological mitigation shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be based upon the Preliminary Ecological Appraisal. The development shall be carried out in accord with the approved plans.

Reason: In the interest of ecology.

37. Prior to the commencement of the development hereby approved details of ecological enhancements shall be submitted to and approved in writing by the Local Planning Authority. The details shall include detail of the percentage Biodiversity Net Gain to be achieved on site. The development shall be carried out in accord with the approved details.

Reason: In the interest of ecology.

38. Prior to the commencement of the development details of (including site clearance) all precautionary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The proposal shall be carried out at all times in accordance with the approved details.

Reason: In the interests of protected species.

Informative:

1. Public Right of Way:

- 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.

2. Highways:

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

3. Heritage:

Informative A:

The sections to be provided shall include part of the surrounding masonry or joinery bordering the window or door opening and shall be set out clearly (annotated as necessary) to show the following details, as applicable:

- Depth of reveal
- Window head and cill/sub-cill detailing
- Glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panes of glass)
- Glazing bar profile(s)
- Door frame / window frame
- Weatherboard and threshold detail (for doors only)

Informative B:

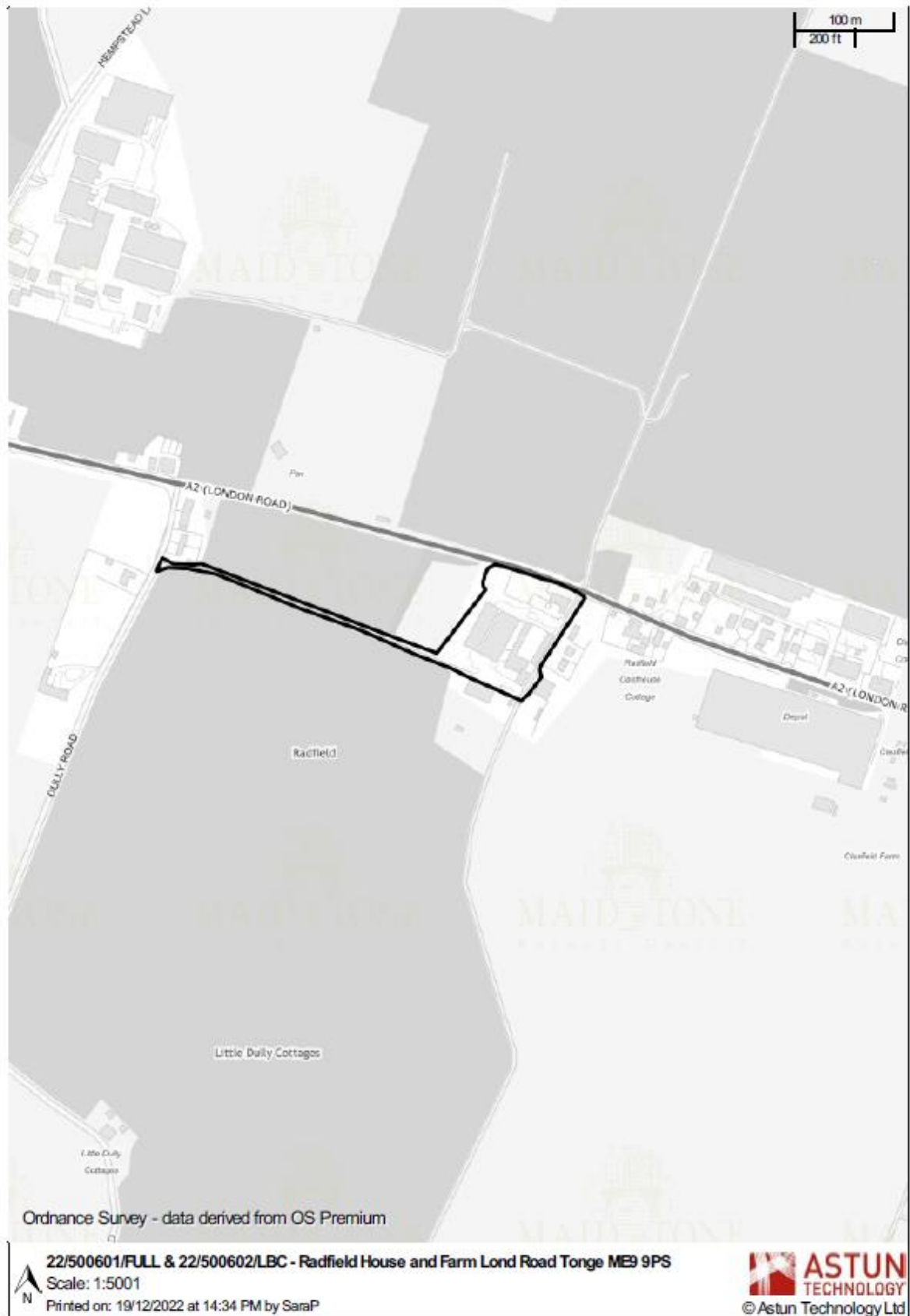
The details required to be included in the detailed landscaping scheme drawing(s) to be provided must include:

- Sample image of and specific details (including relevant web link(s)) of the different hard surfacing materials to be used, including any visible rainwater drainage products to be used, and where these would be located
- Method of marking out the non-covered parking spaces (white-lining or similar will not be accepted)
- Sample image of and specific details (including relevant web link(s)) of the different fencing/railing/walling and bollard designs to be used.
- Specific tree, hedge and shrub species to be used, including size and where applicable, spacing.

Note: the type of fairly formal landscaping scheme shown on the submitted proposed landscape strategy plan is not considered appropriate and a more informal approach is required which would be more compatible with partial recreation of the former historic farmstead setting to the listed farmhouse, in particular avoiding the enclosure of spaces except where this is critical to achieve a decent standard of residential amenity.

Informative C:

The details to be provided must include the draft text and images to be used on the interpretation board(s)/panels together with details of the physical form (i.e. materials and design) of the interpretation panel(s)/board(s) (including any support posts) and a part block plan of the application site showing the exact location where the boards/panels are to be installed.



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2.3 REFERENCE NO - 22/500602/LBC		
APPLICATION PROPOSAL Conversion and sub- division of Radfield House into 2 no. separate residential units. The works will include internal and external alterations.		
ADDRESS Radfield House And Farm, London Road, Tonge, Sittingbourne, Kent, ME9 9PS		
RECOMMENDATION – Grant		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed alterations would see a minimal loss of historic fabric and would preserve the special interest of the Listed Building.		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection.		
WARD Teynham and Lynsted	PARISH/TOWN COUNCIL Tonge	APPLICANT GH Dean & Co Ltd AGENT Hume Planning Consultancy
DECISION DUE DATE 22/12/2022	PUBLICITY EXPIRY DATE 21/11/2022	CASE OFFICER Emma Gore

Planning History

N/A

1.0 PROPOSAL

- 1.1 The Listed Building consent seeks to convert the existing Radfield House into a semi-detached property to allow for the provision of two residential units.
- 1.2 The dwelling would be sub-divided internally. The division would retain a single front entrance, with the second property having a side entrance on the western side. This will be achieved through the replacement of the existing window with a door, which would see the loss of a small portion of masonry.
- 1.3 Other works include a new window to the ground floor rear elevation, and the introduction of windows and doors to the single storey ancillary element of the building to the eastern elevation. At first floor a new window would be introduced to the rear elevation and a further window to the eastern side elevation. Other internal works would be undertaken to repair elements of the building which have fallen into a state of disrepair.
- 1.4 Some internal alterations would also be undertaken to accommodate the sub-division. Due to the existing layout of the property minimal alteration would be required with a doorway and hallway filled in to allow the subdivision. The works are listed in the Schedule of works.

2.0 PLANNING CONSTRAINTS

- 2.1 As this is an application for Listed Building Consent, we can only assess the impacts of the proposal upon the Grade II Listed Building itself.

3.0 POLICY AND CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017:

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

DM 32 – (Development involving listed buildings).

The National Planning Policy Framework (NPPF)

Chapter 16 of the National Planning Policy Framework

Supplementary Planning Guidance (SPG):

- Listed buildings; a guide for owners and occupiers (2011)

LOCAL REPRESENTATIONS

- 4.1 Letters were sent to neighbouring occupiers, as site notice was posted in the vicinity of the site and an advert was placed in a local paper. In response to this an objection was received and can be summarised as follows:

- The proposed development would compromise the setting and integrity of the listed building,
- Subdivision would result in loss of character of the listed building,
- Radfield House should be converted into a pub/restaurant/hotel,
- Increased traffic on Dully Road,
- Highway's safety issues due to location and number of vehicles that would be associated with the development,
- No cycle paths exist in the local area.

4.2 Tonge Parish Council.

- 4.3 Radfield House is a historically important Grade II listed house in Tonge Parish. It has fallen into considerable disrepair in recent times and so we would support any effort to restore this building as long as it is done sensitively and conforms to all rules pertaining to the development of listed buildings including the railings at the front, which are part of the listing.

- 4.4 We object to the conversion and redevelopment of the existing farm structures into 9 residential units.

- 4.5 Nine further houses would almost certainly create a minimum of eighteen extra cars accessing the A2. Accessing the A2 at Radfield House is obviously unacceptable as it is extremely dangerous because it is on a hill and a bend.

- 4.6 The application says that residents would use the existing track to drive to Dully Road and access the A2 from there. It says that the refuse vehicle would be able to circulate around the proposed development and retractable bollards would be installed so that residents could only access their houses from Dully Road. There is no mention of who would control these bollards.
- 4.7 Our main concern is that even if the residents used Dully Road to access the A2 it would still be dangerous. Although the site lines from this junction have been improved in recent years it would mean a minimum of an extra 18 cars joining the busy, fast moving A2. At this point the A2 has the national speed limit of 60 MPH. This junction is regularly used by large, heavy agricultural vehicles, so more cars would make it more dangerous.
- 4.8 Any further cars using the A2 will also exacerbate the traffic problems through Teynham and Bapchild. National Highways in their response to the Regulation 18 Local Plan consultation also highlight the existing problems with congestion and pollution along the A2 corridor. There are already a further 120 houses currently under construction in Teynham and 300 houses given planning permission for the centre of Teynham, plus 600 houses currently being built at Stones Farm, Bapchild. Consequently, any further traffic feeding on to the A2 would only make the problems worse.
- 4.9 The 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' does not include this area for housing development. We are also extremely concerned that if this area is given permission for development, then it leaves the land along the A2 from Radfield House to Dully Road a candidate for 'infill' development in the future. This part of Swale is currently undergoing considerable housing development without proper provision for the necessary infrastructure such as transport and services.
- 4.10 For these reasons, we object to this planning application.

5.0 CONSULTATIONS

5.1 A summary of Conservation Officer's comments is as follows:

- The building is capable of sensitive sub-division into two units,
- The very low end of less than substantial harm would apply in relation and would be outweighed by the public benefit of the scheme in securing the long term conservation of the 'at risk' listed building,
- The division would be acceptable and would not materially detract from the interpretation of the building and its historic fabric,
- Reinstatement of the outhouse is of benefit of the scheme,
- Suggested conditions provided relating to schedule of works, removal of permitted development rights, details of openings and materials.

6.0 BACKGROUND PAPERS AND PLANS

- Heritage Statement,
- Design and Access Statement,

- Planning Statement,
- Schedule of Works,
- Developments Approach to Climate Change,
- Site Location Plan – 21-257 01 Rev B,
- Topographical Survey of the Land 1,
- As Existing Ground Floor Plan of Barn 1 – 2,
- As Existing First Floor Plan of Barn 1 – 3,
- As Existing Elevations of Barn 1 – 4,
- As Existing Elevations – 5,
- Existing Site Block Plan – 21_257-02 Rev A,
- Radfield House – existing Plans and Elevations – 21_257-30,
- Radfield House – Proposed Plans and Elevations – 21_257-31,
- Proposed Landscape Strategy Plan – 21_257-04 Rev A,
- Proposed Site Block Plan – 21_257-03 Rev D,
- Roof Plans – 21_257-05 Rev B (Amended),
- Proposed Floor Plans – Ground Floor – 21_257-10 Rev B,
- Proposed Floor Plans – First Floor – 21_257-11 Rev D (Amended),
- Proposed Floor Plans – Second Floor – 21_257-12 Rev D (Amended),
- Proposed Elevations – Sheet 1 – 21_257-20 Rev C (Amended),
- Proposed Elevations – Sheet 2 – 21_257-21 Rev B (Amended),
- Proposed Elevations – Sheet 3 – 21_257-22 Rev B (Amended),
- Proposed Elevations – Sheet 4 – 21_257-23 Rev B (Amended),

7.0 APPRAISAL

The main consideration of this application is the impact of the proposal upon the fabric of the Listed Building.

- 7.1 Radfield House is, a Grade II listed building, which has been subject to various alterations over the years. The earliest part of the building is considered to be the timber framed element known as a 'Wealdon Hall'. likely to date back to the 15th
- 7.2 Radfield House retains its walled garden and historic railings to the front of the building. These elements add to the strong character and contribute to the overall heritage

significance. The Council's Heritage Strategy lists the structures as a strong example of a curtilage listed structure.

- 7.3 The Conservation Officer has reviewed the proposal and considers that Radfield House can be sensitively subdivided into two units. The conversion could be undertaken with no real impacts on the special interest of the building and loss of historic fabric.
- 7.4 The eastern unit would utilise the existing front entrance. To the west of the unit the exposed side elevation would convert a window to a door for access into the property. The conversion would see the loss of a minimal amount of historic fabric which would not be considered to result in harm to the significance of the building. In retaining a single access on the front of the building the main façade would retain the appearance of a single unit.
- 7.5 As above, the property is a Wealden Hall house which has a specific vernacular timber framed house specific to Kent and Sussex. The internal sub-division would take place on the hall side of the 'screen passage' utilising a timber stud wall. The use of a timber wall would not materially detract from the interpretation of the building or impact the historic fabric.
- 7.6 Alongside the internal sub-division some limited new partition walls would be installed and some modern partitions removed. The overall result of this would largely leave the original plan form intact. The removal and addition of partitions would therefore not be considered to impact the significance of the building.
- 7.7 A later single storey extension to the east of the property has fallen into a state of disrepair. The extension was a conservatory style building. The proposal would see the reinstatement of this element of the building with a more solid form of enclosure and a solid roof. The reinstatement is considered to be a more appropriate extension to the building than the former conservatory style and the overall form would be retained, maintaining the ancillary visual appearance of this element of the proposal.
- 7.8 The outbuilding to the rear of Radfield House would be retained. The building is in a state of disrepair and would be utilised for parking in association with the conversion of Radfield into two residential units. The retention of the building is in line with Conservation advice. Further, details of the conversion would be required via condition.
- 7.9 A schedule of works has been provided with the application. A condition would be required to ensure all works to the listed building are agreed prior to the commencement of development. The schedule of works would need to be expanded upon to include proposed insulation, division of electrical supply, details of heating, how piping and wiring runs will be achieved to cause minimal damage to the historic fabric.
- 7.10 The proposed sub-division would be considered to retain the significance of Radfield House. The proposal would see the loss of a minimal degree of historic fabric and retain a wider degree of the original plan form of the building. Taking this into account the proposal is considered to accord with policies CP 8 and DM 32 of the Local Plan 2017 and the NPPF.

8.0 CONDITIONS

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

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

- 2) The development shall be carried out in strict accordance with the details as specified on the approved plans numbered: Site Location Plan 21_257-01 Rev B, Existing Site Block Plan 21_257-02 Rev A, Radfield House – Proposed Plans and Elevations 21_257-31, Roof Plans 21_257-05 Rev B (Amended), Proposed Site Block Plan 21_257-03 Rev D (Amended), Schedule of Repairs Refurbishment and Proposed Alterations to Form Semi-Detached Dwellings August 2020 (Oliver Chapman).

Reason: In the interests of protecting and preserving the Heritage Asset.

- 3) Prior to the commencement of the development hereby approved, a schedule of works including elevation drawings to the outbuilding located to the south of the Listed Building labelled ‘derelict building’ on plan 21_257 – 02 Rev A, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accord with the approved plans.

Reason: In the interests of protecting and preserving the Heritage Asset.

- 4) Prior to the commencement of any works on the listed building or any of the retained curtilage listed structures, the following shall be submitted to and approved in writing by the Local Planning Authority:

- (i) a fully detailed schedule of works shall be submitted to and approved in writing by the Local Planning Authority. The Schedule of Works shall be based on the information set out in the submitted, but non-complete document in this respect from Oliver Chapman, dated August 2020. (see informative A, below).

Prior to occupation of either of the dwellings contained within the listed building and prior to occupation of more than 4 units in the newbuild element of the approved scheme:

- (ii) All of the items included in the approved schedule shall have been carried out and completed in full and subsequently inspected by the Local Planning Authority and confirmed by the Local Planning Authority in writing as having been completed in full satisfactorily.

Reason: In the interest of preserving the significance of the heritage asset.

- 5) Prior to the commencement of any development, 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for each new / and / replacement window type to be used on the Listed Building shall first have been submitted and subsequently approved in writing by the Local Planning Authority (please see Informative B, below). The development shall be carried out in accord with the approved details.

Reason: To preserve the special interest of the Listed Building.

- 6) Prior to the commencement of the listed building or development hereby approved details shall be submitted to and approved in writing by the local planning authority of a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for each new / and / replacement door type (internal and external) to be used (please see Informative B, below). The development shall be carried out in accord with the approved details.

Reason: In the interest of preserving the significance of the heritage asset.

- 7) Prior to the commencement of any works on the listed building details of the colour finish(es) to be used for the paint / stain / varnish / wax finish to the new / and / replacement external and internal joinery shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accord with the approved details.

Reason: In the interest of preserving the significance of the heritage asset.

- 8) Prior to the introduction of any flues, vents, grilles, energy meter boxes or external wiring/cabling or piping to be inserted into or mounted to the external faces of the listed building or any of the retained curtilage listed structures shall first have been agreed in writing by the Local Planning Authority prior to installation, and thereafter installed strictly in accordance with the approved details.

Reason: In the interest of preserving the significance of the heritage asset.

- 9) Notwithstanding the provisions of Class, F, Part 1, 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 hard standing shall be laid within the residential curtilage of the dwellings as outlined by plan 21_257-31.

Reason: In the interest of preserving the heritage assets special interest.

- 10) Prior to first occupation of the Listed Building as outlined on approved plan 21_257 - 31, a plan of the extent of the proposed residential curtilage for the Listed Building which is to be used two independent dwellings shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of preserving the significance of the heritage asset.

- 11) Unless otherwise previously and specifically agreed in writing with the Local Planning Authority, all making good works, following the completion of the approved works shall be carried out using matching materials, finishes and detailing, including colour finish(es).

Reason: In the interest of preserving the significance of the heritage asset.

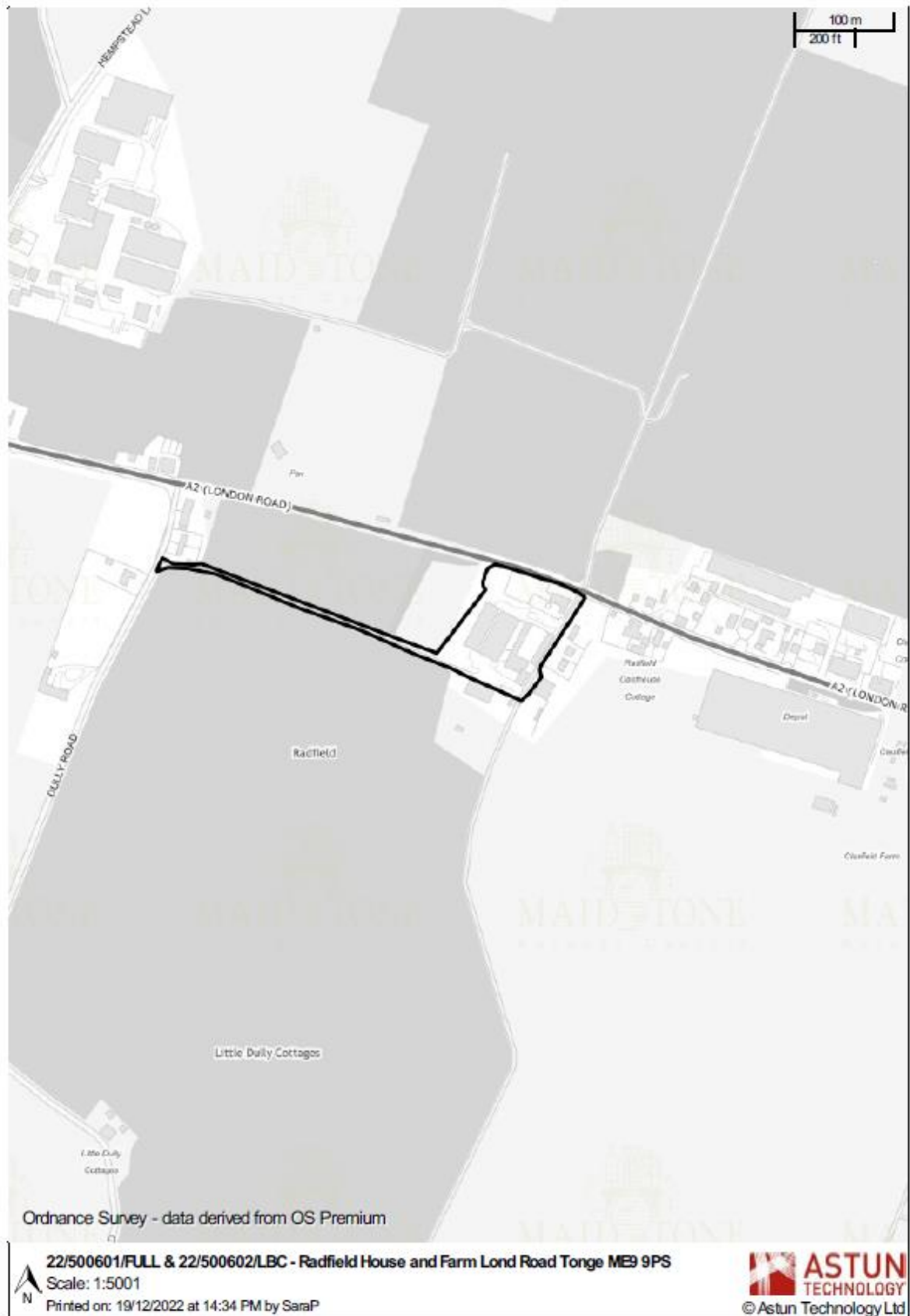
INFORMATIVE

Informative A: The details to be included in the schedule of works shall include a detailed specification for the method of and extent of repairs to the curtilage listed walls and railings, the means providing heating within the two dwellings to be contained within the listed building, and the detailing of any wall, roof or floor insulation systems to be provided/installed. The document should be supported by technical drawings and/or annotated photographs where appropriate for clarity.

Informative B:

The sections to be provided shall include part of the surrounding masonry or joinery bordering the window or door opening and shall be set out clearly (annotated as necessary) to show the following details, as applicable:

- Depth of reveal
- Window head and cill/sub-cill detailing
- Glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panes of glass)
- Glazing bar profile(s)
- Door frame / window frame
- Weatherboard and threshold detail (for doors only)



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2.4 REFERENCE NO - 22/505172/FULL		
APPLICATION PROPOSAL Erection of single storey front extension		
ADDRESS 11 Dane Close Hartlip Kent ME9 7TN		
RECOMMENDATION Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would not have an unacceptable impact upon the streetscene, neither would it have an undue impact upon neighbouring amenities, and it would therefore accord with the development plan.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Hartlip	APPLICANT Mr & Mrs Karl Webber AGENT Lander Planning
DECISION DUE DATE 02/01/23	PUBLICITY EXPIRY DATE 08/12/22	CASE OFFICER Julia Marshall

Planning History

18/502571/FULL

Demolition of rear porch and erection of a single storey rear extension, front garage extension and other external alterations.

Approved Decision Date: 16.07.2018

SW/79/1453

EXTENSION AND ALTERATIONS

Approved pre 1990 Decision Date: 04.01.1980

SW/99/1108

Alterations and extensions to house and alterations to form a garden room.

Grant of Conditional PP Decision Date:

1. DESCRIPTION OF SITE

- 1.1 No. 11 Dane Close is a two-storey detached dwelling located in the built-up village confines of Hartlip. It has an attached garage to the north and hardstanding to the front of the property with an area of soft landscaping and a large private amenity space to the rear.
- 1.2 The property is located towards the end of a cul-de-sac. The street scene is characterised by large two storey detached dwellings on generous plots
- 1.3 The boundary of the Hartlip Conservation Area runs adjacent to the rear boundary of the garden to the application site.

2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of a single storey front extension. The front extension would enlarge the existing porch and garage areas. It would include a small roof overhang to the front supported by three pillars. The roof would incorporate a part pitch with a small flat section behind. In total the extension would project approx. 2.4 metres beyond the existing front elevation.

3.0 PLANNING CONSTRAINTS

Within the village confines of Hartlip
Adjacent to the Hartlip Conservation Area

4.0 POLICY AND CONSIDERATIONS

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

ST3 (The Swale settlement strategy)

CP4 (Design)

DM14 (General development criteria)

DM16 (Alterations and extensions)

DM33 (Development affecting a conservation area)

- 4.2 The Council's Supplementary Planning Guidance (SPG) 'Designing an Extension – A Guide for Household' will also be a relevant consideration. Paragraph 5.2 states:

It is the extension to the front of your house that will normally have the greatest impact upon the appearance of the street. Any extension forward of the existing front wall is likely to pose difficulties. In conventional streets two-storey front extensions are rarely acceptable. Where there is a strong building line, extensions other than small porches are unlikely to be acceptable.

Paragraph 5.3 states:

To make sure the extensions to the front of your dwelling is of a good design, the Borough Council normally require that it should have a pitched roof and that its projection should be kept to an absolute minimum. The Borough Council normally requires that front additions are kept to a maximum of 1.2m

5. LOCAL REPRESENTATIONS

- 5.1 Three letters of objection have been received from neighbours in Dane Close. The comments are summarised below:

- Most of these properties have been extended at the rear but none at the front. This change could trigger further owners decide to do the same.
- The close has a logical building line that the houses are built to meet. The proposed change would change this and make the arrangement of houses ad hoc.
- Number 11 is on the curve at the top of the close and its front lawn is wedge shaped and the house is rectangular. If the extension went ahead, the house would occupy

more of the wedge and not fit with the current arrangements to the detriment of the adjoining properties.

- The proposed garage is of generous size to fit cars. Recent changes to the property included changes to rooms on the ground floor. If a larger garage was needed it could have been accommodated within those changes and a larger rear extension provided.
- Extension will be 1.8m in front of the current building line, and a further 0.9m minimum when taking into account the ornamental pillars and the eaves overhang.
- High impact on the visual amenity of our property, specifically from the large living room window at the front of the house.
- Number 11's pathway to their side access between our properties will be moved further forward into the front garden, and nearer to our boundary. This will be highly visible from our living room and cause a loss of privacy.
- Dane Close has been designed with properties set back from the road with open front gardens (no fences or walls erected on boundaries), creating the appearance of openness and space.

6. CONSULTATIONS

6.1 Hartlip Parish Council objects to the application and raises the following concerns (summarised)

- Dane Close was designed to create a verdant open streetscene
- The building line is significant to this openness
- side and rear extensions have been erected to properties in the close, but not front extensions
- this proposal would break the building line and create a precedent
- the cumulative impact of extensions to No 11 and effect on neighbours and the character of Dane Close

6.2 KCC Archaeology – advise that no archaeological measures are required in connection with the proposal.

7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents provided as part of application 22/505172/FULL.

7.2 Additional supporting information received from the agent in response to comments from neighbours and Hartlip Parish Council.

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.

The application site is located within the built-up area boundary of Hartlip, where the principle of domestic extensions and alterations are acceptable, subject to the proposal meeting the requirements of more detailed local plan policies, particularly policies DM14 (general development control criteria) and DM16 (extensions and alterations to buildings), and which are considered further below.

Visual Impact

- 8.2 Policy DM16 of the Local Plan 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.
- 8.3 Policy CP4 of the Local Plan 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.
- 8.4 The property is located towards the end of a cul-de-sac, on a large plot. The surrounding area is characterised by large two storey properties, on generous plots with large gaps between dwellings. The road displays an open and verdant character.
- 8.5 The proposed extension would be to the front of the property and has the potential to impact the character and appearance of the road as described above. The extension would project approx. 2.4 metres forward of the existing front elevation. As a result it would reduce the front garden of the property from a depth of 14.4 metres to approx. 12 metres. Notwithstanding this, I note that the north part of the extension would remain set back from the front building line of the neighbouring dwelling at No. 12, and at a point where the building line naturally adjusts to take account of the properties that encircle the hammer head of the cul-de-sac, which includes the application site. Furthermore I note that there is some variation in the building line among other properties in the road and that notably those on the east side of the road are set closer to the road. I also note that there is a variation in the design of dwellings, and I do not consider that the extension would appear prominent or incongruous in appearance.
- 8.6 The front extension would exceed the 1.2m maximum projection recommended in the Council's SPG. However given the spacious character and set-back from the road and in the absence of any identified harm from the extension as proposed, I consider this to be a situation where a more flexible approach can be applied to this guidance.
- 8.7 Overall, given the limited size of the extension and the substantial set-back from the road that would be retained, I consider that the open and verdant characteristics of the road would be maintained. As such I consider the development would not cause harm to the character and appearance of the area and it would comply with the above Local Plan policies.
- 8.8 Although the boundary to the Hartlip Conservation Area lies to the south of the site, given the small-scale nature of the proposed development and the confinement of the development to the front elevation of the dwelling, I do not consider that there would be

any material impact upon the setting of the conservation area. As such there would not be any conflict with Policy DM33 of the Local Plan.

Residential Amenity

- 8.9 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.
- 8.10 The extension would maintain a gap of approximately 1.4 metres to the site boundary and approximately 3.35m to the neighbouring property at No. 12 Dane Close. The occupants of this property have raised concern that the extension would impact upon light and visual amenity. However, the closest part of the extension to No 12 would not project beyond the front elevation of this property. Although the building line of the application property is angled in relation to No 12, the extension would not project in a manner that would cause any material loss of light, privacy or outlook to the neighbouring property. In fact I would suggest that the extension would be barely visible from the front window to No 12.
- 8.11 The extension would be sited approx. 5.8m from the boundary with the neighbouring dwelling at No 10. Due to the orientation of these dwellings, it would be possible for the extension to be visible in angled views from the nearest windows in No 10. Nonetheless such views would be very limited, and in light of the limited nature of the extension and distance it would be set in from the boundary, I do not consider this would cause any undue loss of light, privacy or outlook. Taking the above into account, I do not consider that the proposal would cause harm to neighbouring amenities, and it would accord with Policies DM14 and DM16 of the Local Plan.

Highways

- 8.12 The property would maintain sufficient space for at least 4 vehicles on the front driveway which would exceed the council's car parking standards SPD, and complies with Policy DM7 of the Local Plan.

Other Matters

- 8.13 Reference has been made by third parties to covenants that exist on the land. Members will be aware that these are private agreements and are not material to the consideration of a planning application.

9. **CONCLUSION**

- 9.1 Having taken all the above into account, I consider the proposal to be well designed and of an appropriate scale, it would maintain the open and verdant character of the road, and I do not consider that it would have any significant impact on the surrounding neighbours. As such I consider it complies with the relevant policies within the Local Plan and I recommend that planning permission is granted.

10. **RECOMMENDATION** - that planning permission is granted subject to the following conditions:

CONDITIONS

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

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

- (2) The development hereby approved shall be carried out in accordance with approved drawing BA-22-31-01-Rev 00, received by the local planning authority on 07/11/22.

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

- (3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

The Council's approach to the application

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

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

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

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



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2.5 REFERENCE NO - 22/504622/FULL		
APPLICATION PROPOSAL Conversion of garage into habitable space and erection of ground rear extension and first floor side extension.		
ADDRESS 42 Station Road Teynham Sittingbourne Kent ME9 9SA		
RECOMMENDATION APPROVE subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
WARD Teynham And Lynsted	PARISH/TOWN COUNCIL Teynham	APPLICANT Mr Gareth Hopkins AGENT Richard Baker Partnership
DECISION DUE DATE 17/01/23	PUBLICITY EXPIRY DATE 25/10/22	CASE OFFICER Mandi Pilcher

Planning History

SW/11/0823

Two storey front extension.

Grand of Unconditional (stat 3yrs) Decision Date: 15.08.2011

SW/98/0744

Two storey rear extension.

Grant of Conditional PP Decision Date: 26.10.1998

1. DESCRIPTION OF SITE

1.1 42 Station Road is a two-storey detached dwelling located within the built-up area boundary of Teynham. There is hardstanding to the front and leading to the attached side garage. There is a private amenity space to the rear with a single storey shed that stretches the width of the garden. Although the application site is a detached dwelling, the streetscene in this particular part of Station Road, where this property is located is characterised by terraced properties.

2. PROPOSAL

- 2.1 This application seeks planning permission for conversion of the existing garage into habitable space and erection of a ground rear extension and first-floor side extension.
- 2.2 The conversion of the garage and ground floor extension would create an extra bedroom and a kitchen at ground floor level. There is an existing rear/side projection which projects approximately 6.8m past the existing rear elevation. The proposal seeks to extend this to 8.4m in depth, an increase of 1.6m at ground floor level. The first-floor side extension would have a depth of 6.1m and a width of 2.7m and create another

bedroom. The rear wall of the first-floor element of the scheme would be in line with the rear wall of the existing dwelling.

3. PLANNING CONSTRAINTS

3.1 None

4. POLICY AND CONSIDERATIONS

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

CP4 Requiring good design
DM7 Vehicle parking
DM14 General development criteria
DM16 Alterations and extensions

4.2 Supplementary Planning Guidance (SPG): 'Designing an extension – A Guide for Householders' is also relevant and remains a material planning consideration having been through a formal consultation and adoption process. The SPG states:

3.4 On houses with pitched roofs it is always best to have a matching pitched roof on the extension with the same type of tiles. All such two-storey extensions should have a pitched roof and other prominent single storey extensions are normally better for having pitched roofs.

4.0 On any house, an extension should be well designed to reflect its character. Use of matching bricks, other facing materials and roof tiles together with appropriate doors and windows is essential if an extension is not to upset the appearance of the house or the area as a whole.

5.0 Where a two-storey side extension to a house is proposed in an area of mainly detached or semi-detached housing, the Council is anxious to see that area should not become 'terraced' in character, losing the sense of openness. Residents of such a street have a right to expect that the character should be retained. Houses should not be physically or visually linked, especially at first floor level as the space between buildings is important in preserving the areas character and sense of openness. A gap of 2m between a first-floor extension and the side boundary is normally required.

4.3 Supplementary Planning Document (SPD) – Parking Standards (May 2020)

5. LOCAL REPRESENTATIONS

5.1 No neighbour representations received.

5.2 Teynham Parish Council object as follows (summarised):

- The scale of the extension is excessive
- The development would exacerbate street parking
- Concern that the garage and workshop do not have adequate footings for liveable space.

6. APPRAISAL

- 6.1 The site is situated within the defined built-up area boundary of Teynham in which the principle of development is acceptable subject to relevant policy and other material considerations. The main relevant policies for house extensions are DM14 and DM16 of the Local Plan. Policy DM7 (parking) is also relevant.
- 6.2 The development proposes the conversion of the garage to a habitable space. The SBC Parking Standards SPD sets out a garage should have a 3.6m width. The existing garage measures approximately 2.6m, so the garage is undersized in width when compared to the SPD and is unlikely to be used for parking. As a result of this, the loss of the garage is unlikely to impact on parking provision in my view.
- 6.3 It is noted that the proposals as a whole provide an additional two bedrooms, turning a 3-bedroom property into a 5-bedroom property. Having considered the site, I am of the view that it would fall to be considered under a 'Suburban' location as set out in the SPD. This states that for the existing 3-bedroom dwelling, 2-3 spaces should be provided, whereas for a 5-bed unit as proposed, 3+ parking spaces should be provided.
- 6.4 The hardstanding to the front and side of the property can comfortably accommodate two vehicles. This would, on the basis of the SPD fall short of the requirement by 1 space. However, it is also important for Members to note that the SPD also states that car parking standards are for guidance and a lower provision should be considered where effective mitigation measures are in place or proposed. These include controlled parking zones and the availability of sustainable transport modes. In this case, I am aware that related to the development to the rear of Station Road for 130 dwellings (approved under ref. 18/503697/FULL), Station Road will, in due course, be subject to parking restrictions in the form of double yellow lines. To compensate for this, and also as a result of the adjacent development, a car park for local residents is being provided directly to the rear of the site subject to this current application. This will provide approximately double the number of car parking spaces that are being lost in Station Road. I also consider that the site sits within walking distance of a number of services and facilities in Teynham including bus routes along the A2 and Teynham Railway Station. Taking all these matters into account I am of the view that in this case, there are clear reasons as to why the level of on-site parking provision should be considered acceptable in this case.
- 6.5 The proposed rear extension will be sited on the north corner of the dwelling and project 1.6m beyond the existing rear extension creating an overall length of approximately 8.4m past the existing rear wall of the property and incorporate a pitched roof. There is only one side window proposed to serve the kitchen.
- 6.6 The boundary with the adjacent dwelling to the south, No.40, is located 5.7m from the ground floor extension, with the property located a further 3.5m from the boundary. Having taken into account the separation distance and the limited additional projection proposed at ground floor level, I am of the opinion that the proposed extension would not give rise to unacceptable harm to the living conditions of the occupants of No.40.
- 6.7 On the opposite side, No. 44 is separated by a distance of 7m, this includes an adjacent pedestrian and vehicular access of approximately 3m in width. The extension projects

9.2m past the rear elevation of this property, but taking into account the separation distance which includes a vehicular access separating the properties, I do not believe that this would lead to unacceptable harm to the residential amenity of the occupants of this property.

- 6.8 The two-storey side element of this proposal would be created over the existing garage and would not extend past the rear elevation and have a pitched roof. There are no proposed side windows at first floor level. The SPG advises that in areas characterised by detached and semi-detached dwellings, two storey side extensions should be set a minimum of 2m from the side boundary, to ensure the open character of the streetscene is retained. In this case, the eastern side of Station Road, despite the application site being comprised of a detached dwelling, is characterised by terraced properties. In addition, taking into account the access road which lies adjacent to the property which would retain a gap in any case, I do not consider that this element of the proposal would have an enclosing effect or harm the character of the streetscene.
- 6.9 Due to the distance to the neighbouring property, I do not consider there will be any harmful impacts to neighbouring amenity caused by the two-storey element.
- 6.10 I note that the application form sets out that the materials to be used are fibre cement board cladding and roof tiles to match the existing dwelling. In my view, and to assist in the development sitting sympathetically in the streetscene, I believe that the external finishing materials should match the existing dwelling in their entirety and as such have included a relevant condition.

7. CONCLUSION

- 7.1 I recognise that the Parish Council have raised concern regarding the application as set out in full within this report, however, taking the above into account, I do not consider that the works would give rise to any serious highway safety or amenity concerns and would in my view cause no significant concerns in respect of the impact upon residential or visual amenity. Furthermore, the Parish Council's comments in respect of footings are not a material planning consideration. I consider that the proposed development would accord with policies DM7, DM14 and DM16 of the Local Plan and I recommend that planning permission should be granted.

8. RECOMMENDATION

GRANT Subject to the following conditions

CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2989/2A.

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

- (3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

The Council's approach to the application

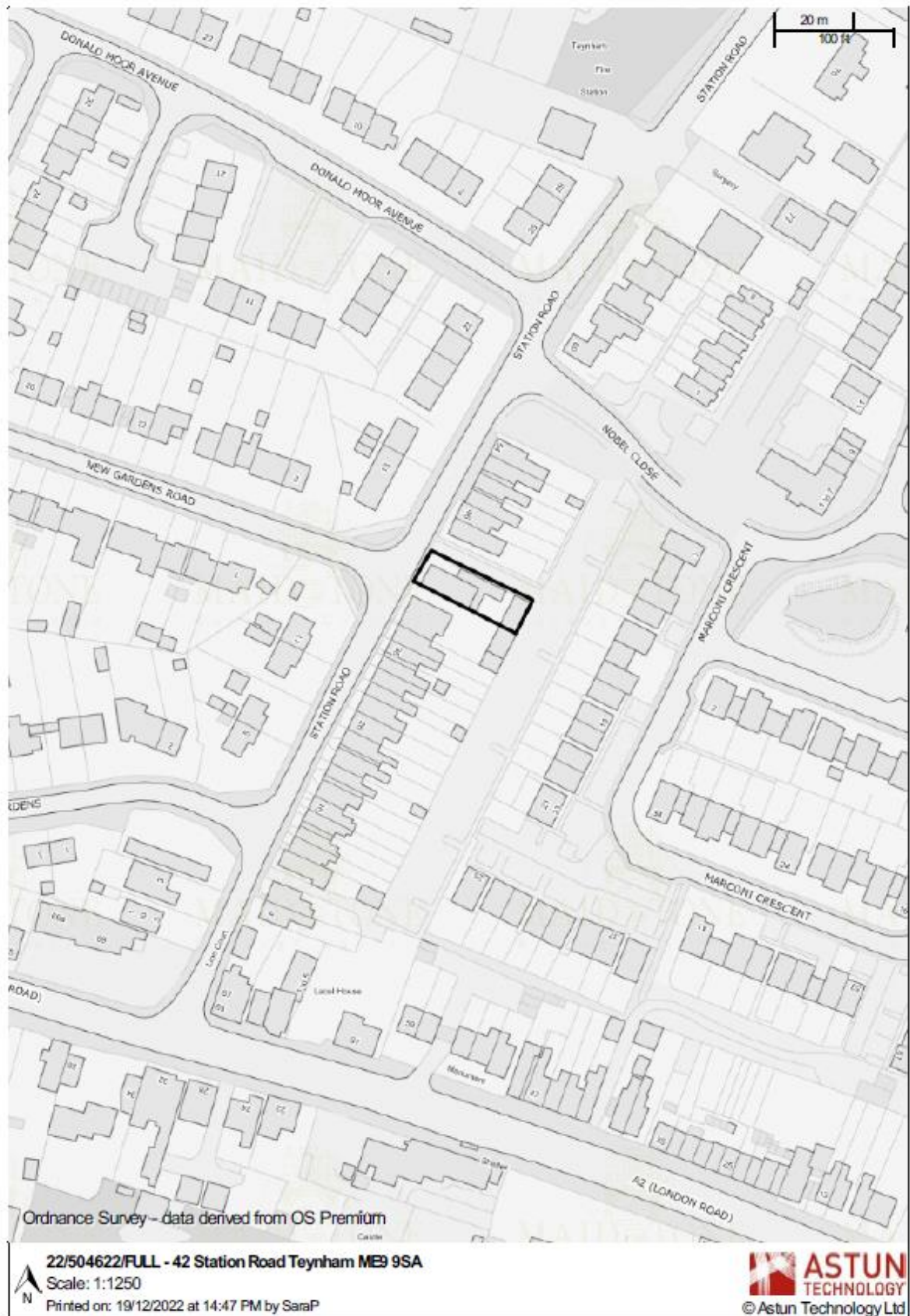
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where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

In this instance:

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

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

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



PLANNING COMMITTEE – 12 JANUARY 2023**PART 3**

Report of the Head of Planning

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

3.1 REFERENCE NO - 22/504256/FULL		
APPLICATION PROPOSAL Erection of a one-bedroom dwelling to replace collapsed chalet bungalow (part retrospective).		
ADDRESS 6 Elm Way Eastchurch Kent ME12 4JP		
RECOMMENDATION - that planning permission is Refused		
SUMMARY OF REASONS FOR REFUSAL The proposed development would represent an unacceptable form of residential development within the countryside, in an unsustainable location. Furthermore, the scheme would result in the loss of holiday accommodation, and no justification has been provided for this loss. In addition, the internal layout would result in a poor level of amenity for future occupiers. The site also lies within 6km of the Swale SPA and no mitigation in the form of a SAMMS payment has been received.		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to committee by Cllr MacDonald		
WARD Sheppey East	PARISH/TOWN Eastchurch COUNCIL	APPLICANT Wendy Streeter AGENT The JTS Partnership
DECISION DUE DATE 29/11/22	PUBLICITY EXPIRY DATE 10/11/22	CASE OFFICER Megan Harris

Planning History

20/505587/FULL

Continued use as a residential dwelling including raising ridge height and creating 2 no. new bedrooms at first floor level.

Refused Decision Date: 02.02.2021 Appeal Dismissed (see below)

20/501855/LDCEX

Lawful Development Certificate (Existing) for use as a residential dwelling.

Refused Decision Date: 30.06.2020

SW/75/1192

HOLIDAY CHALET

Approved pre 1990 Decision Date: 10.02.1976

Appeal History:

21/500060/REF

Continued use as a residential dwelling including raising ridge height and creating 2 no. new bedrooms at first floor level.

Dismiss or Dismiss -Notice Upheld/Varied Decision Date: 28.10.2021

1. DESCRIPTION OF SITE

- 1.1 6 Elm Way is a rectangular shaped plot of land located immediately to the north of the large holiday park complex near Eastchurch. Although located within a small pocket of largely residential development between the coast and the defined holiday park, the site and surroundings are designated as being within the countryside. The plot was previously occupied by a holiday chalet which was in a dilapidated state and has been recently demolished. Construction of a new building took place on the site without the benefit of planning permission earlier this year. The external shell of the building is now complete, with internal works still to be completed. The applicant is currently living in a mobile home immediately adjacent to the site to the north east, which does not have planning permission and as such is in breach of planning control. This matter is under separate investigation by the Planning Enforcement team.
- 1.2 The plot measures roughly 20m x 30m. It is assessed from an unmade track (Elm Way) leading from First Avenue, and the site sits on lower ground than the track. The surrounding area is characterised by detached dwellings and holiday parks. The site lies adjacent to, but not within the allocated area for holiday parks under Policy DM4 of the Local Plan.
- 1.3 The planning history for the site sets out that planning permission for the former holiday chalet was granted under SW/75/1192. On this application, the following condition was imposed:
- (iii) The chalet shall only be occupied for the period 1st March to 31st October in any one year.*
- Grounds: The chalet is considered unsuitable for permanent residential occupation and is located within a rural area of the Kent Development Plan (1967 Revision) where it is not intended that permanent residential development shall take place.*
- 1.4 More recently, an application for a lawful development certificate was submitted and refused under application 20/501855/LDCEX for use of the chalet as a permanent residential unit.
- 1.5 A further application (20/505587/FULL) was then submitted to convert the building to a permanent dwelling as well as the addition of a first floor to create a larger floorspace. This application was refused and dismissed at appeal.
- 1.6 In dismissing the appeal, the Inspector concluded that the site was in a remote location where residents would be reliant on cars for access to employment, services and facilities, and in the least preferred location for development under the council's settlement strategy. The appeal scheme would result in the loss of holiday accommodation, contrary to the local plan. The Inspector also dismissed the appeal on the impact on neighbouring amenities, harm to the character and appearance of the

area through the first floor extensions proposed, and failure to mitigate against impacts on the SPA through the SAMMS mitigation strategy.

2. PROPOSAL

- 2.1 This application seeks part retrospective planning permission for the erection of a new residential unit at the site, which will be occupied on a permanent basis.
- 2.2 The unit is single storey and sits roughly in the same position as the demolished chalet. It has a footprint of 6.6m x 17.8m and incorporates a veranda on the western side of the building. The structure has a flat roof with a height of 3m. Internally, a bedroom, living area, kitchen and shower room are provided. The elevations of the building will be covered with cedar cladding.
- 2.3 During the course of the application, it was noted that the site location plan didn't include all of the site within the red line edge. The northern part of the site which connects to Elm Way was not included within the red line. The applicant was informed of this, and an amended site plan was provided. As the red line was enlarged, a full re-consultation was carried out.

3. PLANNING CONSTRAINTS

- 3.1 In the countryside outside the built-up area confines

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF)
- 4.2 National Planning Practice Guidance (NPPG)
- 4.3 Development Plan: The following policies from Bearing Fruits 2031: The Swale Borough Local Plan 2017 are relevant:

ST1 Delivering sustainable development in Swale
ST3 The Swale settlement strategy
ST6 The Isle of Sheppey area strategy
CP2 Promoting sustainable transport
CP3 Delivering a wide choice of high-quality homes
CP4 Requiring good design
CP7 Conserving and enhancing the natural environment
DM3 Rural economy
DM4 New holiday parks or extensions to existing parks
DM7 Vehicle parking
DM14 General development criteria
DM19 Sustainable design and construction
DM21 Sustainable drainage / flood mitigation
DM28 Biodiversity conservation

Supplementary Planning Guidance

The SBC Car 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.

5. LOCAL REPRESENTATIONS

5.1 Letters were sent to neighbouring occupiers and nine representations were received, supporting the application on the following grounds:

- The surrounding properties are all residential
- The development is in keeping with the type of properties in the area
- Always thought this was a residential property
- It will look much better than the existing(previous) bungalow and will improve the area.

5.2 Cllr MacDonald called the application into committee, setting out that he supported the application.

6. CONSULTATIONS

6.1 Eastchurch Parish Council – Originally objected to the use as permanent residential accommodation due to unstable conditions and cliff erosion in the area. However in a further response the parish council raise no objection.

6.2 Environmental Health – No adverse comments to make.

6.3 Natural England – No objection subject to securing mitigation in respect of impacts upon the SPA..

7. APPRAISAL

Principle of Development

7.1 The site is located within the countryside beyond the built-up area boundary of Eastchurch. The main relevant planning policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the defined built-up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities. Residential development is not normally permitted in such locations.

7.2 However, the Council cannot currently demonstrate a five-year supply of housing land. The position for 2020/2021 that Swale now has an identifiable 4.8 years supply of housing land.

- 7.3 In addition, the current adopted local plan is now 5 years old and, in relation to policies for the supply of housing, is “out-of-date”. This means that performance against housing delivery is no longer assessed against the annual local plan figure of 776 but that of the “standard method”. For Swale, this means that the target will increase to 1,048 (or whatever the standard method figure is for that monitoring year).
- 7.4 For these reasons, paragraph 11 of the NPPF applies (the tilted balance). Paragraph 11 d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 7.5 The following sections consider the impacts of the development, and the conclusion applies these against paragraph 11 of the NPPF. In considering the impacts of the development, considerable weight is given to the findings and conclusions of the appeal decision for the recent development on the site that was dismissed.

Location of development

- 7.6 The site is located approximately 1.3km from the village confines of Eastchurch. Eastchurch, which is classed under policy ST3 of the Local Plan as a Tier 4 Rural Local Service Centre that provides a range of services to the local population. The supporting text sets out that its less accessible location to main centres of population limits opportunities to minor development aimed at meeting local needs.
- 7.7 Policies CP2 and CP3 of the Local Plan state that new development will be located in accordance with policy ST3 to minimise the need to travel for employment and services and to facilitate sustainable transport. The remote location of this site is such that I consider that occupants would be heavily reliant on private motor vehicles to access employment, services and facilities. I give particular weight to the recent appeal decision on the site which reported in paragraphs 9 and 10 that the site was not in a suitable location for residential development and failed to minimise the need to travel.
- 7.8 Paragraph 68 of the NPPF encourages development of small housing sites, but at sub-paragraph c) it says local planning authorities should “*support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites **within existing settlements for homes***” (my emphasis in bold). This does not, to my mind, support the development of this site which lies outside any settlement, and which will be heavily reliant on the use of the car.
- 7.9 Paragraph 79 of the NPPF states that housing in rural areas should be located where it will enhance or maintain rural communities, and that planning policies should identify opportunities for villages to grow and thrive. Given the distance of the site from Eastchurch village, I do not consider that the proposal is supported under this paragraph.
- 7.10 Taking the above into account and the clear parallels between the scheme recently refused on appeal and the current application for a single dwelling, I consider the site is

not in a suitable location for residential development due to its remote location from the nearest identified settlement, contrary to the Local Plan and NPPF.

Loss of tourist facility

- 7.11 The proposal would give rise to the loss of holiday accommodation in a rural area. Policy DM3 of the Local Plan seeks to encourage the sustainable growth and expansion of business and enterprise in the rural area and prohibits residential development which would reduce the potential for rural employment and/or community facilities, unless it is demonstrated there is no demand for such purposes, or they would be undesirable or unsuitable. Policy ST6 relates to development on the Isle of Sheppey and requires proposals to support the existing tourism offer, amongst other things. Policy CP1 seeks to safeguard or enhance Swale's principal tourism assets and consolidate or widen the Borough's tourism potential.
- 7.12 The former building on the site was granted planning permission in 1975 for use as holiday accommodation. Such use would offer a modest level of support to the rural tourism-orientated businesses in the surrounding area, and it is clear from the identified planning policies that the tourism industry is a key part of the local economy for the Island. It is also clear from policy DM3 of the Local Plan that rural employment / businesses should not be lost to residential uses unless it is clearly demonstrated that there is no demand, or that they would be unviable, undesirable or unsuitable. Loss of this use will also reduce the existing tourism offer in an area. No evidence has been presented to demonstrate that the holiday use is unviable, undesirable or unsuitable. Members will also note that in paragraphs 11 and 12 of the recent appeal decision on the site, the Inspector found the loss of a tourism facility to be unjustified and unacceptable. The loss of holiday accommodation would be contrary to policies CP1, DM3 and ST6 of the Local Plan.

Impact upon character and appearance of area

- 7.13 Policy ST3 of the Local Plan seeks to ensure that development in the countryside protects and enhances the intrinsic value, landscape setting, tranquillity and beauty of the countryside. 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.
- 7.14 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.
- 7.15 The site is located immediately adjacent to a designated holiday park area and within a cluster of largely single storey dwellings located between the coast and the holiday park.
- 7.16 The design of the new building is similar in scale to the previous chalet at the site and reflects the character of the surrounding development in the area, being single storey in nature. Although designed with a flat roof, taking into account that many other

surrounding properties have flat roofs, I have no concerns in this regard. The footprint of the building is larger than the holiday chalet previously at the site, at 120sqm (including the veranda) compared to 85sqm, however given the scale of the plot, I am satisfied that the scale of the new dwelling is acceptable and sits comfortably on the site. The use of cedar cladding is acceptable, given the mixture of materials present on surrounding buildings.

- 7.17 Views of the development from public vantage points will be limited due to the positioning of the dwelling within the site, on lower ground behind the large entrance gates to the north.
- 7.18 On the basis of the above, I do not consider the appearance or scale of the unit will cause harm to the visual amenities of the site or wider visual amenities of the countryside, when compared to the previous building on the site.

Living conditions

- 7.19 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.
- 7.20 On the living conditions for future residents, in terms of floor space I note that the internal size of the unit (approximately 72 sqm) is compliant with the Department for Communities and Local Government: Technical Housing Standards – Nationally described space standards and is acceptable in this regard. The majority of rooms within the dwelling would have suitable levels of sunlight and ventilation, however I am concerned about the positioning of the bedroom. The sole window serving this room is located on the eastern elevation, roughly 2.2m from the eastern boundary of the site. The land to the east is on much higher ground, and this change in land levels severely restricts the amount the light this window receives. Outlook from the window is also poor due to the proximity to the boundary. Taking into account this window serves a habitable room, I consider the proximity to the boundary will cause unacceptable harm to the amenity of occupiers of the unit.
- 7.21 The applicant has confirmed that the existing shrubs and vegetation located along the eastern boundary will be cut back in order to provide more light into the bedroom. Whilst this may increase the light available in the room, I still consider the bedroom window lies too close to the boundary and will have a poor outlook and inadequate amount of natural light.
- 7.22 Turning to consider the impact to neighbours, I note the building lies approximately 15m from No. 2 Elm Way to the west and 12m from No. 32 First Avenue to the south. Taking into account the boundary treatments and the fact the new dwelling is single storey, I do not envisage the development will have any harmful impacts upon amenity at these neighbouring properties. A holiday park lies to the east and taking into account this site

sits on higher ground, I do not consider there will be any harmful impacts to the park from the new dwelling to this site.

- 7.23 Overall, whilst the proposal would not harm the amenities of neighbouring properties, I consider it would not provide satisfactory living conditions for future occupants, contrary to policies DM14 and CP4 of the Local Plan.

Highways

- 7.24 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards.
- 7.25 In accordance with the adopted SBC Parking Standards SPD, one parking space should be provided for a one bed property in this rural location. The parking area to the north west of the building can provide this space, and as such I have no concerns in this regard and the proposal is considered to accord with policy DM7 of the Local Plan 2017 and the NPPF

SAMMS Payment

- 7.26 The site lies within 6km of the Thames, Medway and Swale Estuary Special Protection Areas and Ramsar sites and subject to the approval of any new dwelling 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. Whilst the development previously contained a holiday chalet, the proposed introduction of a permanent residential use at the site will likely result in increased recreational disturbance to the SPA, and as such the SAMMS payment is required here. As the payment has not been made or secured, the application fails to provide a means for mitigation of impacts upon the SPA and is therefore unacceptable under policies CP7 and DM28 of the Local Plan.

Other Matters

- 7.27 Many neighbours have stated that the site has been in residential use previously and as such this application for a new permanent dwelling is acceptable. Whilst I appreciate that the holiday chalet previously on the site was possibly occupied on a permanent basis in the past, in breach of condition (3) on application SW/75/1192, it has clearly been demonstrated via the refused Lawful Development Certificate application (ref. 20/501855/LDCEX) that the residential use of the old chalet was not lawful, and the lawful use of the site remains as holiday accommodation, albeit the holiday chalet itself has been demolished.

8. CONCLUSION AND FINAL BALANCING

- 8.1 The proposed development would result in the erection of a new dwelling in the countryside in a location where such development is not normally permitted under the Council's settlement strategy. I have identified that the site is remote from the nearest

identified settlement and from services and facilities and is in an unsustainable location for such development meaning that occupants would be heavily reliant on the private car, contrary to policies ST1, ST3, CP2 and CP3 of the Local Plan, and paragraphs 68 and 79 of the NPPF. Given the poor location of the site and conflict with both the Local Plan and NPPF, I give strong weight to this harm. In addition, I have identified that the proposal would result in the loss of holiday accommodation without any justification, contrary to policies CP1, ST6 and DM3 of the Local Plan. Given this would be limited to the loss of one tourism facility, I give moderate weight to this impact. I also give strong weight to the findings of the appeal inspector, given the very recent date of this decision and the identical residential use sought under both proposals.

- 8.2 The scheme would also result in a poor level of amenity for occupants and fails to mitigate harmful impacts through additional recreation pressure on the Special Protection Areas and Ramsar sites, which should also be afforded significant weight.
- 8.3 In terms of benefits, the proposal would make a very limited contribution to the supply of housing and towards helping to address the Council's shortfall. It would also provide a limited amount of short-term employment through the construction of the development. Due to the small scale of the development and its very small contribution to housing supply, I give limited weight to this benefit.
- 8.4 Therefore, in terms of the planning balance, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposed development, to which I afford much greater weight, significantly and demonstrably outweigh the limited benefits of the proposal.
- 8.5 On this basis, I recommend planning permission is refused.

9. RECOMMENDATION – REFUSE for the following reasons:

- (1) The application site lies outside of any built-up area boundary and remote from services and facilities, meaning that residents would be reliant upon private motor cars to access services, facilities and employment. This would result in an unsustainable form of residential development, contrary to policies ST1, ST3, CP2 and CP3 of Bearing Fruits – The Swale Borough Local Plan and the National Planning Policy Framework.
- (2) The proposal would replace an existing unit of holiday accommodation. The application fails to demonstrate that the site is unsuitable or undesirable for such tourism use or that there is no demand for such purposes, and as such would result in the loss of holiday accommodation to the detriment of the local economy and rural tourism. This would be contrary to policies CP1, ST6, and DM3 of Bearing Fruits 2031 - The Swale Borough Local Plan, and the National Planning Policy Framework.
- (3) The proposed development, by reason of its siting and orientation, would provide a poor outlook and poor levels of natural light for the east facing window serving the bedroom to the dwelling, resulting in unacceptable harm to the living conditions of future occupiers. The development is therefore considered contrary to policies DM14 and CP4 of the adopted Swale Borough Local Plan 2017.

- (4) 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, CP7, DM14, and DM28 of the adopted Swale Borough Local Plan 2017; and paragraphs 174, 180 and 181 of the National Planning Policy Framework.

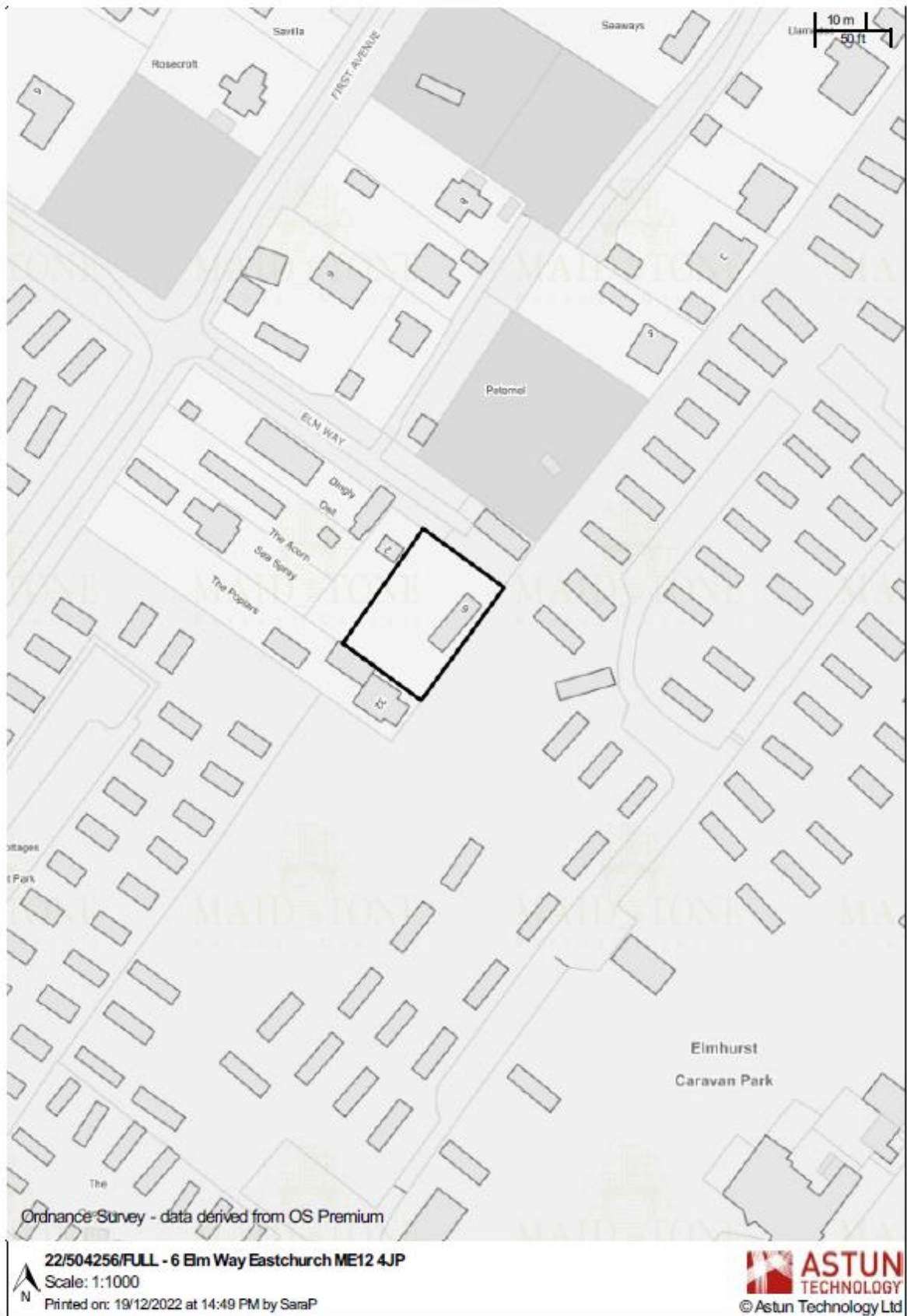
The Council's approach to the application

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

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

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

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



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Appeal Decision

Site Visit made on 21 September 2021

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/V2255/W/21/3272228

6 Elm Way, East Church, Sheerness ME12 4JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Wendy Streeter against the decision of Swale Borough Council.
 - The application Ref 20/505587/FULL, dated 23 November 2020, was refused by notice dated 2 February 2021.
 - The development proposed is "Continued use as residential dwelling including raising ridge height and creating 2 new bedrooms at first floor level".
-

Decision

1. The appeal is dismissed.

Planning Background

2. The appeal property is a house incapable of being occupied at present¹, as confirmed within the appellant's statement. The Council advise the building is subject to a planning condition restricting its residential occupation to specified months of the year² to ensure it remains holiday accommodation, rather than permanent accommodation. The appellant has claimed its use as permanent accommodation is lawful. The Council have referred to an application for a certificate of lawfulness³ which sought confirmation that the building's occupation throughout the year as permanent residential accommodation was lawful, but the application was refused and I have not been informed of any appeal being made against that decision.
3. No evidence has been submitted to demonstrate the lawfulness of any use of the building as part of this appeal. I have therefore assessed the appeal based on the description of the proposal provided by the appellant, which seeks planning permission for the continued use of the building as a residential dwelling. Based on the information before me, this would comprise permanent accommodation replacing holiday accommodation, which would be new residential development.

¹ I noted parts of the front elevation had been removed and very little of the roof remained intact, apart from trusses, leaving almost all of the building open.

² Condition (iii) of planning permission SW/75/1192: "The chalet shall only be occupied for the period 1st March to 31st October in any one year. Grounds: The chalet is considered unsuitable for permanent residential occupation and is located within a rural area of the Kent Development Plan (1967 Revision) where it is not intended that permanent residential development shall take place."

³ The Council's reference 20/501855/LDCEX

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Main Issues

4. Taking the above into account, the main issues are: (i) the principle of the proposal with specific regard to its location and the replacement of holiday accommodation; (ii) the effect of the proposal on the living conditions of the residents of 2 Elm Way ('No.2'), with specific regard to privacy; (iii) the effect of the proposal on the character and appearance of the area; and (iv) the effect of the proposal on the Swale Special Protection Area ('the SPA').

Reasons*Location and replacement of holiday accommodation*

5. The appeal site is a small plot located at the end of an unmade drive occupied by various secluded single storey dwellings on plots of similar sizes. The drive is largely surrounded by extensive areas of land used for the siting of mobile homes used as holiday accommodation, with open countryside beyond to the east, south and west, and the coastline and sea to the north.
6. Policy ST 3 of the Council's Local Plan⁴ defines the settlement hierarchy within the Borough, directing new residential development to the main urban centre of Sittingbourne, followed by Faversham and Sheerness, Rural Local Service Centres, and then other villages with built up boundaries. It advises that the role and functioning of Sheerness will be supported by the other urban local centres within the West Shippey Triangle to meet the Island's development needs on previously developed sites or at existing locations and allocations well related to the urban framework and strategic transport network.
7. The Council has confirmed the appeal site lies outside any settlement boundaries designated in their Local Plan, within the open countryside for the purposes of applying Policy ST 3. The appellant claims the appeal site is a strategic site in Sheerness where it would be supported by the other urban local centres within the West Sheppey Triangle. The appellant has not supported this claim with any evidence, whereas the Council's reasoning in this regard is clear and aligns with the supporting text and Picture 4.3.2 which accompany Policy ST 3. The appeal site is not, therefore, a strategic site or located within a settlement boundary.
8. Policy ST 3 states new development will not be permitted in the open countryside, outside built-up boundaries, unless support is offered by national planning policy and it is demonstrated that the vitality of rural communities are protected and enhanced, amongst other things. I have been directed to various paragraphs in the Framework⁵, but none of these suggest new residential development would be appropriate in this location outside the settlement boundary. There is no evidence to suggest the proposal is necessary to protect or enhance rural communities.
9. Policies CP 2 and CP 3 of the Council's Local Plan state new development will be located in accordance with Policy ST 3, amongst other things, which would minimise the need to travel for employment and services and to facilitate sustainable transport. Policy ST 1 also requires all development to accord with the Local Plan's settlement strategy outlined by Policy ST 3. The remote location of the appeal site indicates that residents of the proposal would be

⁴ 'Bearing Fruits 2031': The Swale Borough Local Plan (2017)

⁵ The National Planning Policy Framework (2021)

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reliant on private motor vehicles to access employment and services, and no evidence has been provided to suggest otherwise.

10. The proposal would be located within the least preferred location for new development in the Council's settlement hierarchy, which would fail to minimise the need to travel for employment and services and would not facilitate sustainable transport. It would therefore conflict with Policies ST 1, ST 3, CP 2 and CP 3 of the Council's Local Plan, the aims of which I have outlined above. The Council have referred to Policy DM 9 of their Local Plan, which offers support to affordable housing in rural areas. As the proposal would relate to market housing, it does not receive any support from this policy either.
11. The proposal would result in the loss of holiday accommodation in a rural area. Policy DM 3 of the Council's Local Plan seeks to encourage the sustainable growth and expansion of business and enterprise in the rural area and prohibits residential development which would reduce the potential for rural employment and/or community facilities, unless it is demonstrated there is no demand for such purposes, or they would be undesirable or unsuitable. Policy ST 6 relates to development on the Isle of Sheppey and requires proposals to support the existing tourism offer, amongst other things.
12. I noted some small businesses which would offer employment opportunities centred around the holiday park trade prevalent in the area surrounding the appeal site. The appeal building's use as holiday accommodation would offer a modest level of support to those rural tourism-orientated businesses, which would not be replicated at the same level by the permanent accommodation proposed. Although the proposal would have a low-level harmful impact upon nearby rural business, the loss of holiday accommodation in this location would also reduce the existing tourism offer. No evidence has been submitted to demonstrate holiday accommodation in this location is undesirable or unsuitable. The proposal would therefore fail to accord with the aims and requirements of Policies DM 3 and ST 6 of the Council's Local Plan.

Living Conditions

13. The proposal would create three dormer windows facing northwest, towards the residential property at No.2. Those proposed windows would serve two bedrooms and a bathroom and would overlook the side and rear garden of No.2 due to the height of the windows and the short distances involved. The level of overlooking would be significant as the windows would provide clear views into the neighbouring garden.
14. I note representations made by the occupant of No.2, confirming that they support the proposal and that both they and the appellant intend to plant more trees and shrubs along the shared boundary. No details have been provided of any intended planting, but in any case, the short distance between the proposed first floor front elevation windows and the rear garden of No.2 means that any planting would have to be substantial to prevent any unacceptable levels of overlooking. Although the current occupant of No.2 supports the proposal, the unacceptable harm that would be caused by the inevitable overlooking would be long lasting, also affecting all future occupants of No.2.
15. Overlooking from the bathroom window could be prevented by a condition restricting the window's opening and requiring it to be obscure glazed, but it would be unreasonable to attach such a condition to the bedroom windows

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because they would be the only windows serving those rooms, which would make an important contribution to the quality of living conditions of future residents. The use of obscure glazing to all three front elevation dormer windows would also have adverse implications for the appearance of the proposal. Moreover, having to consider such glazing treatment would indicate that the development, in close proximity to No.2, is also less than ideal in terms of satisfactory living accommodation for future occupiers of the proposed dwelling.

16. The proposal would significantly reduce the privacy of occupants at No.2, causing unacceptable harm to their living conditions. This harm could not be reasonably prevented through the installation of obscure glazing to all three first floor front elevation windows and I have not been presented with sufficient information to convince me boundary planting could appropriately mitigate the harm. The proposal would therefore fail to accord with Policies CP 4 and DM 14 of the Council's Local Plan. These require, amongst other things, that development should not cause significant harm to amenity and create comfortable places.

Character and Appearance

17. The character and appearance of the area surrounding the appeal site is heavily influenced by holiday parks with rows of mobile homes interspersed with some low-level buildings; the notable exceptions are the two storey public houses near the centre of the holiday park and at its main entrance. Land levels vary throughout the surrounding area, offering views of mobile homes and nearby buildings at higher levels than the appeal site to the south and east. The buildings along Elm Way and its junction with First Avenue all appear to be single storey and set within secluded plots, creating an intimate setting, despite the more open views behind the appeal site. In this context, the existing single storey form and modest design of the appeal building is typical of the area and sympathetic to its surroundings.
18. The proposal would introduce a gambrel roof with three dormer windows on each of the front and rear elevations, creating what would appear as a prominent two storey building. In this location, amongst a range of low-level, small buildings and mobile homes, the proposed gambrel roof design would be an odd addition to the area. It would appear uncharacteristically tall and out of context with its surroundings, with two blank dormers and one obscure glazed dormer window proposed on the rear elevation which would emphasise its dominant and unwelcome appearance. The proposal would fail to respect the character or appearance of the appeal site's surroundings and would not comprise high-quality design appropriate to its location.
19. The proposal would therefore harm the character and appearance of the area, contrary to Policies CP 4, DM 14 and DM 16 of the Council's Local Plan. These require, amongst other things, development to be of a high-quality design which would be appropriate to its context in respect of scale and height.

The SPA

20. The Council has advised that the appeal site lies within 6km of the SPA. As the proposal would result in the replacement of holiday accommodation with permanent accommodation, Natural England have advised that it may result in increased recreational disturbance to the SPA, but that they would be satisfied

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its likely harmful effects could be mitigated, subject to an appropriate financial contribution being secured. The Council have advised that payment of £253.83 in accordance with the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy ('the SAMMS') would mitigate the likely adverse effects of the proposal on the SPA. Natural England have confirmed these measures to be ecologically sound, but no such payment has been made by the appellant.

21. The appellant has claimed the appeal site is over 6km from the SPA, would not create potential for recreational disturbance to the SPA, and would conserve and enhance the natural environment because it includes an upward extension. No evidence has been submitted to support these claims. The appellant has suggested that a payment in accordance with the SAMMS could be required by condition, but I do not consider a condition requiring payment of a financial contribution towards off-site mitigation measures would meet the relevant tests⁶.
22. The proposal would likely have a significant effect on the SPA from increased recreational disturbance. This is because the appeal building is subject to a condition restricting its occupation to certain months of the year. The proposal would allow the appeal building to be occupied throughout the year, increasing opportunities for recreational disturbance to the SPA.
23. In the absence of any evidence demonstrating the payment or securing of a financial in accordance with the SAMMS, I consider it likely that the proposal would cause harm to the SPA. This would be contrary to Policies ST1, DM14 and DM28 of the Council's Local Plan, which require, amongst other things, development to conserve the natural environment, including internationally protected areas such as the SPA.
24. I would need to undertake an Appropriate Assessment in accordance with the Habitats Regulations⁷ if I was minded to grant planning permission. However, as I have found the proposal would result in harm in respect of all the other substantive main issues, there is no need for me to consider this matter further.

Other Matters

25. The appellant has referred to the Council's Interim Planning Policy Statement for park home sites ('the IPPS'). This does not form part of the Council's development plan, but remains a material consideration, as set out in the IPPS report⁸. The IPPS sets out six criteria, all of which need to be met for the Council to support the conversion/redevelopment of holiday accommodation to permanent accommodation. No evidence has been submitted to demonstrate the proposal satisfies any of these criteria, but based on the information presented I can conclude the proposal does not accord with the first and sixth criteria, as I have found the site is not in a sustainable location with access to services and facilities; and that the site layout is not acceptable in terms of privacy and amenity of site occupants, as the proposal's bedroom windows would need to be obscure glazed to avoid unacceptable levels of overlooking. The proposal does not therefore accord with the IPPS.

⁶ Paragraph 003 Reference ID: 21a-003-20190723 of the Planning Practice Guidance

⁷ The Conservation of Habitats and Species Regulations 2017 (as amended)

⁸ Swale Borough Council Meeting Report dated 17 June 2020

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26. It has been suggested that appeal decisions at other sites offer support for the proposal because they show that other properties have been extended by various degrees, contributing to the character of the area. None of the examples referred to appear to be within the locality of the appeal site and the Council has advised they are all sited within the settlement boundary. I have not been provided with the full details of those cases and it has not been demonstrated that any of those developments inform the character of the area surrounding the appeal site. The appeal decisions referred to do not therefore effect my reasoning on the main issues.
27. I note the appellant's references to parts of the Framework which encourage sustainable development. I have found that the proposal would constitute poor design in a location which would be inappropriate for new market housing as a replacement for holiday accommodation, likely to harm the SPA. The proposal would not therefore comprise sustainable development.

Conclusion

28. For the reasons given above I conclude that the proposal would fail to accord with the development plan and there are no material considerations, including the Framework, that would indicate planning permission should be granted. The appeal should therefore be dismissed.

L Douglas

INSPECTOR

3.2 REFERENCE NO - 22/504818/FULL		
APPLICATION PROPOSAL Change of use of land for the storage of shipping containers for storage use, together with associated landscaping and ecology enhancements (part retrospective).		
ADDRESS Warehouse Chesley Storage Chesley Farm Bull Lane Newington Kent ME9 7SJ		
RECOMMENDATION that planning permission is Refused		
SUMMARY OF REASONS FOR REFUSAL The development represents a significant expansion of the existing business with a resultant unacceptable form of encroachment into the countryside, and appears unsympathetic and incongruous in this rural setting.		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to committee by Cllr Palmer		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Newington	COUNCIL APPLICANT Mr L Jones AGENT DHA Planning
DECISION DUE DATE 20/12/22	PUBLICITY EXPIRY DATE 05/12/22	CASE OFFICER Megan Harris

Planning History

22/500944/LDCEX

Lawful Development Certificate (Existing) for use of land for external storage of shipping containers, highways signage, barriers and vehicles and placement of containers on the land for rental of storage space.

Permitted Decision Date: 29.04.2022

SW/08/0550

Application for deletion of condition (i) of application SW/05/0646, to allow use of building for B8 storage and distribution and ancillary office accommodation without restrictions relating to occupier or type of B8 use.

Grant of Conditional PP Decision Date: 11.07.2008

SW/07/0864

Change of use from agriculture former cold stores to storage or workshop.

Grant of Conditional PP Decision Date: 18.04.2008

SW/07/0035

Application for certificate of lawful existing uses for use of barn as storage.

Refused Decision Date: 20.03.2007

SW/05/0646

Warehousing for fastener stockists and ancillary office accommodation.

Grant of Conditional PP Decision Date: 26.07.2005

SW/99/1172

Renewal of Temporary Planning Permission SW/94/0625 for Change of Use of Packhouse to Warehousing.

Grant of Conditional PP Decision Date: 12.01.2000

SW/94/0625

Change of use of packhouse to warehousing

Grant of Conditional PP Decision Date: 19.09.1994

SW/89/1110

Change of Use from Agricultural to Industrial Class B1.

Refused Decision Date: 28.11.1989

1. DESCRIPTION OF SITE

- 1.1 The site forms part of the land and buildings at Chesley Farm, which is located approximately 0.8km to the south of Newington in the open countryside. The former farm grouping comprises a former oast building, now converted to six dwellings, and three modern former farm buildings that have been converted into storage and distribution uses and workshops with the benefit of planning permission, as shown in the planning history above. Whilst these uses as permitted were for the buildings and included conditions to restrict external storage on associated land, a parcel of land to the rear of the two smaller buildings to the southwest of the site access has also been used for the storage of shipping containers. A Lawful Development Certificate was granted earlier this year to confirm that such use had continued for a period in excess of ten years and is now immune from enforcement action. The storage containers are laid out in rows and the site is operated as a 'self-storage' site, with containers being rented out on a weekly/monthly basis for storage.
- 1.2 The application site relates to two parcels of land to the rear of the area of land that benefits from the lawful development certificate. These parcels have been developed and used in a similar manner to the land which benefits from the lawful development certificate as an extension to this business, and are comprised of areas of hardstanding with a number of dark green single storey storage containers stationed on the land in rows. The application form sets out that the use of these specific land parcels commenced in March 2016, and as such this use is not lawful through the passage of time and requires the benefit of planning permission. It is evident from aerial photographs in 2015 that both parcels of land were previously part of the farmland associated with Chesley Farm.
- 1.3 The surrounding area has a strong rural character and predominantly comprises undulating countryside and agricultural fields with rural dwellings and farm complexes pepper-potted around. The land is classed as Grade 1 Agricultural Land with Bull Lane being a designated rural lane.

2. PROPOSAL

- 2.1 This application seeks part retrospective planning permission for the change of use of land for the storage of shipping containers for storage use, together with associated landscaping and ecology enhancements. The hardstanding and shipping containers are in place at the site, but the landscaping and ecology enhancements have not yet taken place.
- 2.2 The expansion of the site has taken place towards the end of the access road which runs through the site, and is comprised of two areas of hardstanding, which have a total area of roughly 1,290m². Dark green storage containers are located on the hardstanding, which are all of the same size, measuring 2.4m in width, 2.55m in height and 6.02m in length.

- 2.3 Proposed landscaping includes the sowing of 0.2 Ha wildflower meadow to the northeast of the hardstanding. A native hedgerow is also proposed within this area, to limit views of the development from the countryside to the east. The development also proposes the planting of native trees and hedgerow to re-gap the existing landscaping that surrounds the applicant's land to the north and east of the development site, again to try and limit views of the development. These areas fall outside of the red line edge of the site.
- 2.4 The planning statement sets out that the use will operate and be open for business from 8:00am to 6:00pm Monday to Fridays and 8:00am to 2:00pm on Saturdays. The premises will be closed on Sundays and Bank Holidays.

3. PLANNING CONSTRAINTS

- 3.1 Designated Countryside
- 3.2 Agricultural Land Grade 1

4. POLICY AND CONSIDERATIONS

- 4.1 The following chapters of the National Planning Policy Framework, July 2021 are relevant:

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

Chapter 15 Conserving and enhancing the natural environment

- 4.2 National Planning Practice Guidance (NPPG)

- 4.3 The development plan consists of the adopted Bearing Fruits 2031: The Swale Borough Local Plan 2017. The policies within the Local Plan that this proposal would be assessed against include the following:

Policy ST1 Achieving sustainable development in Swale

Policy ST3 The Swale settlement strategy

Policy ST5 The Sittingbourne area strategy

Policy CP1 Building a strong economy

Policy CP2 Promoting sustainable transport

Policy CP4 Requiring good design

Policy DM3 The rural economy

Policy DM6 Managing transport demand and impact

Policy DM7 Vehicle parking

Policy DM14 General development criteria

Policy DM19 Sustainable design and construction

Policy DM24 Landscape

Policy DM28 Biodiversity and geological conservation

Policy DM31 Agricultural land

- 4.4 SBC Vehicle Parking Standards Supplementary Planning Document (SPD) 2020
- 4.5 Swale landscape Character and Biodiversity Appraisal 2011

5. LOCAL REPRESENTATIONS

5.1 Letters were sent to neighbouring occupiers and a site notice was posted within the vicinity of the application site. In response to this, six letters of support were received. Their contents are summarised below:

- The site is well maintained, clean, landscaped and is not visually intrusive.
- Proposed landscaping will enhance the area considerably.
- Having people around will offer much needed security to the area.
- The facility is only accessible during working hours and does not impact neighbours.
- There is plenty of parking available at the site.
- I have lived opposite the site for the past 30 years. The use of the premises and land have during that time attracted a variety of purposes , some of I have not been comfortable with, however the current and proposed use are not causing me any concern and I support the application.

5.2 Cllr Richard Palmer has called the application to Planning Committee, stating that if the officer was minded to recommend approval of the application, he would likely withdraw the call in.

6. CONSULTATIONS

6.1 **Newington Parish Council** – No objection to the proposal subject to *an undertaking* being undertaken to ensure that no vehicle larger than a van should access the site from the village centre

6.2 **KCC Highways** – No objection to the proposal because the vehicle trips associated with the individual containers are limited and will be accessed by users infrequently. Even if they were accessed daily they would not generate enough traffic to be problematic. The existing access is adequate to cater for the vehicle movements associated with the proposal and on-site parking is adequate.

6.3 **KCC Ecology** – As the ecology report concludes, it is unknown if protected species were harmed/displaced in the unauthorised development at this site. However, what can be established is that grassland and trees were lost to facilitate the development Not only has this lowered the site's ecosystem service value (as referenced in paragraph 174 of the NPPF 2021) but the replacement of green space with hardstanding and buildings contravenes section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021) in the absence of compensation. The trees and grassland would have supported biodiversity, whereas the newly installed hardstanding and buildings do not. In order to compensate for this loss, it is proposed that reinforcing existing hedgerows and creation of a new native hedgerow/wildflower 'plugs' in an adjacent field will be enacted.

Whilst it is unclear if the compensation proposals can adequately compensate for the loss, it is advised that all the proposals are implemented (if planning permission is granted) in an attempt to offset the loss. If planning permission is granted, we advise that a condition is attached to demonstrate evidence of the planting (along with a planting schedule) and delineation/creation of wildflower grassland (with appropriate management techniques).

If external lighting is to be included this will need to be established prior to determination as this could impact biodiversity.

6.4 **KCC Minerals and Waste** – No objection to this application.

6.5 **Environmental Health** – No objection subject to a condition restricting the hours of operation.

7. **BACKGROUND PAPERS AND PLANS**

7.1 Plans and documents provided as part of application 22/504818/FULL.

8. **APPRAISAL**

9. The main considerations in the determination of this application are: -

- Principle
- Character and appearance
- Living conditions
- Highway safety
- Landscaping and biodiversity

Principle

9.1 Paragraph 84 a) of the National Planning Policy Framework (NPPF) supports a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and b) the development and diversification of agricultural and other land-based rural businesses. Paragraph 85 of the NPPF 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.

9.2 In this case, the application site is located outside of any built-up area boundary, in a rural location, in the designated countryside and therefore subject to countryside restraint policies in the adopted Local Plan.

9.3 Policy ST3 of the Local Plan 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, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities'*.

- 9.4 Policy DM3 of the Local Plan specifically relates to the rural economy and states that permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area. For all proposals, the policy states (inter-alia):
- *(1a) that larger scales of development are directed towards rural service centres and urban areas:*
 - *(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:*
 - *(1.d), that design and layout is sympathetic to the rural location and appropriate to its context:*
 - *(1.e), that no significant harm would occur to the historical, architectural, biodiversity, landscape or rural character of the area and*
 - *(1.f) that the scale of traffic is not incompatible with the rural area.*
- 9.5 The supporting text to policy DM3 sets out that the aim of the policy is to highlight the needs of specific sectors and the protection and expansion of rural services, whilst balancing support for the sustainable growth and expansion of business and enterprise with limiting and managing adverse impacts upon the wider countryside.
- 9.6 In the case of 1.b, the proposal does not relate to development within a settlement, or on what was previously developed land, or involve the conversion of existing buildings. In addition, I do not consider the site to be easily accessible, being in a remote location divorced from any settlement boundary and accessed via a narrow country lane. Whilst the development has taken place as an expansion to an existing business, I note that the lawful extent of the site is within an area of approximately 1250 sqm and accommodates approximately 45 containers, whilst the expanded area (excluding the landscaped area) contains approximately 54 containers within an additional site area of approximately 1290 sqm. This would represent a significant expansion of the business in a location that I do not consider to be sustainable or easily accessible. There appears to be no compelling reason why the nature of the business demands a rural location or how the expansion supports the needs of rural communities. In my opinion, the divorced and remote location of the site together with the scale of the expansion does not support the objectives of sustainable development or the aims of the local plan settlement strategy under policy ST3 and supporting policies under DM3 and CP2 to minimise the need for travel and to steer larger rural business towards urban areas and other defined settlements. Whilst the benefit of bringing redundant rural buildings back into use for business purposes can sometimes outweigh accessibility issues, this does not apply in this instance where the proposed use is an open land use.
- 9.7 I note that paragraph 85 of the NPPF recognises that sites to meet business needs in rural areas may need to be found beyond existing settlements and in locations not well served by public transport. However this is subject to development being sympathetic to its surroundings and where it can exploit opportunities to make a location more sustainable, which is not the case in this instance.
- 9.8 Taking this into account the proposal is considered to conflict with policies ST3 and DM3 of the Local Plan 2017 and the NPPF.

Character and appearance

- 9.9 Parg.127 of the NPPF sets out developments should function well and add to the overall quality of the area, are visually attractive, sympathetic to local character including the surrounding built form of development. Policy DM14 of the Local Plan 2017 supports development that is *'... well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location'*.
- 9.10 Policy CP4 of the Swale Local Plan 2017 promotes and encourages high-quality design and states that the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any new proposed development should be appropriate and reflect the character of the area. Policy DM3 states that buildings should be sympathetic to the rural location and appropriate to their context.

In this instance the site is located in an area with a strong rural character and appearance, divorced from any built settlement. Whilst there is sporadic built form in the area, this does not detract from the prevailing rural character. The storage containers are utilitarian in form and not of sympathetic rural design and represent an open land use that has the potential to cause harm to the countryside and landscape. The development has extended the built form within the site to the northwest and has clearly visually encroached into the rural countryside. Although the containers have a relatively low visual presence with a height of 2.55m, they are of a utilitarian and industrial design, and not visually sympathetic to this rural setting. This visual harm is exacerbated by the extended access road and hardstandings. I acknowledge that storage containers are located on land to the southeast of the application site which are lawful through the storage use being in situ for over 10 continuous years, however the presence of these adjacent containers do not justify the further significant expansion of the site as proposed into formerly undeveloped countryside.

- 9.11 The expansion of the business into the parcels of land subject to this application has more than doubled the size of the site. In addition, whilst the lawful open storage use is somewhat contained by the existing former farm buildings to the south and east, the expanded areas have extended the business operation to the north into open countryside in a sprawling manner and form. In my opinion, both the open utilitarian form of the development and the large sprawling expansion of the site is alien to the key characteristics of the countryside and fails to represent a design and layout that is sympathetic to its rural location. Whilst the site is not widely visible and largely screened from Bull Lane by the existing former farm buildings, I do not consider that the development preserves or enhances the intrinsic character or beauty of the countryside.
- 9.12 The site is not within a designated landscape. The Council's Landscape Character and Biodiversity Appraisal SPD identifies the site as being within the Newington Fruit Belt with a moderate condition and low sensitivity. The SPD recognises that the expansion of Hartlip and development along the A2 corridor has diminished this landscape character, but also states that it contains a strong landscape structure with an undulating landscape with a traditional function, distinct character and strong sense of place in parts.
- 9.13 I acknowledge that additional landscaping is proposed to the east of the site, and also re-gapping of the surrounding hedgerow also owned by the applicant is proposed. The additional landscaping to the east will soften the appearance of the containers and hardstanding to some degree when viewed from the applicant's land to the east. However, this does not make the large sprawling encroachment of the business into the countryside acceptable in my opinion, and follows a contrived boundary that is not part of the established or organic landscape structure.

- 9.14 I note the comments of support received which set that the site is well maintained and tidy. Whilst the site may be well run and maintained, this is not a matter that forms a material consideration in the determination of this application.
- 9.15 In my opinion, the introduction of storage containers and hardstanding represents a significant, sprawling, and unacceptable form of encroachment into the countryside, and is unsympathetic and incongruous in this rural setting to a degree that would be harmful and directly in conflict with the aims of policies ST3, DM3, DM14 & CP4 of the of the Local Plan (2017).

Living conditions

- 9.16 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, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 9.17 In terms of residential amenity, the site is relatively removed from residential development. The closest dwellings are located at the front of the site, roughly 53m from the extended storage areas. The proposal has intensified the use of the site through the provision of additional storage containers, although I note that the containers are of limited size and would be unlikely to result in significant trips. The applicant has operated the business from the site since 2005, and the expanded site has also been in operation for a number of years. Environmental Health have reviewed the application and note that the hours of opening are reasonable and are not considered to give rise to noise and disturbance outside of standard operational hours. This could be conditioned should an application be recommended for approval. For the above reasons I do not consider the trip generation would be likely to cause any significant amenity impacts.
- 9.18 Other residential units along Bull Lane to the south and west lie a minimum of 80m from the additional storage areas and due to this sufficient distance of separation I am satisfied that no adverse impacts occur for these residents.
- 9.19 As such, subject to hours of operation and restriction of the use class to storage only, which could reasonably be addressed with planning conditions, I consider the impact to residential amenity to be acceptable and compliant with policy DM14 of the of the Local Plan (2017).

Highways and Parking

- 9.20 Policy DM3 1.f, states proposals should *'avoid scales of traffic generation incompatible is with the rural character of the area'* and Policy DM6 details that development should consider the location, design and layout of development proposals.
- 9.21 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards.
- 9.22 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.

- 9.23 Turning to issues surrounding highway impacts, KCC Highways have reviewed the Transport Statement Assessment that has been submitted alongside this application. They note that vehicle trips associated with the individual containers are limited as you would only expect users to access them infrequently. Even if this occurred daily, this would still not generate a degree of traffic that would be viewed as problematic. The application is retrospective, so the applicant has provided daily traffic generation of 20 movements (10 in and 10 out). This has been further supported by a TRICS report based on Self Storage Warehousing which estimate traffic generation of 3 trips in the AM Traffic Peak Hour (2 in and 1 out) and 3 trips in the PM peak hour (1 in and 2 out). KCC Highways acknowledge the above figures are very low and do not cause concern in relation to their impact on the wider highway network. They also consider the existing access is adequate size to cater for the limited movements associated with the proposal and on-site parking is adequate.
- 9.24 Given the comments received by KCC Highways, I am satisfied that the expansion of the storage areas has not caused harm to the surrounding road network due to the limited increase in vehicle movements. Whilst not included in the red line edge, there is a parking area to the southeast which provide adequate parking for the storage business, and I note that customers are also able to drive up to the containers to load/unload their goods.
- 9.25 Bull Lane and surrounding lanes are classed as designated rural lanes and policy DM26 applies. Given the limited increase in vehicle movements accepted by KCC and the presence of existing traffic on the lanes, I do not consider that the development would lead to traffic movements that would be harmful to the character of these lanes.
- 9.26 I acknowledge the concerns of Newington Parish Council relating to large vehicles potentially accessing the site through the village centre, but it is not possible to control the access routes of customers via condition.
- 9.27 For the reasons, set out above I am satisfied that the proposal is consistent with the aims of policies DM3 1.f, DM6 and DM7 of the Local Plan (2017) and SBC Vehicle Parking Standards 2020. For the avoidance of doubt, whilst I am satisfied that the volume of traffic would not be significant, this does not affect my assessment earlier in this report that the site is in an unsustainable location and does not promote key policy aims to place developments in locations that reduce the need to travel.

Landscaping and biodiversity

- 9.28 The NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity, where possible. Local planning authorities are required to conserve and enhance biodiversity when determining planning applications and take opportunities to incorporate biodiversity in and around developments. Policy DM28 also requires that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity, where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 9.29 Policy DM14 requires the provision of an integrated landscape scheme that would achieve a high standard of landscaping within the development.
- 9.30 As set in the Visual Amenities section above, the application does propose some additional landscaping at the site, including the sowing of 0.2 Ha wildflower meadow to the north east of the new storage areas. A native hedgerow is also proposed within this area, which forms part of the application site. The development also proposes the

planting of native trees and hedgerow to re-gap the existing landscaping that surrounds the applicant's land to the north and east of the development site.

- 9.31 Whilst I have set out that this additional landscaping does not overcome the harm the development causes to the rural character of the surrounding area, from a biodiversity perspective, I note KCC Ecology have requested the additional planting is implemented if planning permission is granted.
- 9.32 As the submitted ecology report concludes, it is unknown if protected species were harmed/displaced in the unauthorised development at this site. However, what can be established is that grassland and trees were lost to facilitate the development. Not only has this lowered the site's ecosystem service value (as referenced in paragraph 174 of the NPPF 2021) but the replacement of green space with hardstanding and buildings contravenes section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021) in the absence of compensation. The trees and grassland would have supported biodiversity, whereas the newly installed hardstanding and buildings do not.
- 9.33 In order to compensate for this loss, the application proposes that reinforcing existing hedgerows and creation of a new native hedgerow/wildflower 'plugs' in an adjacent field will be enacted. KCC Ecology set out that whilst it is unclear if the compensation proposals can adequately compensate for the loss, they advise that all the proposals are implemented (if planning permission is granted) in an attempt to offset the loss. If I were recommending planning permission is granted, I would ensure a condition is attached to demonstrate evidence of the planting (along with a planting schedule) and delineation/creation of wildflower grassland (with appropriate management techniques).
- 9.34 KCC Ecology also noted that it is also unclear if there is any external lighting associated with the development, which could potentially have adverse impacts on biodiversity. I contacted the agent for clarification on this point, and he confirmed there is no external lighting within the application site. As such, I have no concerns in this regard, and this could be controlled via a condition.
- 9.35 Taking the above into account the proposal is considered to accord with policy DM14 of the Local Plan 2017 and the NPPF.

10. CONCLUSION

- 10.1 This development is located outside of the built-up area boundary in the countryside with a strong rural character and is divorced from any settlement boundary or services and facilities. The development has resulted in a significant expansion of the business on open land to the north of the existing site, The scale and form of the expansion together with the utilitarian appearance of this open land use fails to protect or be sympathetic to rural character. The significant expansion of the business is in an unsustainable location and does not support key policy objectives to place development in locations that reduce need to travel, and no opportunities exist to make the site more sustainable from this perspective. For these reasons, I recommend planning permission is refused.

11. RECOMMENDATION – REFUSE for the following reason:

- (1) The application site lies outside of any built-up area boundary and within the open countryside. The development, by virtue of its significant and sprawling encroachment into the undeveloped rural countryside, and poor utilitarian appearance and open land use, represents an unsympathetic and incongruous form of development, which fails to protect the intrinsic value, landscape setting,

tranquility and beauty of the countryside. Furthermore, the development has significantly increased the scale and operation of the business in a location that is remote and divorced from any settlement, and fails to justify why this particular unsustainable and rural location is necessary to support the needs of rural communities. For these reasons, the proposal would be contrary to policies ST1, ST3, CP2, CP4, DM3, and DM14 of Bearing Fruits 2031 – The Swale Borough Local Plan (2017).

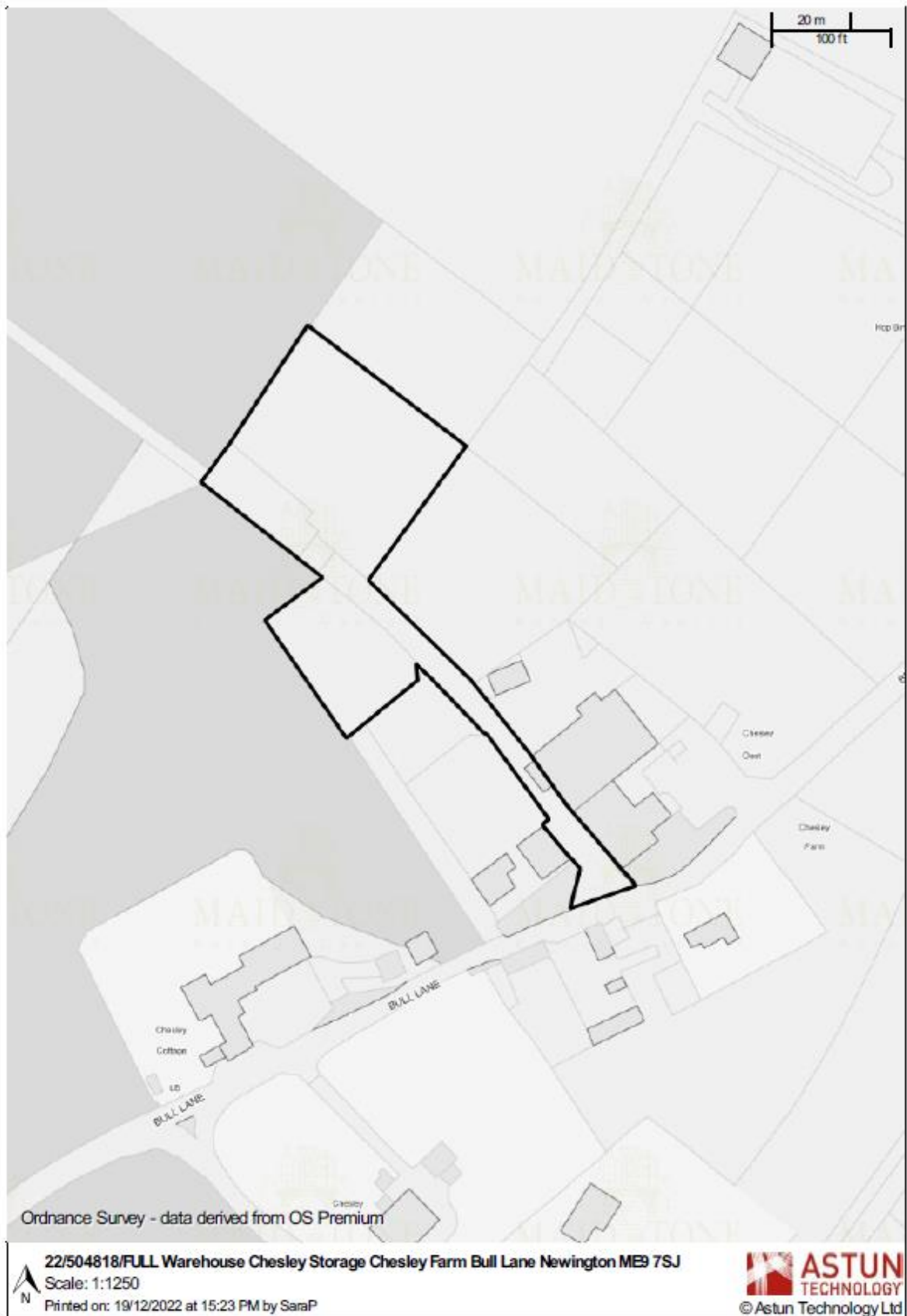
The Council's approach to the application

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

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

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

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



3.3 REFERENCE NO 21/505498/OUT		
APPLICATION PROPOSAL: Outline planning application for up to 135no. dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point (All matters reserved except for means of access).		
ADDRESS: Land Off Swanstree Avenue, Sittingbourne, Kent, ME10 4LU		
RECOMMENDATION: An appeal has been submitted against the non-determination of this application (Ref: APP/V2255/W/22/3311224) and it cannot now be formally determined by the Council. However, Members need to determine whether the application would have been approved if it was still before them, or on what grounds they would have refused planning permission. This will then form the basis of the Council's case regarding the development, for the purposes of the appeal.		
SUMMARY OF REASONS FOR RECOMMENDATION: As above.		
REASON FOR REFERRAL TO COMMITTEE: To seek the views of members in support of the appeal.		
WARD: Woodstock	PARISH/TOWN COUNCIL: N/A	APPLICANT: Gladman Developments Ltd AGENT: Gladman Developments Ltd
DECISION DUE DATE:	PUBLICITY EXPIRY DATE: 10.11.2022	CASE OFFICER Emma Gore

Planning History (including appeals):

14/505378/ENVSCR

EIA Screening Opinion - Residential development of up to 580 dwellings.

Environmental Impact Assessment Not Req. Decision Date: 01.12.2014

14/506248/OUT

Outline (Access not reserved) - Mixed use development of up to 580 residential dwellings, circa 400sqm (Use Class A1) retail, landscape, public open space and associated works

Appeal Against Non-Determination, though the appeal was withdrawn in January 2016, before the schedule Inquiry could take place.

15/510254/OUT

Outline application for up to 540 residential dwellings (including up to 50 C3 retirement apartments) and associated community facilities, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Swanstree Avenue and associated ancillary works. (All matters to be reserved with the exception of site access). Revised Scheme to 14/506248/OUT)

Refused - Appeal Withdrawn Decision Date: 30.06.2017

1.0 DESCRIPTION OF SITE

- 1.1. The application site is located to the south of Swanstree Avenue and to the east of Highsted Road. The application site is located just outside of the built-up area boundary of Sittingbourne which extends to the north of the application site. The boundary is located adjacent to Swanstree Avenue and Highsted Road which are to the north and west of the site respectively.
- 1.2. The application site is located in the open countryside. The site is comprised of 5.9ha of agricultural fields. The fields are located at a slightly elevated position to that of Swanstree Avenue and largely bound by hedgerows, vegetation and trees.
- 1.3. The fields is sub-divided to provide both orchards, cropped and fallow areas. The land rises to the south and a public right of way allows access to the wider countryside. To the north and the other side of Swanstree Avenue the area is predominately residential with the settlement of Sittingbourne stretching to the north.

2. PROPOSAL

- 2.1. Outline planning consent is sought for the erection of up to 135 dwellings along with public open space, landscaping and associated drainage and detailed permission is sought for the access from Swanstree Road. Matters relating to layout, scale, and landscaping are reserved for later consideration.
- 2.2. A Development Framework was submitted with the application which set out the indicative siting of residential development, pockets of open space, community orchards and other infrastructure. The siting of the proposed units would sit centrally within the plot extending up to the northern and southern boundaries. Some areas of relief would be provided in the eastern and western corners.
- 2.3. The indicative layout indicates a small buffer strip to the east of the site and eastern and western corners would contain an orchard and SUDs Pond. The plan indicates that of the 5.9ha site 3.81ha would be utilised for residential development.
- 2.4. The proposed development would provide access directly from Swanstree Avenue. An internal footpath is illustrated to the northern boundary adjacent to Swanstree Avenue. The proposal would seek to retain the public right of way and farm access.

3.0 PLANNING CONSTRAINTS

- Area of High Landscape Value – Kent Level (DM 24)
- Adjacent to Designated Rural Lanes (DM 26)
- Important Countryside Gap (policy DM25)
- Public Right of Way – ZU 31 and ZU 30
- Brick Earth
- 6km SAMMS Buffer
- Area of Archaeological Potential
- Best and Most Versatile farmland

4.0 POLICY AND OTHER CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017

ST1 – Delivering sustainable development in Swale

ST2 – Development targets for jobs and homes 2014 – 2031

ST3 – The Swale Settlement Strategy

ST5 – Sittingbourne Area Strategy

CP3 – Delivering a wide choice of high-quality homes

CP4 – Requiring Good Design

CP5 – Health and Wellbeing

CP7 – Conserving and enhancing the natural environment – providing for green infrastructure

DM6 – Managing transport demand and impacts

DM7 – Vehicle Parking

DM8 – Affordable Housing

DM14 – General development criteria

DM17 – Open space, sports and recreation provisions

DM19 – Sustainable design and construction

DM20 – Renewable and low carbon energy

DM21 – Water, flooding and drainage

DM 24 – Area of High Landscape Value

DM25 – The separation of settlements – Important Countryside Gaps

DM 26 - Rural Lanes

DM28 – Biodiversity and geological conservation

DM31 – Agricultural Land

DM34 – Schedule Monuments and archaeological sites

The National Planning Policy Framework (NPPF)

Paragraph 8 (Sustainable Development)

Paragraph 11 (The presumption in favour of sustainable development)

Paragraph 174 of the National Planning Policy Framework

National Planning Practice Guidance (NPPG)

Supplementary Planning Guidance

Swale Landscape Character and Biodiversity Appraisal 2011

Air Quality and Planning – Technical Guidance Document (November 2019)

Swale Landscape Sensitivity Assessment (2019)

Kent and Minerals and Waste Local Plan 2013-2030

5.0 LOCAL REPRESENTATIONS

5.1 Letters were sent to neighbouring occupiers; a site notice was posted in the vicinity of the site and an advert was placed in a local paper. In response to these fourteen letters of objections were received and can be summarised as follows:

- The roads would be unable to accommodate additional traffic,
- Add further to periods of congestion,
- Highsted Road is an accident waiting to happen,
- Proposal does not consider the local neighbourhood and surrounding area,
- Lack of infrastructure to support additional population include schools and doctors,
- Will add pressure to accident and emergency times,
- Proposal fails to build in areas with existing infrastructure resulting in overpopulation and environmental degradation,
- Loss of local wildlife and forestry,
- Pollution levels will rise,
- Contrary to government policy,
- No intension to build infrastructure,
- Loss of greenfield land,
- Increase the risk of surface water run-off,
- Overpopulation of town with resultant mental and physical health issues,
- Loss of valuable agricultural land,
- Sewage capacity is at a maximum,
- No suggested traffic calming measures,
- 300 additional traffic movements a day will likely result in accidents,
- Noise study undertaken during lockdown and results would not be representative of the noise levels,
- No section 106 agreement,
- Housing would destroy the amenity value of the area,
- Loss of view,
- Site is not allocated as part of the local plan,
- Impact to the area of High landscape value,
- Increase to air pollution,
- Poor walking route connections, unnecessary loss of Best and Most Versatile land.

5.2 Sittingbourne Society:

Object to the above planning application on the following grounds:-

- the sewage treatment for which insufficient capacity exists
- Impact on the local highway network
- Insufficient local services and infrastructure to meet demands
- Loss of Best and Most Versatile Land

5.3 Rodmersham Parish Council:

Rodmersham Parish Council objects strongly to this latest proposal. This is essentially the same application that was proposed and refused, appealed and dropped, several times in 2014-2017, --albeit this is a scaled down version with only a quarter of the houses.

The same objections apply today as they did back then.

- 1) The site is using Grade 1 Agricultural Land – the government has stated that new housing should NOT be built on Greenfield sites. As covid and climate change has proved we need to produce more food and support our own country. We need our green spaces and be planting trees not houses.
- 2) The exists from this development are onto Swanstree Avenue – a road that has speed bumps and parked cars on it. Along Swanstree Avenue cars heading towards Eden Village estate illegally turn right on to Highstee Road towards the town on a daily basis – often damaging the road furniture in doing so!
- 3) The Highsted Road has no footpaths – and pedestrians, mainly school children risk their lives everyday walking along there – increased traffic will soon exacerbate this problem to a very dangerous situation.
- 4) This area – Swanstree Avenue/Highsted Road is already gridlocked at school times. This increase in housing/vehicles will make matters even worst for the residents and the four big schools along this road. It would also affect access to and from the surrounding villages.
- 5) This development contravenes Swale Borough Council's Local Plan and the emerging Local Plan in many ways. This site is located within the Countryside Gaps between the villages means that these villages just become part of the urban sprawl of Sittingbourne. The Local Plans states the importance of maintaining the Countryside gaps and separation of the settlements – and yet this proposed development aims to destroy that. This development should not override these policies.

In conclusion this application would cause harm to the countryside and the coalescence of Rodmersham and Sittingbourne. The development would have a detrimental impact on the rural lane network in particular Highstead Road and through Rodmersham and would negatively impact the viability of surrounding farmed and natural landscapes. Rodmersham can clearly see this site and any development on it. The light and noise pollution that would arise from it, given the topography of the site would be clearly seen and heard by Residents in Rodmersham and the surrounding area.

The destruction of prime arable land, and the countryside, the loss of green open spaces and wildlife, the impact on our already overstretched Health services and schools and lack of infrastructure are strong reasons for these plans to be refused.

Rodmersham Parish Council objects to these plans.

6.0 CONSULTATION RESPONSES

Rural Planning: Response.

I refer to your letter of 25 October 2021 concerning the issue of loss of agricultural land in relation to the planning application for residential and associated development at the above site.

The application would involve an area of some 5.9 ha (14.1 acres) of agricultural land which is understood to be used for mixed fruit and vegetable production as part of Chilton Manor Farm, a well-established business that includes Pick Your Own sales. The application site lies to the east of the Chilton Manor Farm Shop, farmyard, and a farm building, accessed off Highsted Road.

A detailed Agricultural Land Classification study of the site was undertaken in October 2014 by Land Research Associates in connection with an earlier residential planning application (14/506248/OUT) that included a larger area of land to the east and south east. Based on that study, it appears that about 1.6 ha of the current site is Grade 3b (moderate quality), whilst the remaining 4.3 ha is “best and most versatile” (BMV - Grades 1, 2 or 3a) of which the majority (about 2.8 ha) is the highest quality, i.e. Grade 1 (excellent), 0.6 ha is Grade 2 (very good) and 0.9 ha is Grade 3a (good).

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.”

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”.*

The submitted Planning Statement does not appear to address what effect the loss of the land from this holding may have on the remainder of the Chilton Farm unit, but it could well impinge on its viability, and also lead to a knock-on effect of pressure for further development on adjoining land, particularly the parcel of land that would be left between the new development and Highsted Road. Given this, along with the quality of the land, and the fact that it appears to be in a long-established, intensive, high value form of production (as opposed, for example, to extensive cereal cropping), I would regard its loss as significant, in principle, in terms of the NPPF guidance.

The NPPF guidance then considers whether such development is “demonstrated to be necessary”, whilst similarly Local Plan Policy DM31 requires consideration of whether it 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.

Assuming, however, the test of need to be met, the NPPF points to choosing poorer quality land in preference to higher quality land, whilst Local Plan Policy DM31 (more 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.

I understand Exception 1 does not apply, the site not currently being within a Local Plan allocation.

Regarding Exception 2 (as well as the NPPF guidance) 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.

Regarding Exception 2’s additional requirement “3”, as already indicated above I consider there could well be potential implications for the viability of the remaining agricultural holding and a risk of accumulated further loss of high-quality land; this aspect has not been addressed to date, as far as I can see.

In conclusion therefore, under both National and Local Plan policy I consider that the loss of agricultural land, in this case, is a factor which potentially weighs against the scheme in principle. The degree of weight to be given to this, in terms of the overall Planning balance, is of course a matter for the Council.

Swale Footpaths Group: Response.

No objection.

SBC Climate Change Officer:

Objection. Insufficient information provided as to technologies to be used to reduce climate impact.

SBC Environmental Services:

1st Comments

Contaminated land:

Due to size and location of the development, including potential contaminated land at the site or close to the boundary of the site, the following condition applies: (conditions excluded from commentary)

Air quality:

I have reviewed the Air Quality Assessment completed September 2021 by Wardell Armstrong. Section 1.1.2. states the wrong number of AQMAs. Keycol Hill AQMA was declared in October 2020, therefore there are six AQMAs in Swale. Section 3.3.3. shows three modelling scenarios, all of which do not include other committed developments to assess the cumulative impacts to the chosen receptor sites. These scenarios need to

show that other traffic flows from existing and committed developments near to site. Information on this is provided in the Air Quality and Planning Technical Guidance 2019 and the 2021 updated version (recommended).

Noise

I have reviewed the noise assessment completed September 2021 by Wardell Armstrong. Dominant noise sources are identified as road traffic to the western (Highsted Road) and northern (Swanstree Avenue) part of the site. A SoundPLAN is provided to explain the propagation of noise within the site topography.

The assessment explains to enable the northern part of the site to meet BS8233 guidelines for noise levels within the outdoor living space, will require a 2.0m close boarded fence to be installed around the proposed gardens.

The recommendations in the noise assessment also reference the dwellings facing the Swanstree Avenue which are within 40m from the roadside. The report recommends they will require noise mitigation in the form of glazing and acoustic trickle ventilation due to achieve BS8233 internal noise guidelines. The lay out of the site has not been determined therefore should be included the design stage.

It is evident that mitigation is required as well as adequate acoustic design. Due to the high risk of noise, I recommend the applicant also provides a detailed Acoustic Design Statement as part of their general planning application and prior to its approval as noted in the condition below.

2nd Comments:

The Environmental Protection Team have assessed the amended AQ assessment completed by Wardell Armstrong which addresses the points raised in my previous comments (15/12/2021). Committed development flows have now been included in the model, section 3.3.4 lists these and Table C1 illustrates the traffic flow data. The report shows that the committed developments included in the TA have been agreed with KCC highways officers.

The amended data inputs show negligible impacts using the Emission Factor Toolkit v10.1. which is less conservative but still acceptable and within guidance recommendations. The damage cost amount has not changed, as this only considers the traffic flows from this development.

REQUESTED CONDITIONS: Conditions noted in previous comments - Condition AQ 3:

The commencement of the development shall not take place until a scheme for the adequate mitigation measures equating the value of the damage cost have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development hereby approved.

INFORMATIVES

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

Please do not hesitate to contact me for further advice or information in relation to this matter.

3rd comments:

COMMENTS

No additional comments from those made on the 11th July.

INFORMATIVES

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

Please do not hesitate to contact me for further advice or information in relation to this matter.

4th Comments:

MAIN POINTS CONSIDERED:

Air Quality

Comments:

I have reviewed the amended air quality assessment which now has a corrected reduced AADT for the development flows and damage cost amount of £39,696. The applicant has suggested this amount will be spend on an EV car club for the development site. The Environmental Team support this as a potential measure, in addition to other measures in place to encourage active travel and reduce lower euro class car ownership at the site.

It will be appropriate for a S106 agreement to be made with SBC for the proposed mitigation. I have no objection in response to the amended air quality assessment.

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected

Please do not hesitate to contact me for further advice or information in relation to this matter.

Kent County Council Drainage:

Thank you for your consultation on the above referenced planning application.

Kent County Council as Lead Local Flood Authority have the following comments:

The latest information submitted would appear to be in relation to biodiversity net gain which is outside of our remit as a statutory planning consultee on flood risk from surface water and as such we have no comment to make and would refer you to our previous response dated 15th November 2021.

This response has been provided using the best knowledge and information submitted as part of the planning application at the time of responding and is reliant on the accuracy of that information.

Further comment:

Thank you for your consultation on the above referenced planning application.

Kent County Council as Lead Local Flood Authority have the following comments:

Whilst appreciative of the additional information provided we still have concerns with the hydraulic analysis undertaken which we would appreciate further clarification on:

1. Whilst understanding that the analysis has been undertaken via Source Control and a cumulative soakaway design has been run we have concerns regarding the dimension details shown for the deep bore soakaway.

The indicative drainage strategy drawing identifies 17 deep bore soakaways, the calculations give a chamber width of 130m and a bore diameter of 5.1m which would result in an individual chamber width of 7m+ and a bore diameter of 300mm per soakaway. Both of these dimensions would appear to be excessive and we would query if correct.

2. The applicant has 'staged' the rate of infiltration throughout the deep bore soakways to be commensurate with the results found at various depths which we understand however it would appear that the results in the calculations are in reverse. For example the results of infiltration testing give a rate of 0.105m/hr for depths up to 6.8m above invert level yet it would appear from the calculations that this rate is used for depths between 6.8 and 10m.
3. Further to the above we also have concerns with regards to the use of an infiltration rate found at 5m (6.8m above invert) in chalk to be used from 0m depth given that the soil mediums above this bears no resemblance to that at which infiltration testing was undertaken and that therefore the equivalent infiltration rate is highly unlikely. Until the above items have been dealt with to our satisfaction we would ask that a holding objection remains in place.

This response has been provided using the best knowledge and information submitted as part of the planning application at the time of responding and is reliant on the accuracy of that information.

KCC Ecology: Response –

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

Designated Sites

The development includes proposals for new dwellings within the zone of influence of The Swale and Medway Estuary and Marshes Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

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.

We also highlight that the final design should feature more open areas to relieve pressure on the nearby designated sites.

Protected Species

As the site is predominately intensively-farmed orchard, there is unlikely to be any significant protected species interest.

Reptiles

A small population of common lizards were found on-site during the reptile surveys. However, these were only found just outside the site boundary to the west and within the site boundary to the far east.

The report recommends precautionary mitigation measures for the construction phase but states that mitigation measures should “...include the passive displacement of reptiles into the retained habitats”. We concur but highlight that this must be carefully enacted during the various phases of the development to ensure reptiles are actually displaced into (and retained within) retained habitats and not harmed during construction.

Although an appropriate methodology has been proposed for the displacement of reptiles, there are no specifics of locations and context regarding the development phases (as the final design is not committed to at the outline stage).

As such, we advise that a more robust and detailed reptile mitigation strategy is provided at the reserve matter stage to demonstrate that reptiles will be displaced to retained habitat on-site (and not displaced off-site, which would be unacceptable). This will need to be safeguarded during the rest of the construction phases. Suggested wording for associated condition:

With the first reserve matters application, a detailed reptile mitigation strategy will be submitted to, and approved by, the local planning authority. The strategy will include timings in accordance with planned phase of construction and a site plan showing retained areas to be safeguarded during construction. The approved strategy will be adhered to thereafter.

Breeding Birds

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed during the breeding season, mitigation measures need to be implemented during construction. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged. We suggest the following informative is included with any planning consent:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild

bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

Environment Agency:

'We have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee.

Please refer to the attached "When to consult the Environment Agency" document for guidance on when to consult us.

We are working hard to reduce the amount of misconultations we receive, so that we can focus our resources on applications which have the greatest environmental risks and opportunities. If you would like further guidance or a meeting to discuss when to consult the Environment Agency, please contact me on the number below'.

SBC Trees: No response.

Kent County Council Highways:

Response 3/02/2022:

1. Confirmation of the main access street width is requested. A 1.8m footway would be provided on both sides of the main access. The Western footway would lead to uncontrolled crossings of Swanstree Avenue. A behind the hedge footway is proposed on the Eastern side which would connect to the existing public rights of way network and uncontrolled crossing points at their junctions with Swanstree Avenue. Tactile paving is proposed to be added at those crossing points. 94m and 95m visibility splays are proposed at the main junction access following the completion of speed surveys which demonstrated an 85th percentile speed of 38MPH although the average speed was generally compliant with the 30MPH limit of the road. The splays indicated are agreed as appropriate. Existing traffic calming cushions are in existence although the speed survey would indicate that higher speeds are occurring.
2. The speed and traffic survey data could not be found in the application and it is requested that this be submitted for review. Swept path analysis has been completed for a 9.5m pan technicon, 10.4m refuse and 8.68m fire appliance.
3. A Stage 1 Road Safety Audit and Swept Analysis for an 11.4m refuse vehicle is required for the access to be suitably assessed.

Trip Generation and Development Impact

The Transport Assessment has considered the impact on the surrounding network and includes the following junctions;

1. Site Access/Swanstree Avenue
2. Rectory Road/Swanstree Avenue
3. Rectory Road/A2/Murston Avenue
4. Swanstree Avenue/A2/Vincent Road
5. Highsted Road/Swanstree Avenue

6. Brenchley Road/Bell Road/Capel Road
4. It is considered that this area is not sufficiently wide and should as a minimum include the Bell Road/Gore Court Road/Park Avenue roundabout and the Bell Road/Avenue of Remembrance/Stanhope Avenue traffic lights. These junctions have previously indicated capacity concerns and the impact of the development on them must therefore be included in the application assessment.
5. Automated traffic counts were completed on Swanstree Avenue on March 14th to 20th March 2021 with additional turning counts taken on a single day of Tuesday 18th May 2021. The March counts were completed during higher level Covid restrictions and the Highway Authority were not accepting counts at the times of either completed surveys. The traffic analysis and junction assessments are therefore not accepted. As restrictions have been significantly eased, the Highway Authority are however now accepting traffic counts and recommends that these be completed as soon as possible, avoiding the school holiday periods.
6. TRICs assessment has been completed using relatively historic data and as a consequence much higher rates than would be anticipated have been used. This would be considered robust but could present an unrealistic impression of the vehicular impact.
7. The traffic distribution percentages demonstrated on Figure B7 and consequently all other flow diagrams are not accepted. There appears to be a shortage of outgoing westbound flows and the outbound flow using Highsted Road would be unrealistic in our opinion due to the necessary illegal movement or U-turn at the Crocus Drive roundabout.

The analysis in the submitted technical notes 1 and 2 on growth and committed development are accepted, although it should be noted that the Stones Farm application has now commenced.

Site Accessibility

Pedestrian access –

There are in total five points of pedestrian access, the main access road and five further which make use of the existing PROW network. A 1.8m footway is proposed to link the main access road to PROW ZU31 at the east of the proposed application site. The proposed access drawing 1464/18 demonstrates the introduction of three crossings points with dropped kerb and tactile paving.

Two suitable walking routes to the town centre have been identified in the TA using either Peregrine Drive or Brenchley/Bell Road.

8. It is considered that the most direct route to local services and amenities would however be via Highsted Road, an approximate 15–17 minute walk. This route has an incomplete footway and it is recommended that local and national policy would indicate that the likely demand generated for walking from this development would necessitate mitigation that removes the need to walk on the vehicular carriageway. The Highway Authority maybe able to provide some detail on potential design options for this.
9. Whilst the application has provided dropped kerb crossings this should be placed in the context of the development to the West which benefits from staged crossing via central islands and a Southern footway. There are currently no proposed facilities heading Westwards from the development without having to cross Swanstree Avenue and as such a direct connection to Snowdrop Walk with suitable crossing facilities of Highsted Road (South) should be provided.

Two primary schools and four secondary schools are within suitable walking distances from the site.

Cycle Access –

The site directly connects to the shared use facility on Swanstree Avenue and wider network and is well located to amenities and employment that would be within the recommended 5KM cycle distance.

10. An opportunity exists within the proposed development to connect to the Snowdrop Walk cycleway from this development, extending the shared facility to the South of Swanstree Avenue should be provided to improve cycle access and safety from the site.

Public Transport Access –

The site is capable of being served by existing stops at Crocus Avenue and Brenchley Road. Most of the site would be within the expected 400m to the existing infrastructure. Access however is impeded by the current necessity to cross Swanstree Avenue twice in the case of accessing the more frequent Eden Village service. This movement would raise potential safety concerns as people may often be in a hurry to arrive in time for their bus and provides additional justification for the need to provide a direct pedestrian/cycle access between the application site and Eden Village estate South of Swanstree Avenue.

Summary

The Highway Authority requires further and more accurate information to be submitted in order for the application to be fully assessed. Whilst the site is located within suitable reach of local amenities and the services there are significant impediments to suitable safe and convenient pedestrian and cycle access which the application has not addressed.

The Highway Authority are unable to support approval of the application at this time due to the omission of necessary data and improvements to the local walking and cycling network.

Response: 13/06/2022

Thank you for consulting the Highway Authority on the above application for which we have the following observations and comments. This response addresses the outstanding issues identified in our original submission.

Development proposals

1. *Additional details were requested on the width of the main access street.*

This has been confirmed as being compliant with Kent Design Guide standards for a major access road and will be of 5.5m width. A 1.8 footway is demonstrated to the east side and a 2.5m shared footway/cycleway is demonstrated on the West side which would connect with additional facilities being provided on Swanstree Avenue.

2. *A Stage 1 Road Safety Audit and Swept Analysis for an 11.4m refuse vehicle was required for the access to be suitably assessed.*

Both requested documents have been submitted and reviewed and no concerns are raised.

Issues identified through the Road Safety Audit have either been addressed by the updated drawings or can be dealt with through the detailed approval process.

3. *It was considered that this area is not sufficiently wide and should as a minimum include the Bell Road/Gore Court Road/Park Avenue roundabout and the Bell Road/Avenue of Remembrance/Stanhope Avenue traffic lights.*

In the case of the Park Avenue junction the developments distribution demonstrates that only 5 vehicles would flow through during the peak hour. No further assessment can therefore be justified. Full assessment has been carried out on the Bell Road/Avenue of Remembrance junction which demonstrates that the queues on the arms of the junction would extend by approximately 1 vehicle on each arm. The additional impact could therefore not be concluded as being severe in regards the NPPF requirement for objection. In addition the base modelling work for this junction assumed greater queuing than was observed and as such could be viewed as an overly pessimistic analysis.

The additional information identifies that 20 additional movements would be placed through the A2/Rectory Road junction in the peak hours. 19 additional movements would be placed through the A2/Swanstree Avenue junction. Whilst again this could not constitute a severe impact the Highways Authority have been collecting contributions for proposed improvements works to these junctions on a per movement basis. The requested contribution based on the movements for the Rectory Road junction would be £14,339 and for the Swanstree Avenue junction it would be £15,376.

4. *Automated traffic counts were completed on Swanstree Avenue on March 14th to 20th March 2021 with additional turning counts taken on a single day of Tuesday 18th May 2021. The March counts were completed during higher level Covid restrictions and the Highway Authority were not accepting counts at the times of either completed surveys.*

The applicant completed subsequent traffic count surveys on Wednesday 2nd March 2022.

These have been accepted as an appropriate base.

5. *TRICs assessment has been completed using relatively historic data and as a consequence much higher rates than would be anticipated have been used. This would be considered robust but could present an unrealistic impression of the vehicular impact.*

TRICS analysis has been updated using a more appropriate methodology and is agreed.

6. *The traffic distribution percentages demonstrated on Figure B7 are not accepted. There appears to be a shortage of outgoing westbound flows and the outbound flow using Highsted Road would be unrealistic in our opinion due to the necessary illegal movement or U-turn at the Crocus Drive roundabout.*

The updated Transport Assessment has addressed our earlier concerns.

Site Accessibility

Pedestrian access –

7. *It was considered that the most direct route to local services and amenities would be via Highsted Road, an approximate 15–17 minute walk. This route has an incomplete footway and it is recommended that local and national policy would indicate that the likely demand generated for walking from this development would necessitate mitigation that removes the need to walk on the vehicular carriageway.*

The applicant has submitted analysis of the pedestrian and vehicular movements along the Highsted Road. The TRICS analysis for the development demonstrates that the site would generate approximately 21 pedestrian movements in the AM peak and 12 in the PM peak however the likely daily movements would be considerably higher. Surveys of

the existing pedestrian use identified that are 77 movements in the AM peak and 72 in the PM peak with up to 43% being under 16 years of age. The vehicular surveys identified that those users would be mixing with an average of 290 vehicles in the AM peak and 258 vehicles in the PM peak. On the basis of that analysis the applicant has agreed to facilitate the provision of a footway and traffic calming improvement scheme as demonstrated on drawing 1464/20 by way of a financial scheme would be seen as considerable betterment to the current situation and is agreed. The Highway Authority has had the scheme costed by consultants and the required contribution would to establish the necessary footway connection would be £182,434.

8. There were no proposed facilities heading Westwards from the development without having to cross Swanstree Avenue and a direct connection to Snowdrop Walk with suitable crossing facilities of Highsted Road (South) should be provided.

The updated Transport Assessment provides a new shared footway/Cycleway along the South side of the Swanstree Avenue and includes provision to cross the southern arm of Highsted Road to connect to Snowdrop Walk. Access to connect with the wider cycle network and facilitate pedestrian connectivity to the bus routes through Eden Village are now available. The measures proposed on drawing 1464/21 A are supported and would be required to be provided by the applicant through a Section 278 agreement.

Summary

The updated Transport Assessment demonstrates the proposed level of development would not constitute a severe impact on the local highway network. Additional pedestrian and cycling safety schemes have been proposed that would facilitate sustainable access from the development to a variety of local amenities within suitable distances. The Highway Authority can therefore find no reason to object to the proposed application subject to the following conditions and Section 106 contributions.

Developer Contributions:

No objection subject to securing the relevant contributions in the section 106 agreement.

Request Summary

	Per Applicable House	Per Applicable Flat	Project
Primary Education	£6,800.00	£1700.00	Towards a new Primary School in Sittingbourne
Special Education	£1,051.82	£262.97	Towards expansion of capacity through a satellite school of Meadowfield School, Sittingbourne
Secondary Education	£5,176.00	£1294.00	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups
Secondary Land	£2,635.73	£658.93	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or 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 any sheltered accommodation. Please advise if any 1 bed units or sheltered accommodation is proposed?

	Per Dwelling (x135)	Total	Project
Community Learning	£16.42	£2,216.70	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre.
Youth Service	£65.50	£8,842.50	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.
Libraries	£55.45	£7,485.75	Towards additional resources, services, stock, and works to Sittingbourne Library to increase capacity to meet the needs of the development.
Social Care	£146.88	£19,828.80	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 Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£183.67	£24,795.45	Towards additional capacity at the HWRC & WTS in Sittingbourne
Broadband:	Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point		

	<p>destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.</p>
<i>Highways</i>	<i>Kent Highway Services will respond separately</i>

Natural England:

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

However, our advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the [European Site's conservation objectives](#) and in accordance with the Conservation of Habitats & Species Regulations 2017.

This is because Natural England notes that the recent [People Over Wind Ruling](#) by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can however be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Natural England has not assessed this application for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at

<https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>.

Kent Wildlife Trust: No response.

KCC Public Rights of Way:

Thank you for your consultation letter regarding the above planning application. Public Footpaths ZU30 and ZU31 would be directly affected by proposed development. The locations of these paths are indicated on the attached extract of the Network Map. The Network Map is a working copy of the Definitive Map. The existence of the Right of Way is a material consideration.

The Definitive Map and Statement provide conclusive evidence at law of the existence and alignment of Public Rights of Way (PROW). While the Definitive Map is the legal record, it does not preclude the existence of higher rights, or Rights of Way not recorded on it.

KCC PROW and Access Service have **no objection** to the proposed development, however we would expect that following points are resolved prior to any planning consent being given.

KCC PROW and Access Service would require a **PROW Management Scheme with regard to ZU30 and ZU31** giving full details of alignment, width, surface, crossings, site exit points, signage, legal orders, to be approved by us before commencement of any future works, and to be **conditioned** within any future permission.

Comments – on site

The development of this site would impact the local walking resource of the area, changing the outlook and value of Footpaths ZU30, ZU31 and Restricted Byway ZU35. KCC PROW support the “overall strategy” to “encourage the community to walk and cycle and promote healthy living”, however the more developed setting will inevitably result in the PROW losing value as a recreational resource. The PROW routes will though, gain significance as Active Travel routes, providing opportunities for both new and existing communities to access Sittingbourne facilities, schools, shops, public transport, on foot and connect to cycle networks. The additional circular routes and links will offer good amenity value, and the applicant should be aware that the County Council would not wish to see these additional routes dedicated as Rights of Way.

We would request that the route of Public Footpath ZU31 within the site is upgraded to Public Bridleway via a s25 Creation Agreement (with Landowner consent), in order to future proof the network as the area is likely to see further development to the South and East as which will see upgrades to the connecting PROW network. This development should therefore be viewed with regard to the wider area and the cumulative effect on the PROW network from this application and planning applications 21/503914 and 21/503906.

Offsite connectivity

As referenced in the *Transport Assessment*, 5.1.5 – 5.1.5.2, ZU30 and ZU31 connect onward to the wider PROW network. ZU31 runs into Sittingbourne through existing residential areas, connecting to schools, shops and public transport and ZU30 connects in a similar fashion, running Northeast, with both routes crossing Swanstree Avenue.

Restricted Byway ZU35 again provides connections to the East of Sittingbourne and all routes will also potentially link to the proposed development Land to the Southeast of Sittingbourne. As the Transport Assessment states, it is “important for residents of the Site to access amenities to the North”. KCC PROW and Access Service therefore request the following s106 contributions to improving the network in the wider area and North of Swanstree Avenue:

Public Footpath ZU31: from junction with north side of Swanstree Avenue to junction with Peregrine Avenue, 2m wide tarmac/sealed surface for 81m : **£6,480**

Public Footpath ZU30 South of Swanstree Avenue, from junction with Highsted Road to site boundary – clearance and surface scrape 331m : **£9,930**

Public Footpath ZU31 South of Swanstree Avenue, from site boundary to connection with ZU31A – clearance and surface scrape, 575m : £17,250

Restricted Byway ZU35 South of Swanstree Avenue from junction with Swanstree Avenue to connection with ZU31, clearance and surface scrape of 584m, £17,520.

Total of s106 contributions: £51,180

KCC PROW and Access Service would also request that a new Toucan Crossing is provided across Swanstree Avenue to connect to the continuation of ZU31, to reflect the increase in use of the routes north.

KCC PROW and Access Service would also request details **of PROW Management during construction**, as the PROW must be kept open and safe for use (see below re TRO process).

Finally, I should be grateful if you could bring the following to the applicant’s attention:

- No furniture, fence, barrier or other structure 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 Public Right of Way, or obstruction of its use, either during or following any approved development without the express consent of the Highway Authority (KCC PROW and Access Service).
- No hedging or shrubs should be planted within 1.5 metres of the edge of the Public Right of Way.
- Please also make sure that the applicant is made aware that any planning consent given confers no consent or right to close or divert any Public Right of Way at any time without the express permission of the Highway Authority.
- No Traffic Regulation Orders will be granted by KCC for works that will permanently obstruct the route unless a diversion order has been made and confirmed. If the applicant needs to apply for a temporary traffic regulation order whilst works are undertaken, I would need six weeks notice to process this.

This response is made on behalf of Kent County Council Public Rights of Way and Access Service. The views expressed should be considered only as the response of the County Council in respect of public rights of way and countryside access matters relating to the application.

Comments are made in reference to the following planning policy;

- **National Planning Policy Framework - Paragraph 98**

States that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

- KCC ROWIP and Kent Design Guide

Kent County Council Archaeology: No response.

UK Power Networks: No response.**Southern Water: Response.**

Thank you for your letter dated 25/10/2021.

Please see the attached extract from Southern Water records showing the approximate position of our existing water main assets in the immediate vicinity of the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.

Please note:

- The 8 Inches public water distribution main requires a clearance of 6 metres on either side of the water main to protect it from construction works and to allow for future access for maintenance.
- No excavation, mounding or tree planting should be carried out within 6 metres of the external edge of the public water main without consent from Southern Water.
- No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public water main.
- All existing infrastructure should be protected during the course of construction works.

Please refer to: southernwater.co.uk/media/3011/stand-off-distances.pdf.

Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Our investigations indicate that Southern Water can facilitate foul sewerage disposal (at manhole reference TQ91623704) to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

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

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).

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

water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

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

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

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

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

The proposed development would lie within a Source Protection Zone. The applicant will need to consult with the Environment Agency to ensure the protection of the public water supply source is maintained and inform Southern Water of the outcome of this consultation.

Our investigations indicate that Southern Water can facilitate water supply to service the proposed development. Southern Water requires a formal application for a connection to the water supply to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements

For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119). Website: southernwater.co.uk or by email at: SouthernWaterPlanning@southernwater.co.uk

Kent Police:

We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).

Applicants/agents should consult us as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured By Design (SBD) as appropriate. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behavior (ASB), Nuisance and Conflict.

There is a carbon cost for crime and new developments give an opportunity to address it. Using CPTED along with attaining an SBD award using SBD guidance, policies and academic research would be evidence of the applicants' efforts to design out the opportunity for crime.

We request a condition for this site to follow SBD Homes 2019 guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998. ...(General advice provided).

Kent County Council Minerals:

Thank you for consulting the County Council's Minerals and Waste Planning Policy Team on the above planning application.

I can confirm that the application site is not within 250 metres of a safeguarded minerals or waste management facility. Therefore, it does not have to be considered against the safeguarding exemption provisions of Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 3013-30.

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 the Brickearth. 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.

The applicant has prepared a Mineral Assessment (MA), by Wardell Armstrong in support of the application. The MA identifies the area where the proposed development is coincident with the safeguarded development, this being 2.1 ha in area. It does not then investigate if the mineral is a viable deposit with any reported investigation of the depth of the deposit.

This information would reveal the overall quantity of the potentially useable mineral deposit in terms of a tonnage. Nor does the MA demonstrate if the mineralogical characteristics of the deposit are suitable, or not, for brick manufacture. It concludes that criterion 1 and 2 of

Policy DM 7:

Safeguarded Land-won Minerals applies given that the presence of nearby residential development necessitates a no extractable margin of 100m. However, the justification for 100m of depth as a 'stand-off' that reduces the available mineral deposit area to 1 ha is not given.

It is the County Council's view that the MA fails to demonstrate if the threatened with sterilisation deposit is of a type and quantity that can be a viable prior extraction yield from the site or not and fails to adequately justify why a 100m 'stand-off' would be required. The mineral type is a superficial deposit typically 1-2m in depth and prior extraction may not be any more impactful on adjacent residential amenity than the development proposed, unlike a hard rock quarry operation that *might* justify a 'stand-off' distance of 100m given the nature of hard rock quarrying techniques (blasting and

crushing and forming a graded aggregate in stockpiles) this type of mineral operation does not apply to brickearth extraction.

Therefore, the submitted information on mineral safeguarding assessment, to ensure that there would not be needles sterilisation of a safeguarded mineral deposits, the submitted MA fails to provide sufficient information to fully assess whether the proposed development can invoke any exemption criterion of Policy DM 7: Safeguarding of Land-won Minerals, of the Kent Minerals and Waste Local Plan 2013-30 (as Partially Reviewed).

I hope the above is helpful in drawing up your comments, if you would wish to discuss them further, please do not hesitate to contact me again.

3rd Comments:

Thank you for consulting the County Council's Minerals and Waste Planning Policy Team on the above planning application.

The County Council has no minerals or waste management capacity safeguarding objections or comments to make regarding the submitted revised details for this proposal.

SBC Lower Medway Board: No response.

Asset Engineer: No response.

NHS Swale:

	Total Chargeable units	Indicative Total (See Appendix 1)	Project
General Practice	135	£116,640	Towards refurbishment, reconfiguration and/or extension of The Chestnuts Surgery and/or
			Teynham Surgery and/or Memorial Medical Centre and/or Green Porch Medical Partnership and/or towards new general practice premises development in the area

SBC Conservation Officer:

'Heritage-related site constraints/opportunities

- The application site lies approximately 0.25km south of the nearest designated heritage asset, which is grade II listed Chilton Manor, dating from C18 (see: <https://historicengland.org.uk/listing/the-list/list-entry/1031372?section=official-list-entry>).
- The historic mapping sequence provided in the submitted archaeological desk-based assessment indicates that Chilton Manor was the farmhouse to a sizeable farmstead with a traditional collection of agricultural buildings clustered around it. None of the barns and other agricultural buildings survive at the site of the original farmhouse, and it appears that the farming operation (including a replacement farmhouse) moved to the location forming part of the proposed development area at some point from the late 1980s.

- The historic mapping sequence clearly shows that the PDA formed part of the farmland managed/operated from the former farmhouse (i.e. the grade II listed Chilton Manor, and this is a material planning consideration.
- Without further research being undertaken, it is unclear at this point as to the full extent of farmland associated with the former (listed) farmhouse, but it appears to have included land to the southwest of Highsted Road which now forms the playing field area to Fulston Manor School, and which was also the site of a Roman Cemetery. The other areas forming part of the farmstead clockwise from northwest around to the southeast have mostly if not completely been developed for housing.
- Fulston Manor itself (after which the aforementioned school is named) was the centre of another farmstead to the southwest of Chilton Manor. This is now completely surrounded by modern estate housing and is located off the development known as The Meadows, constructed in recent years. The development includes the retention and conversion of one of the barns associated with the former farmstead at Fulston, into a single dwelling.
- Whilst there was a historic functional relationship between grade II listed Chilton Manor and the PDA, there is no longer any visual connection between the two due to a combination of intervening modern housing development and tree cover.
- The long-established Rodmersham Green Conservation Area lies almost due south of the PDA, whilst the newly designated Rodmersham Church Street Conservation Area lies almost due east of it. Both lie just over 1km away at their nearest point to the PDA and due to a combination of distance, intervening tree and hedge screening and topography, there does not appear to be any intervisibility between each conservation area and the PDA. Even from the public footpaths leading north from the former and northwest from the latter (outside the boundary of each CA) it seems to be the case that there is no intervisibility, and this is backed up by the information contained in the submitted LVIA report.

National & local planning policy framework particularly relevant to the heritage conservation considerations for this proposal

- National Planning Policy Framework (July 2021):
 - Chapter 2 (Achieving sustainable development)
 - Chapter 4 (Decision making)
 - Chapter 12 (Achieving well designed places)
 - Chapter 16 (Conserving and enhancing the historic environment)
- Planning Practice Guidance on each of the above topics
- Historic England's Good Practice in Planning Advice Note Series:
 - Note 2: Managing Significance in Decision-Taking in the Historic Environment (Mar. 2015)
 - Note 3: The Setting of Heritage Assets (2nd. Ed, Dec. 2017)
- Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the adopted Local Plan):
 - Policy CP4: Requiring good design
 - Policy CP8: Conserving and enhancing the historic environment
 - Policy DM14: General development criteria

- Policy DM19: Sustainable design and construction
- Policy DM24: Areas of high landscape value (Kent Level)
- Policy DM25: Important local countryside gap
- Policy DM26: Rural lanes
- Policy DM32: Development involving listed buildings
- Local Planning Guidance:
 - Listed buildings: a guide for owners and occupiers (Feb. 2011: see - <https://www.swale.gov.uk/assets/Planning-Forms-and-Leaflets/listed-buildings-feb-2011.pdf>)
 - Planting on new developments: a guide for developers (Feb. 2011: see - <https://www.swale.gov.uk/assets/Planning-Forms-and-Leaflets/Planting-On-New-Developments-feb-2011.pdf>)
 - Swale Borough Council Parking Standards (May 2020: see - <https://services.swale.gov.uk/assets/Planning-Forms-and-Leaflets/Supplementary-Planning-Documents/SBC-Parking-Standards-May-2020.pdf>)
 - Developer Contributions (Nov. 2009: see - <https://services.swale.gov.uk/assets/Planning-General/Planning-Policy/Topic-Paper/Final-document-Nov-30-with-cover.pdf>)
- Local Planning Guidance – Area Specific:
 - (none)

Relevant site and planning history

- 15/510254/OUT: Outline application for up to 540 residential dwellings (including up to 50 C3 retirement apartments) and associated community facilities, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Swanstree Avenue and associated ancillary works. (All matters to be reserved with the exception of site access). Revised Scheme to 14/506248/OUT) (refused – appeal withdrawn)
- 14/506248/OUT: Outline (Access not reserved) - Mixed use development of up to 580 residential dwellings, circa 400sqm (Use Class A1) retail, landscape, public open space and associated works (appeal against non-determination – appeal withdrawn)

Scheme assessment

- From a conservation & design perspective, it would have been appropriate if a heritage statement had been provided which examined the issue of any impact on built heritage – in addition to the archaeological report submitted. This could of course still be requested, but ultimately, it almost certainly seems likely to be the case that any possible harm found (through developing on land historically associated with grade II listed Chilton Manor – but now functionally separated and with the visual connection also now effectively cut) would have concluded that this would be at the very low end of a less than substantial harm scenario in NPPF terms.
- As such, whilst there may be other reasons to refuse this application, I would advise that we could not sustain a heritage related reason for refusal were you looking on balance to recommend refusal.

SBC Planning Policy:

'Thanks for the opportunity to comment on the proposals for 135 dwellings on Land Off Swanstree Ave in Sittingbourne.

This is a site that has been promoted for development through the Local Plan Review and was previously discussed as a potential allocation for Bearing Fruits. It's quite a tricky one because it is in a relatively sustainable location and not too far from the town centre. Added to that, it is not subject to any high level constraints such as flooding or AONB. However, Swanstree Avenue forms a strong physical boundary to Sittingbourne urban area in this location and I consider the 'bite' into the countryside here would have significant detrimental impacts on the landscape and the character of the wider area.

When it comes to allocating sites for housing in the local plan review, there are no easy choices. 60% of the borough is subject to high level constraints and the remaining 40% is constrained by other issues such as highways capacity. I consider this means that when looking at potential housing sites, all of the issues need to be finely balanced and considered within the context of maximising opportunities for contributing to our infrastructure and broad placemaking aims. I am not convinced that the proposals before me deliver but instead take a bite into the locally designated Area of High Landscape Value (Policy DM24).

I believe the site has already been subject to a refusal of planning permission (and subsequent dismissed appeal), principally on the grounds of significant visual and landscape harm. Other than the increase in the housing numbers Swale is expected to deliver in the local plan review, I do not consider there to be any changes in circumstances that would make the impacts of the site less significant or harmful.

Although the Council cannot demonstrate a 5 year housing land supply, it is relatively close at 4.8 years. Many of the reasons for this are beyond our control, for example delays to the M2J7 improvements that constrain delivery of strategic sites at north west Sittingbourne. This is before taking into consideration the impacts of the covid pandemic.

If this site is to be developed for housing, it should only be done so through the local plan process so as to ensure an appropriate policy framework is in place to mitigate the impacts of development on the landscape and the settlement separation (provided this can be achieved)'.

SBC Housing:

- The Affordable Housing Statement that forms part of the planning application notes the provision of **30% affordable housing as 41 homes**. This is much welcomed and noted as significantly above the required local plan adopted DM8 affordable housing policy of 10% for the Sittingbourne area.
- As this is an outline planning application a full accommodation schedule has not yet been provided. However, as supported by **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 so that a balanced combination of affordable housing is delivered that meets the wide variety of housing.
- The tenure split has also not yet been referenced in the application documents. Therefore, although the total affordable delivery is above Policy DM8 at 30%, it is recommended that in the first instance the tenure split align with adopted local policy

as **90% affordable/social rent tenure (37 homes) with 10% Intermediate/Shared Ownership Housing (4 homes)**.

- In accordance with First Homes Planning Practice Guidance, the transitional provision for First Homes needs to be considered, which notes that the 25% requirement for First Homes will not apply to sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021 (or 28 March 2022 if there has been significant pre-application engagement), although local authorities should allow developers to introduce First Homes to the tenure mix if they wish to do so. This transitional allowance will also apply to permissions and applications for entry-level exception sites. I would therefore suggest that there is **no developer contribution obligations at the current time to provide any of the 41 affordable homes as First Homes**.
- 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 **2 affordable/social rent tenure homes are provided to Part M4(3) building regulation standard** (wheelchair user dwelling). The **remaining 39 affordable homes should be provided as Part M4(2) standard** (accessible and adaptable dwellings).
- The affordable homes should be well integrated within the development, not be visually distinguishable from the market housing and ideally be located in clusters of no more than 15 units.
- Due to the scheme size and the increased number of affordable homes on this site, securing an RP should not be a problem. I am happy to assist with this process and understand that as the planning process develops and RP interest increases it may become necessary to be flexible with the affordable housing mix. However, any changes must be made in agreement with the Council and the Affordable Housing Manager.
- 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 Sittingbourne area, including supported older persons housing and adapted homes.

Urban Design Officer:. Abbreviated comments:

- Location requires strategic high-level consideration as it is a designated as an Area of High Landscape Value and is part of the protected chalk dry valley,
- Area is part of a designated Important Local Countryside Gap.
- Aside from pockets, development is not located on the south side of Swanstree Avenue.
- Debate is whether the environmental designation and countryside gap outweighs need for housing,
- Further identity studies required,
- Street hierarchy requires improvement,
- Open space should be more clearly defined.

SBC Parks and Open Spaces: No response.

7.0 BACKGROUND PAPERS AND PLANS

- Wardell Armstrong Brick Earth Letter (SDB/ST18667/03)
- Gladman Development Rural Planning Response Letter
- Technical Note – Preliminary Biodiversity Net Gain Assessment Rev B
- Indicative Drainage Strategy SHF.1132.260.HY.D.101.P04
- Flood Risk Assessment SHF.1132.260.HY.L.001.A
- Arboricultural Assessment May 2022 (Amended)
- Transport Assessment Land off Swanstree Avenue, Sittingbourne May 2022 (Amended)
- Development Framework 06302-FPCR-ZZ-ZZ-DR-L-0002 Rev 07
- Air Quality Assessment July 2022 (Amended)
- Evaluation of Brick Earth Deposit
- Design and Access Statement Part 1
- Design and Access Statement Part 2
- Access Plan 1464/18
- Site Location Plan 06302-FPCR-ZZ-ZZ-DR-L-0003 P02
- Affordable Housing Statement October 2021
- Archaeological Desk Based Assessment JAC27100
(Badger Report) – Sensitive
- Bat Survey Report FPCR
- Bird Report FPCR
- Ecological Appraisal FPCR
- Flood Risk Assessment SHF.1132.260.HY.R.001.A
- Landscape and Visual Appraisal
- Mineral Resource Assessment
- Noise Assessment Report
- Planning Statement October 2021
- Reptile Survey Report
- Socio-Economic Sustainability Report
- Statement of Community Involvement
- Travel Plan
- Sustainability and Energy Statement

8.0 APPRAISAL

Principle

- 8.1 Policy ST 3 of the Swale Local Plan outlines the settlement strategy for the Borough. The strategy sets out that the urban centre of Sittingbourne will provide the primary urban focus for growth. Criteria 5 of policy ST 3 indicates that for locations outside of the built-up area boundaries, development will not be permitted unless supported by national planning policy. The development would also need to demonstrate that it would contribute to protecting and where appropriate, enhancing the countryside.
- 8.2 The application site is located outside of the built-up Area boundary of Sittingbourne. As the site is located outside of the built-up area boundary it is located in the countryside and is subject to criteria 5 of policy ST 3.
- 8.3 It is recognised that the application site has close relationship with Sittingbourne as its nearest urban settlement. The close relationship and siting of the application site in the

context of the confines of the built-up area boundary would mean any development in this location would represent an expansion of Sittingbourne.

8.4 Policy ST 5 of the Local Plan identifies Sittingbourne as the primary location for development within the Borough. The proposal would sit outside of the confines of Sittingbourne as defined by the Local Plan.

8.5 The National Planning Policy Framework defines previously developed land as:

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings...'

8.6 The application site is not subject to permanent built form and is used for agricultural purposes. The site is not therefore considered to represent previously developed land in association with Chilton Manor Farm.

8.7 The Council's Agricultural Consultant considered the proposal and referenced a previous Agricultural Land Classified study of the site, which was undertaken with a previous application 14/506248/OUT. The 2014 scheme was for a larger residential scheme and included a larger degree of land but did include land outline for this proposal. The agricultural land has been considered previously and 4.3ha is considered to represent Best and Most Versatile Land.

8.8 The Development Framework does illustrate a small community orchard on the site this would be unlikely to be managed as a commercial operation. However, clearly the proposal would result in the loss use of the land for agricultural production. The proposal would not see the loss of the farm shop and business.

8.9 Policy DM 31 of the Swale Local Plan indicates that 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. The policy also 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 the three criteria have been met.

8.10 An assessment of the three criteria will therefore be undertaken below:

Criteria 1: The site is allocated for development by the Local Plan; or

8.11 The application site is not allocated within the Local Plan. The proposal would fail to conform to criteria 1 of policy DM 31. This matter is not disputed by the applicant. It therefore falls to the further two criteria to consider the release of the land for development purposes.

Criteria 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

- 8.12 As part of the proposal Rural Planning were initially consulted and identified conflict with exemption 2 indicating insufficient information had been provided by the applicant in regard to other available land. A response was submitted by Gladman.
- 8.13 The Local Planning Authority cannot currently demonstrate a 5-year housing land supply. Certainly, there is a requirement for Best and Most Versatile Land, and it is often found adjacent to settlements. Policy ST 3 does indicate Sittingbourne to be the primary location for development and the site is in close proximity to this settlement. However, the proposal would see the loss of land which is characteristic of the Kentish countryside which is synonymous with agricultural land an exemplar of paragraph 174 of the NPPF. The loss of land which is considered of high visual amenity results in permanent loss to the environment which is not outweighed by temporary housing short falls.
- Criteria 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.*
- 8.14 The Rural Planning consultant has suggested that the proposal could have a knock-on effect to the viability of the agricultural holding. The loss would occur due to the loss of high-quality land which is still in use for agricultural purposes. The applicant did provide a rebuttal to this consideration given the scale of the land to be lost.
- 8.15 Further, a breakdown of the land was provided. The impact of the loss of BMV would need to be balanced with the social benefit of housing to meet the boroughs need. It is noted that Best and Most Versatile Land has other benefits not solely economic. Indeed, the character of such land often contributes to the landscape characteristics.
- 8.16 Further, to the above the site is also located on a parcel of land where minerals are potentially present, in the form of brick earth. The Kent Minerals and Waste Team have assessed the proposal against policy DM7 of the Kent Minerals and Waste policy.
- 8.17 While it is confirmed that brickearth is located on site, investigations have indicated it is of poor quality. While the end user brick manufacture has not commented on whether the brick earth would be marketable, the reports indicate it would not be of sufficient quality. Kent Minerals and Waste have not objected on this basis.
- 8.18 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.
- 8.19 Swale Borough Council latest housing land supply figure has been published in the 'Statement of Housing Land Supply 2020/21' published in June 2022. The position is held that the Council currently has a 4.8 Housing Land Supply (HSL). As result of the latest published figure Swale Borough Council cannot demonstrate a 5 supply, as such the presumption in favour of sustainable development will be applied under paragraph 11 of the National Planning Policy Framework.
- 8.20 Paragraph 11 of the National Planning Policy Framework states that:

“Plans and decisions should apply a presumption in favour of sustainable development....

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless: the application of policies in this Framework that protect areas of particular importance provides a clear reason for refusing the development proposed⁷; or

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.”

8.21 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). It must be considered whether the site represent sustainable development.

8.22 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)’.

8.23 An assessment of the three branches of sustainability is made below:

an economic objective – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

8.24 The proposed development seeks permission for residential development only. The development itself would not result in the creation of a specific employment area. The proposed economic benefits as the result of the construction period would be of a temporary nature and the development itself would not result in a direct source of income or job provision in the long term.

8.25 Paragraph 81 of the National Planning Policy Framework does attribute weight to the growing the economy. The paragraph states:

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving

innovation⁴², and in areas with high levels of productivity, which should be able to capitalise on their performance and potential”.

8.26 The applicant submitted a ‘Socio-economic Recovery Following Covid-19: The vital role of the housing sector within Swale Borough’. The statement provided details of the economic benefits of the proposal to the local economy.

8.27 The statement outlines the socio-economic benefits that would be generated through the construction process. The overall construction spend was estimated to be £17.26 million. The proposal would also be estimated to generate 147 direct jobs and 160 indirect jobs in the local area. The provision of jobs and the associated spend power over the estimated 3.86 built out period is put forward as an economic benefit. While economic benefits could be seen in the short term from the construction spend, the benefits in the longer term have to be balanced against the impact to services required to support residential development which in effect can be mitigated but neutralise the economic benefits of the scheme.

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*

8.28 The provision of housing is seen as a significant social benefit. The proposal would provide both social and market housing for which, due to the Council’s lack of 5-year housing supply, are an identified need. The provision of housing does add to the vibrancy of local areas.

8.29 The site is located in such a position as it would be located in close proximity to amenities needed for every day life. The proximity to Sittingbourne its services and its place on the development hierarchy does represent a tangible benefit of the proposal.

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.*

8.30 The impact to the environment will be assessed in respect to the landscape below:

Landscape

8.31 Policy DM 25 of the Local Plan seeks to ensure the separation of settlements and the retention of important countryside Gaps. The Important Local Countryside Gaps (ILCGs) have been identified by policy DM25 and includes the land subject of this application.

8.32 The policy advises that the within the identified gaps, unless allocated by the local plan, planning permission will not be granted for development that would undermine one or more of their purposes. The application site, as per the proposal map (16), is within land highlighted as an Important Countryside Gap.

8.33 The purposes of the ILCGs are clearly set out in policy DM25 and seek to:

- Maintain the separate identities and character of settlements by preventing their merging;
 - Safeguarding the open and undeveloped character of the areas;
 - Preventing encroachment and piecemeal erosion by built development or changes to the rural open character; and
 - Influence decisions on the longer-term development of settlements through the preparation and review of Local Plans.
- 8.34 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.
- 8.35 The landscape for which the site is located is identified by the Swale Landscape Character and Biodiversity Appraisal 2011, as the Tunstall Farmlands. The landscape is considered highly sensitive and is defined as in moderate condition. The area is noted for having a diverse range of landscape types and is identified as having several key characteristics:
- Gently rising North Downs dip slope overlain with drift deposits of Thanet and Bagshot beds and clay with flint,
 - Dry valley to the east with strong sense of remoteness given the proximity to the urban edge,
 - Areas of traditional orchard lost to agricultural intensification,
 - Historical villages and hamlets.
- 8.36 The application site is an Area of High Landscape Value, which is clear when travelling around the site. Furthermore, the extensive network of Public Rights of Way surrounding the site provide wide and overarching views of this valued landscape. From both within and outside of the site, the key elements of this landscape can be clearly observed and are characteristic of the Kentish landscape.
- 8.37 The application site provides wide views of the dry chalk valley to the south east. The topography and natural character are considered highly sensitive in this location. The Public Rights of Way which extend into this area provide areas of peaceful tranquil countryside. The landscape stands in clear contrast to that of the urban edge of Sittingbourne which can be seen to the north and partly to the west of the site. The site is formed of a collection of irregular fields, orchards and farmland which depict the enclosed agricultural character of Kent landscapes. These can be viewed widely from the wider and open valley which sits to the southeast of the site.
- 8.38 The area represents an area of widely utilised tranquillity which offsets the urban character of Sittingbourne. The landscape here acts not just as a highly valued setting, but as a separation and transition, as clearly indicated by the designated countryside gap, from rural to urban. The open green space in this location provides relief to the density of the urban environment and acts as areas of recreation for the local population.
- 8.39 The proposed development would erode this character with the loss of orchards and irregular field patterns disrupted by the presence of housing. While some development does exist to the east of the site, a designated rural lane separates the landscape and this development. It is clear to those both walking the rights of way and utilising Swanstree Avenue that the area represents open landscape in contrast to the urban

setting to the north. The open space continues to the south and Swanstree Avenue does act as a natural barrier between development and the countryside.

- 8.40 The application site acts as a corridor to the valued landscape which extends in a southerly direction. The presence of development in this location could not be adequately mitigated through screening as the topography makes the site widely visible. In addition to this, the presence of housing would lead to the permanent harm to this highly valued landscape with the insertion of all associated infrastructure including light, and noise generated by roads and other associated requirements of residential development.
- 8.41 The short-term gain of housing when weighed against the longer-term harm and erosion to the highly valued landscape and the countryside gap, is considered to significantly and demonstrably outweigh the benefits of a short-term solution to a wider housing issue. The proposal would fail to meet the terms of the purpose of the countryside gap, which ensures the curtailment of the urban fringe into the countryside and to preserve and enhance the landscape.
- 8.42 The proposal would be considered to have limited environmental benefits, as despite any ecological gains, the loss of the landscape in of itself would be considered harmful. The proposal is considered contrary to both local and national policy with regard to the landscape impact.

Character and appearance

- 8.43 Policy CP 4 of the Local Plan seeks to ensure that development proposals will be of a high-quality design that is appropriate to its surroundings. Policy DM 14 of the Local Plan requires development to reflect the positive characteristics and features of the site and locality. The development should be well sited and of a scale, design, appearance, and details that is sympathetic and appropriate to the location.
- 8.44 Although design, scale, layout and landscaping are reserved matters, the submitted plans demonstrate that 135 dwellings can be comfortably accommodated within the site, providing sufficient garden space and off-road parking.
- 8.45 The proposal would see landscape corridors retained alongside the Public Rights of Way. Further, tree lined streets, pockets of open space and landscape buffers between Swanstree Avenue and the site. The proposal would require some redefining in strengthening street hierarchy and further work on identify. However, these matters could be captured in the imposition of a Design Code condition.

Living Conditions

- 8.46 Policy DM14 of the Local Plan provides general development criteria and requires that development results in no significant harm to amenity.
- 8.47 The proposal is in outline form with all matters reserved except for access. As part of the application some indicative layouts were provided. The developments separation from other residential development would appear sufficient to prevent any material impact upon the living conditions of nearby dwellings. However, the proposed dwellings along the northern boundary would sit in part at an elevated position to those existing units to the north of Swanstree Avenue. As such, if approved, conditions regarding the overall height of the development would need to be imposed.

8.48 Taking this into account the proposal is considered to accord with policy DM14 of the Local Plan 2017 and the NPPF.

Highways and Parking

8.49 Policy DM6 of the Local Plan seeks to manage transport demand and impact while policy DM7 of the Local Plan provides guidance on parking standards. Paragraph 111 of the National Planning Policy Framework states that:

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

8.50 The proposed development is outline with all matter reserved except for access. The proposed access for the 135 units would be provided along Swanstree Avenue and would consist of a singular vehicular access point in the form of a main arterial route approx. 5.5m in width with pedestrian access adjacent. A further four pedestrian access points would be provided allowing access to the Public Rights of Way network.

8.51 The main access road would be 5.5m in width which would accord with Kent Design Guide standards for major access roads. Further to this a 1.8m footway is demonstrated to the east of the site and a 2.5m shared footway/cycleway is shown on the west side to connect to additional facilities to be provided along Swanstree Avenue.

8.52 Safety audits and the refuse tracking were found acceptable subject to review. The proposal would provide 94m and 95m visibility splays at the main junction access following the completion of speed surveys. The splays indicated were found acceptable by KCC Highways.

8.53 The Transport Assessment considered the overall impact of the development on the local highway network. The assessment included a number of junctions including:

- Site Access/Swanstree Avenue
- Rectory Road/Swanstree Avenue
- Rectory Road/A2/Murston Avenue
- Swanstree Avenue/A2/Vincent Road
- Highsted Road/Swanstree Avenue
- Brenchley Road/Bell Road/Capel Road

8.54 Following comments from KCC Highway the assessment was extended. The additional assessment included the Park Avenue junction which demonstrated that only 5 vehicles would flow through as a result of the development distribution. Further, on the Bell Road/Avenue of Remembrance junction demonstrated queues on the arm of the junction would be extended by 1 vehicle on each arm.

8.55 The assessment identified that an additional 20 vehicle movements would be placed through the A2/Rectory Road junction during peak hours. The vehicle trips would not be considered to result in a severe impact to the highway network. However, given the increased movement to the Rectory Road junction and Swanstree Avenue junction would be required to make contributions towards improvement works.

- 8.56 Adjustments were made to the TRICS analysis in accordance with the comments made by KCC Highways who were satisfied with the adjustments and the updated Transport Survey was considered to address the concerns. A severe impact to the highway network as a result of vehicle movements associated with the proposed development would not be considered to occur. Conditions and contribution could be imposed and collected to mitigate impacts.
- 8.57 The proposal would also generate pedestrian movements. The analysis submitted by the applicant, regarding pedestrian movements along Highsted Road indicated the site would generate 21 pedestrian movements in the (am) and 12 in the (pm) peak hours. The existing pedestrian use identified 77 movements in the (am) and 72 in the (pm) with 43% under 16 years old.
- 8.58 The surveys indicated that these pedestrians would be mixing with the average of 290 vehicles in the (am) and 258 vehicles in the (pm). On this basis the applicant would be providing a contribution towards a footway and traffic calming improvement scheme. KCC Highways consider given the constraint of the available highway land the scheme would be seen as a considerable betterment to the current situation. The contribution would amount to £182, 434.00 secured by means of section 106.
- 8.59 In addition to the above a new shared footway/cycleway along the southern side of Swanstree Avenue and a provision to cross the road to the southern arm of Highsted Road to connect to Snowdrop Walk. These measures are supported by KCC Highways and would be subject to Section 278 agreement.
- 8.60 The proposal would not be considered to result in a severe impact to the highway network and would provide the means of betterment to the current accessibility of Highsted Road. The proposal would also provide additional pedestrian and cycling safety schemes providing sustainable access to amenities. Appropriate conditions would need to be secured as the result of any grant of consent and contributions secured via Section 106 to ensure accordance with the Local Plan 2017 and the NPPF.

Ecology

- 8.61 Policy DM28 of the Local Plan seeks to conserve and enhance and extend biodiversity and, where possible, provide net gains for biodiversity and minimise adverse impacts via compensation where mitigation is not possible.
- 8.62 Paragraph 180 of the National Planning Policy Framework states that in determining planning application, local planning authorities should refuse applications where significant harm, which cannot be mitigated for, or as a last resort, compensate, would occur to biodiversity.
- 8.63 The application site is formed of farmed agricultural fields. Such land is likely to have limited habitat value and are unlikely to contain a strong degree of protected species found within the site in accord with the assessment of KCC Ecology. Reptile surveys were undertaken on the site and a small population of common Lizards were found on site. As a result, a precautionary mitigation approach was recommended by the Ecology report. The recommended approach is also considered acceptable by KCC Ecology Officers.

- 8.64 It was noted that as the application is in outline stage a robust and detailed reptile mitigation strategy would be provided at the Reserved Matters Stage. Such a condition would be secured upon any grant of permission to ensure effective mitigation regarding reptiles.
- 8.65 The application site is surrounded by hedgerow and contains suitable habitats for breeding birds. As a result, any works that may affect vegetation which offers suitable habitat for breeding birds would need to be undertaken outside of the breeding bird season. An informative would be attached to any grant of consent.
- 8.66 Residential development often generates a larger degree of light spill which has the potential to disrupt foraging and commuting bats. To ensure the proposal limits its impact in regard to bats a condition would be applied to any grant of consent for a lighting scheme in accord with the Bat Conservation Trust Guidance. Note 8.
- 8.67 Paragraph 180(d) of the National Planning Policy Framework states that:
- 'When determining planning applications, local planning authorities should apply the following principles:...*
- development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'.*
- 8.68 Both the NPPF and section 40 of the NERC Act 2006 require that biodiversity is maintained and enhanced through the planning system. The policy seeks to encourage enhancement where possible. The KCC Ecology Officer has noted that while the site has low biodiversity value, the proposal would result in the minor loss of grassland and intensely farmed orchard.
- 8.69 To offset the minor loss of biodiversity the KCC Ecology Officer has suggested that this should be offset through the following provisions:
- Implement a native species-only landscape scheme.
 - Plant native tree/hedgerow wherever possible.
 - Retain/enhance/create grassland habitat (notably wildflower meadow).
 - Integrated bird nest bricks (especially for declining species like Swifts).
 - Integrated bat roost bricks.
 - 'Green' areas in which residential recreation is deterred.
- 8.70 A Landscape and Ecological Management Plan (LEMP) should be provided to demonstrate that green space habitat will be managed in a beneficial manner. The measures illustrated could be secured via condition.
- 8.71 In addition to the enhancement the developer has provided a Biodiversity Net Gain report. The results of the report indicate that with the proposed measure to create a high-quality habitat and an enhancement of retained habitats could deliver results in excess of 10%. The KCC Ecology Officer has confirmed that it would be viable to achieve net gains in excess of 10%.

- 8.72 The proposal would be considered to accord with the requirements of the NPPF and policy DM 28 of the Local Plan.

Special Protection Area

- 8.73 The application site is located within the zone of influence of The Swale and Medway Estuary and Marshes Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention. Residential development within the zone of influence adds to recreational pressures within these designated sites. Swale Borough Council has an agreed approach to within the North Kent Strategic Access Management and Monitoring Strategy to mitigate for additional recreational impacts.

- 8.74 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. An appropriate assessment will be undertaken below:

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

- 8.75 The application site is located within the 6km buffer of (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention.
- 8.76 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.
- 8.77 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 8.78 The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£275.88 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.79 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment.
- 8.80 The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out

of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

- 8.81 The proposal would have an impact upon the SPAs, however the scale of the development (135 residential units) is such that it would not be considered, alongside the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff, that the impacts would be significant or long-term.
- 8.82 Based on the potential of up to 135 residential units being accommodated on the site A SAMMS contribution of up to £37, 243.80 could be secured under the Section 106 agreement. The legal agreement could be worded such that it sets out that the SPA mitigation contribution is to be secured prior to the occupation of any dwelling. Therefore, taking into account the above it is considered that there will be no adverse effect on the integrity of the SPAs.
- 8.83 Finally, it can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>).
- 8.84 The proposal would be considered to reflect the aims of policy DM 28 and would provide on-site improvements for biodiversity as well off-site mitigation through SAMMS contributions.

Flooding and Drainage

- 8.85 Policy DM21 of the Local Plan addresses Water, flooding and drainage. Criterion 4 of policy DM21 sets out that when considering drainage implications of developments proposals should:

'Include, where possible, sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, to enhance biodiversity and amenity and increase the potential for grey water recycling. Drainage strategies (including surface water management schemes) for major developments should be carried out to the satisfaction of the Lead Local Flood Authority'.

- 8.86 Paragraph 165 of the National Planning Policy Framework (NPPF) states that:

'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate'.

- 8.87 The application site is located within Flood Zone 1. The proposal has offered in part a SUDS scheme in accord with policy DM 21. However, the Local Lead Flood Authority has objected. The objection concerns the dimensions of the deep bore soakaway which appear excessive. Further concerns relating to the infiltration rates have been proffered. Further technical information would be required to understand the implications of this matter. These details will be further assessed.
- 8.88 Due to the current information available it is not considered the proposal can currently be considered to accord with the requirements of policy DM 21 of the Local Plan nor the provisions of the NPPF.

Affordable Housing

- 8.89 Policy DM 8 of the Swale Local Plan sets out the affordable requirement as per the area of the development. The policy outlines a requirement for 10% affordable housing for Sittingbourne Town and urban extensions.
- 8.90 The proposed development would seek to provide up to 135 residential dwellings, which triggers the requirement for the provision of affordable housing. The application site is located just outside of the built-up area boundary of Sittingbourne and would be considered an urban extension to Sittingbourne. As such, the policy compliance provision would be 10% of the total units to be provided as affordable units.
- 8.91 The proposed development has offered the provision of 30% affordable units on site. The proposal would contribute 41 residential units for the affordable market. The proposal would therefore exceed the policy requirement by 20%.
- 8.92 As noted by the Housing Officer as the application is in outline an accommodation schedule and tenure split has not been provided. Policy CP 3 of the Local Plan indicates that affordable housing should be provided as a reasonable and proportionate mix of the open market homes. The guidance of policy DM 8 at paragraph 7.3.8 indicates that the tenure split should see the provision of 90% affordable social rented housing and 10% intermediate products.
- 8.93 The Written Ministerial Statement of the 24th of May 2021 and the National Planning Policy (2021) states that a minimum of 25% of all section 106 housing units should be provided as First Homes. As a result, 10 of the proposed affordable units would need to be provided as First Homes. The Housing Officer has noted that the remaining 75% of the affordable units, which would amount to 31 units, should be provided as social rented homes.
- 8.94 The proposal would exceed the required affordable requirement in this area and could secure onsite affordable housing, for which there is an identified need. The affordable housing could be secure via means of section 106.
- 8.95 Taking the above into account the proposal is considered to accord with policy DM 28 of the Local Plan 2017 and the NPPF.

Developer Contributions

- 8.96 Policies CP 6 and IMP1 seeks to deliver infrastructure and facilities. The development would generate a requirement to make contributions towards infrastructure and other facilities as listed in the consultation section above.
- 8.97 The application site is located on the outskirts of Sittingbourne and the addition of 135 residential units would generate additional requirements on existing infrastructure in the local area. As a result, contributions towards infrastructure requirements have been made and would be secured via means of Section 106 agreement. These requests are set out below.
- 8.98 The NHS Clinical Commissioning Group has made a request for contributions towards the refurbishment/reconfiguration/and(or) extension of The Chestnuts Surgery and/or Teynham Surgery and/or Memorial Medical Centre and/or Green Porch Medical

Partnership and/or a new general practice premises in the area. The proposal would generate additional pressures on medical services. The contribution sought would be for £116, 640.00.

- 8.99 As above contributions would also be sought towards highway improvement works. These would include £182, 434.00 towards the Highsted Road pedestrian footway and safety scheme, £14, 339.00 towards highway improvement works to the A2/Rectory Road signalised junction, £15, 376.00 towards the highway improvement works A2/Swanstree Avenue junction.
- 8.100 Further contributions have been requested by Kent County Council Public right of way team to ensure the improvement of the Rights of Way network to cope with the additional traffic. A total contribution of £51,180.
- 8.101 Kent County Developer Contributions have request contributions towards Primary Education, Special Education, Secondary Education, Secondary Land, Community Learning, Youth Services, Libraires, Social Care, and Waste. The contributions would be put towards infrastructure within Sittingbourne as the closet settlement for which additional pressures would occur.
- 8.102 As the application is outline details of the tenure have not been secured and as a result the total contribution cannot be provided exactly. The contributions would be sought in accord with the table supplied by KCC.
- 8.103 If approved contributions including Air Quality Damage Cost Calculations, bin payments, SAMMs payment, open space contributions would also need to be secured.
- 8.104 All such measures would need to be secured via a section 106 agreement to ensure compliance with Local and National Policy.

Air Quality and Contaminated Land

- 8.105 Policy SP 5 of the Local Plan criteria 12 states that development will be consistent with local air quality action plans for Teynham Greenstreet and East Street bring forward proposal for mitigation of adverse impacts. Swale Borough Council Air Quality Action Plan (2018 – 2022) sets out local AQAM Measures.
- 8.106 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”.

- 8.107 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”.

8.108 The Wardell Armstrong report undertook an air quality assessment for the site considering both the construction process and the impact as a result of the development. The Environmental Health Officer has confirmed a Damage Cost Calculation of £39,696.00. The contribution would be utilised for an EV Car Club on site. Such a measure is supported in addition to other measure which would be secured for active travel, cycle spaces etc.

8.109 In terms of contamination, the application has primarily been utilised for agricultural purposes and there is no indication of previous use. The Environmental Health Officer has suggested a series of conditions to ensure any residential development would be safe for occupation.

8.110 The proposed development could be adequately mitigated through the securing of the proposed mitigation measures via a Section 106 agreement and the imposition of conditions.

Public Rights of Way

8.111 Public Rights of Way ZU 30 and ZU 31 are located within the application site towards the eastern boundary. Kent County Council Public Rights of Way team have commented on the proposal and have no objection to the proposal. The Rights of Way team considered some matters would require resolution prior to consent of planning permission.

8.112 The Rights of Way team considered that a Public Rights of Way Management Scheme would be required in connection with ZU30 and ZU31. The management scheme would need to provide details of alignment, width, surface, crossing, site exist points, signage, legal orders, which would need to be approved by Kent prior to the commencement of any future works. Such matters are considered capable of being reasonably dealt with through the imposition of a pre-commencement condition.

8.113 The Rights of Way team commented on the application noting that the proposal would have an intrinsic impact to the outlook of the Public Rights of Way, as discussed above, and as a result a loss in value of these walking routes. The increased presence of development would have a negative impact to the setting of the Rights of Way.

8.114 It is however noted that the proposal would offer a wider strategy to encourage the public to walk and cycle in the local area. As a result of the strategy the Public Rights of Way would gain significance as an Active Travel route. The additional links would also be considered to provide good amenity value.

8.115 The Rights of Way Officer did note that they would wish to see ZU31 upgraded to a Public Bridleway via a Section 25 Creation Agreement. The proposal would see greater use of the Public Rights of Way and Restricted Byway in order to gain access to the wider Sittingbourne area and amenity provisions along Swanstree Avenue. As a result,

the proposal would seek section 106 contributions to improve the network in the local area.

8.116 The contributions would include the following:

8.117 Public Footpath ZU31: from junction with north side of Swanstree Avenue to junction with Peregrine Avenue, 2m wide tarmac/sealed surface for 81m - £6,480

8.118 Public Footpath ZU30 South of Swanstree Avenue, from junction with Highsted Road to site boundary – clearance and surface scrape 331m - £9,930

8.119 Public Footpath ZU31 South of Swanstree Avenue, from site boundary to connection with ZU31A – clearance and surface scrape, 575m - £17,250

8.120 Restricted Byway ZU35 South of Swanstree Avenue from junction with Swanstree Avenue to connection with ZU31, clearance and surface scrape of 584m, £17,520.

8.121 Total of S106 contributions is £51,180, which would be spend on the projects outlined above.

8.122 Conditions and contributions would be sought upon any grant of permission.

8.123 Subject to the imposition of conditions and the securing of section 106 contributions the impact to the physical (not visual) impacts to the Public Right of Way Infrastructure could be mitigated in accord with Local and National Policy.

Area of Archaeological Potential

8.124 Policy DM 34 of the Local Plan considers archaeological sites with a preference to preserving archaeological sites in-situ.

8.125 The application is located within an Area of Archaeological Potential. KCC Archaeology has not commented on the application. Given the wider coverage of the Area of Archaeological potential conditions would need to be secured prior to any grant of consent to ensure that appropriate investigation prior to any commencement of development.

8.126 Subject to the imposition of appropriate conditions the impact to archaeology could be mitigated in accord with both Local and National Policy.

9.0 CONCLUSION

9.1 The proposed development would be considered to erode the intrinsic rural character of the site. The area is formed of a varied pattern of rural fields which are considered synonymous with the Kentish countryside. The site is widely visible from a public perspective with a wide network of public rights of way which sit in places at an elevated position to the site due to the natural topography. The landscape is highly valued and is designated at the Kent level (as an Area of High Landscape Value) due to its characteristics, which have a positive influence on the setting of Sittingbourne.

9.2 The proposed development would erode the countryside gap which protects the rural character and areas of tranquil recreation for users of the public rights of way by

preventing the coalescence of settlements. The impact to the landscape are considered to significantly and demonstrably outweigh the benefits in the form of housing and highway improvements.

- 9.3 It is considered, as a result of the above, that the proposal would have been refused had an appeal against non-determination not been lodged. As such the report and reasons as listed below should form part of the Statement of Case related to the appeal of this application.

10.0 RECOMMENDATION

- 10.1 The following reasons for refusal would have been applied should the Local Authority had the opportunity to determine the application:

1. The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside and rural context by virtue of its location outside the defined urban built-up area boundary of Sittingbourne. The proposal would see the erosion and urbanisation of the Important Countryside Gap and the permanent loss of open countryside, and damage the landscape quality in an area designated as an Area of High Landscape Value (Kent Level). This harm both significantly and demonstrably outweighs any benefits from the proposal. The development is therefore contrary to policies ST1, ST3, ST5, CP7, DM14, DM24 and DM25 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8 and 174 the National Planning Policy Framework (2021), and the Swale Landscape Character and Biodiversity Appraisal SPD.
2. Insufficient information has been provided to ensure that the proposal would provide adequate surface water drainage. The proposal is considered contrary to policy DM 21 of the Swale Local Plan and paragraph 169 of the National Planning Policy Framework. (2021).
3. In the absence of a completed S106 agreement to secure relevant contributions, the development fails to mitigate the impacts of the additional residential units on local services and infrastructure. Further, the absence fails to mitigate ecological impacts on the Swale and Medway Estuary Special Protection Areas and Ramsar sites, contrary to policies CP6, CP7 and DM28 of "Bearing Fruits" - The Swale Borough Local Plan 2017. Such contributions being required towards the following infrastructure - healthcare, community learning, libraries, youth services, social care, waste services, bin provision, off site sports and open space and management of recreational impacts on the Swale SPA and Ramsar sites, NHS, Highways, and Air Quality.



PLANNING COMMITTEE – 12 JANUARY 2023

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – Broadoak Farm, Broadoak Road, Milstead ME9 0RS**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector did not agree with the Council that the proposed detached garage would cause harm to the host property or countryside setting on an already significantly extended property. The Inspector determined that the proposal would result in a more enclosed space giving an impression of a traditional farmyard sympathetic to the rural character of the surroundings and allowed the appeal on that basis.

- **Item 5.2 – Land adjoining The Sherries, Church Road, Eastchurch**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

A good decision which concluded that the adverse impacts arising from urbanisation and encroachment into the countryside significantly and demonstrably outweighed the benefits of adding a single dwelling to the supply of housing.

- **Item 5.3 – 22 Chapel Street Minster**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

A good decision in which the Inspector fully agreed with the Council that the proposal for a dropped kerb and drive/parking area would be harmful to highways safety and cause harm to the character and appearance of the area.

- **Item 5.4 – Westfields Park Dairy Swanton Street Bredgar**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

A good decision where the Inspector agreed with the Council's reasons for refusal in that the site was in an unsustainable location for residential use and the design of the proposal would cause harm to the character and appearance of the area.

- **Item 5.5 – 40 Willement Road Faversham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

A good decision where the Inspector agreed with the Council's reason for refusal that the siting of a dwelling in this location would produce an oddly hemmed-in dwelling losing the pleasant spacious symmetry of the cul-de-sac.

- **Item 5.6 – The Shipyard Upper Brents Ind Est Faversham**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector did not agree with the Council's primary reason for refusal that the proposal would have an unacceptable effect on the supply of industrial/commercial land in the area. However, the Inspector considered that the proposal would provide unacceptable living conditions for its future occupiers and dismissed the appeal on this basis.



Appeal Decision

Site visit made on 8 November 2022

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2022

Appeal Ref: APP/V2255/D/22/3299339

Broadoak Farm, Broadoak Road, Milstead ME9 0RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Matt Brown against the decision of Swale Borough Council.
 - The application Ref 21/506568/FULL, dated 7 December 2021, was refused by notice dated 7 March 2022.
 - The development proposed is a new detached garage for residential use ancillary to the main dwelling house.
-

Decision

1. The appeal is allowed and planning permission is granted for a new detached garage for residential use ancillary to the main dwelling house at Broadoak Farm, Broadoak Road, Milstead ME9 0RS in accordance with the terms of the application, 21/506568/FULL, dated 7 December 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GR/PA/01, BF/PL/02, BF/PL/03, BF/PL/04, BF/PL/05, BF/PL/06, BF/PL/07 and BF/PL/08.
 - 3) The materials and finishes to be used in the construction of the external surfaces of the development hereby permitted shall match those in the main dwelling.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host property and that of the surrounding countryside.

Reasons

3. The appeal property is a detached farmhouse of some age that has undergone some recent significant extensions. It is situated on a large plot outside of the boundaries of any defined built up area as is located in the countryside. It is accessed from Broad Oak Lane via an extensive private

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driveway that was recently allowed on appeal¹ and that terminates in a significant area of hard standing to the front of the house.

4. The proposal is for a detached garage with parking in the basement, accessed via a vehicle lift, and would provide parking for approximately 4 cars. Within the roof space the proposal would provide additional living space ancillary to the main dwelling, which the appellant indicates would be used as a home office.
5. The proposal would occupy an existing area of hardstanding adjacent to gates to a rear yard and an existing extension to the appeal dwelling that appears to be used as a holiday let. Above ground the hipped roofed 'L' shaped proposal would have a footprint of approximately 11.5 x 16 Metres on its longest sides, with 5.2 metres to the ridge of its roof, significantly below that of the main house. The proposal would be designed to reflect the local rural vernacular for farm buildings in the area, matching materials used in the host property.
6. The siting, scale and design of the proposal appears to respond to the reasons for dismissal of a previous appeal² for a proposal for a larger and more utilitarian designed garage and helicopter hanger on agricultural land adjacent to the appeal site. The siting of the more modest proposal would result in it defining the area of hard standing as a more enclosed space, giving something of an impression of a traditional farmyard, sympathetic to the rural character of its surroundings.
7. Given the siting and scale of the proposal in relation to the substantial and extended farmhouse, and its complementary traditional design and materials, I find that the proposal would appear as a subservient addition to the host property and would not appear as unduly prominent or detract from the setting of the house or its rural appearance.
8. The appeal site is within an area defined as an Area of High Landscape Value (AHLV) as defined in the Swale Borough Local Plan (2017) and, due to its elevated position, does have some visibility within the setting of the Kent Downs Area of Outstanding Natural Beauty (AONB). Having regard to Paragraph 176 of the National Planning Policy Framework (the Framework), I have given great weight to the requirement for development within the setting of an AONB to be sensitively located and designed to avoid or minimise adverse impacts on the designated area.
9. Given the proposal's position on the appeal site, its scale and design, partial topographical screening from wider views in the area and the distance of the proposal from the AONB, it would sit as a complementary addition to the existing house and would be neutral in terms of its effect on the setting of the AONB. Likewise, for these reasons, I find that the proposal would be complimentary to the rural character of the proposals surrounding and local area and would not have any adverse effect on the AHLV.
10. Consequently, I do not find that the proposal would result in any significant harm to the character and appearance of the existing house or that of the local area, including to the AHLV or to the setting of the AONB.

¹ Appeal Ref: APP/V2255/W/19/3221986

² Appeal Ref: APP/V2255/W/20/3261059

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Other Matters

11. Concerns have been raised by third parties with regard to the effect of helicopters on the wellbeing of horses and their riders in the local area and that other developments that are not part of the proposal appear to have been carried out. However, the provision of facilities for helicopters and other identified developments on the appeal site do not form part of the proposal to which this appeal relates, and I have, therefore only given this very little weight in my considerations.

Conditions

12. I have had regard to the conditions suggested by both the Council and the appellants should this appeal be allowed. The Council have suggested a condition that would remove permitted development rights under the GPDO³. However, the proposed development would result in a detached garage adjacent to a detached dwelling, similar to a significant number of such properties. In line with paragraph 54 of the Framework, I do not find that there would be clear justification to remove these rights.
13. Along with the standard condition relating to the timing of implementation, I have added conditions to ensure design quality. These require that the proposed development is carried out in accordance with the approved plans and that materials to be used match those of the host dwelling.

Conclusion

14. The appeal is allowed.

Victor Callister

INSPECTOR

³ The Town and Country Planning (General Permitted Development etc.) (England) Order 2015 (as amended)

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Appeal Decision

Site visit made on 1 November 2022

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2ND December 2022.

Appeal Ref: APP/V2255/W/22/3298880

Land adjoining The Sherries, Church Road, Eastchurch ME12 4DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Brian Holmes against the decision of Swale Borough Council.
 - The application Ref 21/504825/FULL, dated 8 September 2021, was refused by notice dated 16 November 2021.
 - The development is proposed residential development for a detached 3 bedroom bungalow with living accommodation within the roof structure and a detached garage with associated parking and access driveway.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal would provide a suitable location for housing, having regard to the spatial strategy of the Development Plan and the effect of the proposal on the character and appearance of the area, and
 - The effect of the proposal on protected species, specifically bats.

Reasons

Suitable Location

3. The Council's settlement strategy is set out in Bearing Fruits 2031, the Swale Borough Local Plan, adopted 2017 (SBLP). Its policies ST1 and ST3 seek to steer growth to urban centres and well-connected villages, with their better accessibility to services and facilities. Policy ST3 does not permit development in the open countryside unless it is supported by national planning policy. It also requires that proposals must demonstrably contribute to (amongst other things) protecting the intrinsic value and beauty of the countryside and the vitality of rural communities. Policies ST1 and CP3 make similar requirements.
4. The site consists of a small field adjacent to an existing dwelling, The Sherries. The field is densely overgrown with trees and shrubs and as such is identifiable as undeveloped countryside, having a soft and green character. It is common ground that the site lies outside of a built-up area boundary identified in the SBLP and therefore in the open countryside.
5. The site of the proposal is on the edge of an area of houses and buildings associated with a number of HM Prisons, known as the prison cluster. As such,

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it is not isolated. The site is connected to the village of Eastchurch by means of Church Road. The route to the village has a lit, continuous footway, and so provides access to the facilities in the village, as does a bus service. I am therefore satisfied that the site and proposal have reasonable access to services and facilities.

6. The proposal would include a substantial retained buffer area of trees and hedges, with supplemental planting to reduce gaps in the boundary. To further soften its appearance and the transition between built-up and rural areas, the dwelling has been designed to appear agricultural. It would have a barn-like form and appearance with timber facades, shutters and few windows, particularly on the side facing the fields. These measures would further reduce its visual impact, including from night-time lighting.
7. The site would be visible from Church Road including from its pavement. The proposed screening would help to mitigate its visual effects. However, the dwelling would be seen from the road through the proposed entrance driveway. Despite the proposal's barn-like features, its domestically sized windows, driveway and car port would make clear when viewed from the road that the proposal is a dwelling. The proposed front lawn and domestic paraphernalia upon it, such as children's play equipment and garden furniture, would also give the proposal a residential appearance.
8. In some views the proposal would be seen against the backdrop of The Sherries and its garage. Nevertheless, a dwelling on the site would have a harmful, urbanising effect, domesticating and encroaching into the countryside between Eastchurch and the prison cluster. As such, the proposal would not protect the intrinsic value or beauty of the countryside.
9. I am mindful that the proposal represents a reduction from the two dwellings proposed during the 2021 application and appeal¹ at the site. As a recent decision at the same site, I give this decision significant weight. However, I have considered the proposal for a single dwelling on its own merits and reached my own conclusion about its effects.
10. Other recent appeals have considered new dwellings within the prison cluster and outside of the built-up area boundary. At Stanbourne House² the Inspector found that the site already had a domesticated appearance and was surrounded on three sides by housing. At Land behind 9-10 Range Road³, the site also had a developed character. These sites, which I was able to view, therefore had a different, more built-up and domestic character in contrast to the current appeal site. As such, the sites are not comparable meaning that I give these decisions limited weight and they do not alter my conclusions.
11. Assessed against the development plan, the location would have reasonable access to services and so would comply with the requirement of SBLP Policy CP2 to facilitate sustainable transport. SBLP Policies DM9 (rural exception housing) and ST6 (The Isle of Sheppey area strategy) have also been referenced in the Council's first reason for refusal. However, given their particular focus they are not directly relevant to my reasoning, and I find no conflict with them.

¹ APP/V2255/W/20/3249359

² APP/V2255/W/20/3246976

³ APP/V2255/W/20/3253723

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12. Nevertheless, due to its countryside location and harmful urbanising effect, the proposal would not accord with SBLP Policies ST1, ST3 or CP3. As such, it would not provide a suitable location for housing, having regard to the spatial strategy of the Development Plan and the effect of the proposal on the character and appearance of the area. For the same reasons, it would conflict with the requirement of SBLP Policy DM14 that development must conserve the natural environment.
13. SBLP Policies ST1, ST3, CP3 and DM14 are broadly consistent with the National Planning Policy Framework (the Framework) including recognising the intrinsic character and beauty of the countryside. As such, I give significant weight to this conflict.

Protected Species - bats

14. The application submission included a Preliminary Ecological Appraisal (PEA) which found that trees on the site were potential bat roosting habitats and required further assessment. The PEA was over two years old at the time of submission. It was therefore not sufficiently up-to-date to establish the current suitability of the site for protected species or recommendations for their mitigation.
15. As part of the appeal submission, the appellant has provided an update from their ecologists who confirm that the site and their recommendations remain the same in respect of protected species. I note also the appellant's willingness to install bat boxes, which would result in a small positive benefit. The proposal would therefore comply with SBLP Policy DM28, which requires that proposals conserve and where possible enhance biodiversity. I give this small benefit additional limited positive weight.

Conclusion – Development Plan

16. Although I have found that the proposal would comply with SBLP Policies CP2 and DM28, I have found conflict with SBLP Policies ST1, ST3, CP3 and DM14. The proposal therefore conflicts with the Development Plan, when read as a whole.

Other Considerations

17. It is common ground that the Council cannot currently demonstrate a five-year housing land supply, although there is dispute between the parties in respect of the degree of the shortfall. I also understand that the Council has a 78% delivery against the Housing Delivery Test. It is therefore necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing an additional dwelling to assist the Council in addressing its undersupply, as set out in paragraph 11 of the Framework.
18. I have found conflict with the Development Plan, read as a whole, which is consistent with the advice of the Framework. Against that, the proposal would make a positive addition to the supply of housing, as a windfall site. The Framework is clear that small sites including those in rural areas can make an important contribution to meeting housing need, often being built out relatively quickly. Furthermore, the proposal and its future occupants would make a small but positive social and economic contribution to the area.

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19. However, such benefits would be limited because of the size of the proposal, as a single dwelling. As such, these benefits attract only moderate weight. I have also given the biodiversity benefits limited positive weight. The Council has raised no objection in respect of highway safety or residential living conditions, but these matters are essentially neutral in the planning balance.
20. Given the harm that I have identified to the character and appearance of the area, and the weight I attach to this, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
21. The Council's second reason for refusal referred to the effect of the proposal on the Swale Special Protection Area (SPA), protected pursuant to the Conservation of Habitats Regulations 2017 as amended. The appellant has provided a Unilateral Undertaking making a financial contribution towards the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy, to mitigate the effects of the proposal.
22. Had I found the proposal acceptable in other respects, as the competent authority, I would have needed to carry out an Appropriate Assessment in respect of the potential effects of the proposal on the SPA. However, as I have found against the appellant on other substantive grounds, this matter does not need to be considered further in this case.

Conclusion

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
24. The proposal benefits from the presumption of sustainable development as outlined in Paragraph 11(d) (ii) of the Framework. I have found that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. For the above reasons, having regard to the Development Plan as a whole, the approach in the Framework, and all other material considerations, I conclude that the appeal should be dismissed.

O Marigold

INSPECTOR



Appeal Decision

Site visit made on 15 November 2022

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/V2255/D/22/3297726

22 Chapel Street, Minster-on-Sea ME12 3QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Ellie Brown against the decision of Swale Borough Council.
 - The application Ref 21/506431/FULL, dated 15 December 2021, was refused by notice dated 23 March 2022.
 - The development proposed is the insertion of a drop kerb and creation of a front driveway.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effects of the proposal on:
 - Highway safety; and
 - The character and appearance of the area.

Reasons

Highway safety

3. The appeal property is a mid-terrace dwelling with a modest front garden located within a residential area. The row of terraced dwellings, named 'Dennis Terrace', fronts onto Chapel Street and adjacent to the road junction with Baldwin Road.
4. Chapel Street is a straight, narrow, 'B' classified highway with two-way traffic which forms a main route through Minster on Sea and Eastchurch. A pedestrian footway is located on either side of the carriageway, and a grassed highway verge is situated between the pedestrian footway and front boundary of the appeal site.
5. In addition to the insertion of a drop kerb, the proposal would involve the creation of a driveway with two car parking spaces. Swale Borough Council Car Parking Standards Supplementary Planning Document (2020) (SPD) indicates car parking spaces should have a minimum length of 5 metres. There is disagreement between the parties regarding the depth of the front garden but agreement that the proposed parking spaces would fall short of the SPD's minimum standard. On the basis of the available evidence and my site visit observations, I consider that there is a realistic prospect that vehicles parked within the proposed parking spaces would overhang the front boundary of the

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site and encroach onto the highway verge. The verge is public land and the use of this land for private vehicle parking would inhibit future highway improvement, where a need for such works arises. I therefore consider that the front garden is of insufficient depth to accommodate the proposed car parking spaces. In coming to this view, I have taken into account that the vehicle that it is said would be using the space would only be 3.82 metres long and that minimum space requirements elsewhere may be less than in Swale.

6. At the time of my site visit, traffic along Chapel Street appeared frequent and relatively fast moving. On the appeal site side of Chapel Street, vehicles were parked along the road which inhibited the flow of traffic, requiring vehicles to move out into the adjacent carriageway to pass.
7. Whilst the proposal would reduce the demand for on-street parking from occupants of the appeal property, the presence of other vehicles parked on Chapel Street would obstruct visibility in both directions for drivers of vehicles entering or leaving the proposed driveway. In the absence of an on-site turning space, it would be necessary for vehicles to enter or exit the public highway in reverse gear.
8. The appellant's statement makes reference to the presence of a dropped kerb elsewhere within the terrace row. From my site visit, I observed that, within the terrace, No 18 has off-road parking accessed via a dropped kerb. No 18 occupies a larger, end of terrace plot. A driveway is located to the front and to the side of the single-storey rear projection and appears to provide greater depth of parking space than would be available at the appeal site. As such, the presence of the existing driveway and dropped kerb at No 18 has little bearing on my decision. Whilst the appellant's statement suggests the proposal would improve highway safety and alleviate parking problems by reducing the number of vehicles parking on the highway, as discussed above, the proposal would not provide a safe access for vehicles and therefore would not improve highway safety.
9. For the reasons set out above, I consider that the proposal would give rise to harm to highway safety, and as such would conflict with policy DM14 of "Bearing Fruits 2031" - The Swale Borough Local Plan (2017) (BF) which requires all development proposals to achieve safe vehicular access. In addition, the proposal would not satisfy the guidance contained in the Car Parking Standards SPD and would therefore conflict with BF Policy DM7 which requires development proposals, not just new property builds, to accord with the SPD's standards.

Character and appearance

10. A single row of paving slabs provides a path from the pedestrian footway to the front door. Whilst the adjoining dwellings have a low brick wall at the front of the plot, the appeal site has no front boundary treatment. A hedgerow runs along the left-hand boundary providing separation between the appeal site and the garden of adjoining dwelling No 20. The side boundary between the appeal site and No 24 is unenclosed.
11. Within Dennis Terrace and the architecturally similar row of terraces on the opposite side of the junction with Baldwin Road, dwellings generally have landscaped front gardens which make use of a range of 'hard' materials such as paving, brick weave and gravel. However, with the exception of No 18, these

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areas generally have the appearance of a garden and do not provide off-road parking and are therefore not directly comparable to the appeal proposal.

12. The Council's Supplementary Planning Guidance, "Designing an Extension – A Guide for Householder's" (SPG) indicates that excessive parking in the front garden can create a poor appearance in the street scene. The proposed driveway, consisting of two adjacent parking spaces, would occupy most of the front garden.
13. The appellant indicates that the appearance of the proposed parking area would be softened using artificial grass and planting. However, due to the modest size of the front garden, parked vehicles would appear visually dominant within the site and the altered appearance of the front garden would erode the sense of separation between the appeal property and the public highway which the garden provides. This would adversely impact upon the visual quality of the street scene. The size and style of the property, the lack of planting at several buildings in view of the site and the granting of any permissions for off-road parking elsewhere do not lead me to a different conclusion.
14. Consequently, I consider the proposal would harm to the character and appearance of the area. As such, it would conflict with BF policies CP4 and DM16, which together require development proposals to be of appropriate design and quality that responds positively to the character of the area, maintain or enhance the character of the street scene, and reinforce local distinctiveness and strengthen sense of place. In addition, the proposal would be contrary to BF Policy DM14 which requires proposals to accord with the SPG.

Conclusion

15. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR

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Appeal Decision

Site visit made on 30 March 2022

by **A. Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 December 2022

Appeal Ref: APP/V2255/W/21/3279245

Westfields Park Dairy, Swanton Street, Bredgar ME9 8AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr William Driver against the decision of Swale Borough Council.
 - The application Ref 21/501784/FULL, dated 30 March 2021, was refused by notice dated 17 June 2021.
 - The development proposed is described on the application form as the 'conversion of detached single storey brick barn into 3-bedroom residential dwelling with associated parking and garden.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. This does not materially change the planning policy context in respect of the main issues.

Main Issue

3. The main issues are:
 - whether the site is a suitable location for housing with particular regard to the accessibility of services and facilities; and
 - the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

Appropriateness of Location

4. The appeal site comprises an existing brick-built barn structure, positioned amongst a small cluster of properties towards the south of the village of Bredgar. Village gateway signs and speed restrictions start immediately to the south of the site. Towards the north, the built form of the settlement becomes gradually more consolidated. Whilst there is a more rural character on the approach to the village southwards, there are nevertheless occasional dwellings and buildings in that direction. In that context the site cannot reasonably be described as 'isolated' within the terms of National Planning Policy Framework paragraph 80 (the Framework).

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5. However, the site nonetheless falls outside the built-up area boundary for Bredgar as defined within the adopted Swale Local Plan (LP, 2017). It is therefore within the 'open countryside' in policy terms.
6. LP policy ST3 seeks to direct development principally towards established settlements in proximity to existing services and facilities, whilst protecting the open countryside from inappropriate sporadic development. Policy ST1 seeks to reduce levels of out-commuting and Policy CP2 seeks to minimise the need to travel for employment and services and facilitate sustainable transport.
7. I accept that the distance between the appeal site and Bredgar, which contains services including a shop, post office, pub and school, is similar to other properties in the surrounding area, approximately 0.3 miles away. I also acknowledge that there are public rights of way in the area, including flanking the appeal site, which could in part be used to reach services and facilities. However, these routes are not sufficient to rely on, particularly as they are unlit and of an uneven terrain. I also note the appellant's point regarding the reduction in vehicular emissions that would result from the use of electric cars. However, there is no certainty that future occupants would use an electric vehicle.
8. In my view occupants of the proposed dwelling would be highly reliant on the use of private vehicles to access services and facilities. Footpaths nearby do not lead directly to the village, or its bus stops which connect to larger settlements. Although located only a relatively short distance away, to reach Bredgar individuals would have to proceed alongside Swanton Street/The Street, which does not have a dedicated footway or verge, and is unlit. There is no substantive evidence before me as to the circumstances that led to the creation of other properties nearby, many appearing historic. For those reasons, the site is not a suitable location for housing with particular regard to the accessibility of services and facilities. The proposed development would undermine the provisions of the Council's settlement strategy, introducing sporadic development in an area which is generally restricted, increasing the need for occupiers to travel by car to access employment, services and facilities.
9. Consequently, I conclude that the appeal site would form an inappropriate location for the proposed development, contrary to the relevant provisions of LP Policies ST1, ST3, CP2, DM3, DM14 and DM24. These policies, amongst other things, seek to deliver sustainable development in appropriate places and which is sympathetic to the rural context. In a similar vein, the proposed development would be contrary to the objectives of paragraph 105 of the Framework.

Character and appearance, including effect on AONB

10. The appeal site falls within the Kent Downs Area of Outstanding Natural Beauty ('AONB'). Areas of Outstanding Natural Beauty are designated for the purposes of conserving and enhancing natural beauty. Section 85(1) of the Countryside and Rights of Way Act 2000, as amended, places a duty upon me to have regard to these purposes in this decision.
11. LP Policy DM24 sets out that development will only be permitted in AONBs where it 'conserves and enhances the special qualities and distinctive character of the AONB'. Framework paragraph 174 requires proposals to 'protect and

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enhance valued landscapes'. LP Policy ST3 sets out that in such areas, development will not be permitted unless supported by national policy and is able to demonstrate that it would contribute to protecting or enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside.

12. Despite scattered buildings, the area surrounding the site is also rural in character. It appears as a location where the built form of the village gradually peters out, giving way to rural surroundings. In that context, I acknowledge that the site is fairly self-contained with clear boundaries and some mature landscaping to the south and east.
13. Nonetheless, I saw that the approach to the site from the south consists of relatively low hedges, allowing direct views across the adjacent field towards the site. From that perspective the existing barn is highly visible, albeit it is not readily visible from further along Swanton Street. In my view, on account of their utilitarian form and affinity with the countryside, although buildings, barns are inherently more consistent with rural character than dwellings. With that in mind, where visible, the barn retains a rustic and agricultural character through its traditional materials and lack of window openings within the roof and prominent side elevation. Thus, the existing barn is consistent with landscape character and that of the AONB.
14. I acknowledge that as the proposal is for the conversion rather than extension of a barn, and in terms of material, effects on local character would be somewhat moderated. Nonetheless, the inclusion of multiple domestic window openings, of a large size and arranged uniformly, in a clearly agricultural building would appear more domestic and, in my view, sit uncomfortably in the highly prominent south elevation, eroding the rural character of the site. I do not agree with the appellant's comment in respect of the south elevation being out of sight from Swanton Street. Both the south elevation and roofslope were clearly visible at the time of my site visit. The detailed design of the proposal would harm the character and appearance of the immediately surrounding area.
15. I acknowledge the appellant's comments in respect of the age of the Council's Conservation of Traditional Farm Buildings Supplementary Planning Guidance. However, it sets out many principles of good design in respect of the treatment of rural buildings which are equally true in present circumstances. In particular, reference is made to the importance of the location and type of windows, avoiding a domestic appearance and ensuring that no window openings should be made in roofs. This has not been achieved here.
16. For the above reasons, I conclude that the detailed design of the scheme would harm the character and appearance of the area, contrary to the relevant provisions of LP Policies DM14, DM16 and DM24, as well as The Conversion of Traditional Farm Buildings SPG. These policies, amongst other things, seek high quality design in development, that is sympathetic and appropriate to the location. This is an objective shared with the Framework.

Other Matters and Planning Balance

17. The appellant makes reference to other appeals, including that under reference APP/V2255/W/17/3170343. However, this is not directly comparable to the appeal before me, either in its location or policy context, determined under a

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Appeal Decision APP/V2255/W/21/3279245

previous local plan. In any event, I have considered this appeal on its own, individual merits.

18. The appellant makes reference to the site forming brownfield land, supporting the claim for redevelopment. Even if the site was brownfield land, the support in the Framework for the redevelopment thereof is not at the expense of ensuring good design.
19. Swale Borough Council cannot presently demonstrate a five year land supply of deliverable housing sites. This figure stands at 4.6 years, which amounts to a modest shortfall. This figure is limited but it is not insignificant, noting the Government's objective of significantly boosting the supply of homes. Irrespective of the precise shortfall, in these circumstances the provisions of paragraph 11.d of the Framework are engaged. However, footnote 7 of bullet (i) of paragraph 11.d clarifies that permission should not be granted if the application of policies in the Framework that protects areas or assets of particular importance, including AONBs, provide a clear reason for refusing the development. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development.
20. The proposed development would represent a contribution to housing supply in an area with an acknowledged lack of future provision. There would be some social and economic benefits of the proposed development, including in supporting employment during construction and as future occupants would bring trade to nearby services and facilities. However, the benefits arising from one new home would inevitably be limited. I note, too, the appellant's comments in respect of carbon. As explained above, there is no certainty that future occupants would use an electric vehicle. The harm arising from the proposed development would significantly and demonstrably outweigh these modest benefits. Consequently, other material considerations in favour of the proposal do not justify taking a decision contrary to the development plan.

Conclusion

21. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A. Price

INSPECTOR



Appeal Decision

Site visit made on 1 December 2022

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/V2255/W/22/3300605

40 Willement Road, Faversham ME13 7SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Harris against the decision of Swale Borough Council.
 - The application Ref 20/502391/FULL, dated 3 June 2020, was refused by notice dated 6 August 2020.
 - The development proposed is a 2 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The proposal is for a two bedroom split level detached dwelling on part of the garden of No 40, a semi-detached house at the cul-de-sac end of Willement Road. The property has a relatively narrow frontage but the garden widens out significantly to the rear and also drops away steeply towards the rear gardens of the houses on The Knole behind. The new dwelling, which would replace an existing garage and shed, would be set well back behind the front elevations of both No 40 and the adjacent house at right angles No 42, and from a distance would appear single storey until closer to when the existence of the lower floor would become apparent.
4. This end of Willement Road consists of five pairs of two storey semi-detached houses arranged around the turning head and is notable for the wide gaps between the houses with double driveways leading to flat roofed or low-pitched garages allowing surprisingly attractive views of the verdant residential areas behind. The two gaps at the end, between Nos 40-42 and Nos 31-33, are particularly wide and the overall effect is a spacious, low-density environment.
5. By interposing a new dwelling in the first of these gaps, with only a narrow path left alongside the common boundary with No 42, the proposal would block much of the view and introduce an oddly hemmed-in dwelling within the street scene. The pleasant spacious symmetry of the existing cul-de-sac would be lost and, unlike nearby properties, neither the new nor current dwelling would have individual garages, a relatively cramped area of hardstanding for four cars being provided in front of the properties instead.

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6. The appellant argues that a large outbuilding could be erected on the site of the dwelling under permitted development rights and that this fallback position should be taken into account when assessing the proposal. However, the application to establish this was dismissed on appeal¹ as it was concluded that the outbuilding was not required for purposes incidental to the enjoyment of the existing dwelling but rather to support the case for a house. Consequently, whilst an alternative outbuilding would be possible, its size and likelihood is uncertain and accordingly little weight should be given to this factor.
7. For these reasons the proposal would significantly harm the character and appearance of the area contrary to Policies CP4 and DM14 of the Swale Borough Local Plan 2017. These require development proposals to be high quality design that is appropriate to its surroundings and to be both well sited and of a scale, design and appearance that is sympathetic and appropriate to the location.

Conclusion

8. The proposal would provide an additional dwelling in a sustainable location which would contribute towards local housing needs in an area currently without a five-year housing land supply. It would also make efficient use of land, provide social and economic benefits for the town, be a self-build project and provide accommodation for the appellant's elderly parents². However, in this case these benefits would be significantly and demonstrably outweighed by the adverse impact on the character and appearance of the area and the associated conflict with the development plan.
9. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

¹ APP/V2255/X/21/3268503

² although there is no mechanism to ensure this.



Appeal Decision

Site visit made on 8 September 2022

by **Grahame Gould BA MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

APP/V2255/W/22/3297650

**The Shipyard Upper Brents Industrial Estate, Upper Brents, Faversham
ME13 7DZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Shave against the decision of Swale Borough Council
 - The application Ref 21/504909/FULL, dated 6 September 2022, was refused by notice dated 3 December 2021.
 - The development proposed is described as "Mixed-use development comprising: (1) the erection of 3 No. terraced units in Class C3 (dwellinghouse) use with optional Class E(g)(i) (office) use at the ground floor, excluding sleeping accommodation at the ground floor and including access, parking and turning via Waterside Close, together with associated landscaping; (2) the erection of 4 No. commercial units in Class (g)(iii) (light industrial), B2 (general industrial) or B8 (storage and distribution) uses, with associated access, turning and parking via a separate road, plus acoustic fencing.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In response to the Council's second reason for refusing planning permission, the appellant on 13 September 2022 paid a contribution of £827.64 to the Council to mitigate effects of the development on the Swale Special Protection Area for birds (the SPA). That contribution was paid pursuant to section 111 of the Local Government Act 1972, sections 12 and 93 of the Local Government Act 2003 and section 1 of the Localism Act 2011¹. This contribution having been paid as an alternative to the appellant entering into a planning obligation under section 106 of the Town and Country Planning Act 1990 (TCPA1990).
3. The Council has confirmed² that the receipt of the SPA contribution has addressed its second reason for refusal. The development's effect on the SPA is no longer a contested matter.

Main Issues

4. The main issues are whether the development would:
 - provide acceptable living conditions for its occupiers, having particular regard to noise in the area;

¹ As explained in a "SAMMS Mitigation Contribution Agreement" completed by the appellant on 13 September 2022

² Through the submission of emails to the Planning Inspectorate on 13 and 15 September

-
- effect the supply of industrial/commercial land in the area; and
 - effect the integrity of the SPA.

Reasons

Living conditions for the occupiers of the development

5. The site is situated to the east of unit 4 (No 4) Upper Brents Industrial Estate. Nos 1 to 4 being four industrial units, of which Nos 1 and 2 are occupied, while Nos 3 and 4 were vacant at the time of my site visit. The site was in part occupied by four other industrial units (Nos 5 to 8), which were destroyed by a fire in 2001. All that remains of Nos 5 to 8 is the base on which they stood to the east of No 4. To the south and east of Nos 1 to 4 there is a comparatively recent development comprising 26, three storey, "business units with associated residential accommodation"³, which are essentially dwellings, in Waterside Close. In Waterside Close there is a terrace of five very recently constructed properties, Nos 25 to 29, which adjoin the appeal site.
6. The site is bounded immediately to the north by engineering/foundry premises. Those premises comprise some comparatively large buildings and an extensive yard. The foundry premises have brick walls, while their roofs are clad with corrugated sheeting. Some extraction fans have been installed in the roofs of those premises. The foundry has the ability to operate 24 hours a day and it has an increased production rate between June and September⁴.
7. The development would involve the construction of a terrace of three dwellings, including optional ground floor office space (the dwellings), and four commercial units for occupation by light industrial, general industrial or storage and distribution users. The commercial units would have a floor area of 528 square metres and it is anticipated they would provide employment for 15 people. The commercial units would be sited in a row immediately to the east of No 4, where Nos 5 to 8 were previously located.
8. The dwellings would be sited so as to infill the gap between No 29 and part of the foundry's southern boundary, occupying land shown as a parking and vehicle manoeuvring area on the original plans for Waterside Close⁵.
9. Table 1 in the appellant's acoustic report summaries the results of a noise survey undertaken in June 2016. During that survey the on-site daytime (0700 to 2300 hours) noise levels ranged between 51 and 56 dB L_{Aeq}, while the night-time (2300 to 0700 hours) level was between 50 and 51 dB L_{Aeq}. The maximum night-time level ranging between 54 and 60 dB L_{Amax}. Throughout my site visit noise emanating from the foundry was clearly audible.
10. The surveyed daytime and night-time noise levels indicate that without attenuation the internal noise levels within the dwellings would exceed the interior guideline levels referred to in British Standard BS 8233:2014⁶ (BS8233) and the World Health Organisation's 'Guidelines for Community

³ As described in planning permissions SW/97/0202 and SW/97/0203 and later permissions relating to Waterside Close

⁴ Paragraph 2.5 of the noise impact assessment (acoustic report) submitted with the appealed planning application

⁵ SW/97/202 and SW/97/203

⁶ 'Guidance on sound insulation and noise reduction for buildings'

Noise', as set out respectively in Table 2 and paragraph 4.3.1 of the acoustic report. In that regard BS8233's recommended internal design criteria for a living room during the daytime is 35 dB L_{Aeq} , while the recommended bedroom night-time level is 30 dB L_{Aeq} .

11. Given the level and the round the clock nature of the noise emanating from the foundry it is intended that the dwellings would have acoustic double glazing (without trickle vents) and mechanical ventilation. With those attenuation measures the dwelling's internal noise levels have been predicted not to exceed the guideline levels stated in BS8233. The windows would be openable, giving the dwellings' occupiers the choice to ventilate their properties either naturally or mechanically. Observance of BS8233's guideline levels would require the dwellings' windows and doors to be closed.
12. I recognise that the installation of the attenuation measures would be capable of providing an appropriate internal noise environment for the occupiers of the dwellings. The installation of those measures could be secured through the imposition of a planning condition. However, to avoid there being internal noise disturbance the occupiers of these dwellings would effectively need to reside in hermetically sealed homes, albeit that those occupiers could not be compelled to keep the doors and windows of their homes closed and/or use the mechanical ventilation. Those residents might wish to open doors and windows to receive fresh air. I am of the view that reliance on keeping doors and windows closed and using mechanical ventilation, potentially all the time because there are no restrictions on the foundry's operation, to ensure the residential occupiers avoided "... *being seriously annoyed by noise ...*", indicates that this development would offer its occupiers very poor living conditions.
13. The Council's Environmental Health officer (EHO) felt unable to advise planning permission be refused. However, the EHO's advice falls a long way short of providing a ringing endorsement for the siting of the dwellings, with heavy reliance being placed on the effectiveness of the attenuation measures. I am therefore of the view that the EHO's observations should not be looked upon as being a barrier to a finding that reliance on keeping doors and windows closed and using mechanical ventilation would provide very poor living conditions for this development's residents.
14. The rear gardens of the dwellings would be exposed to noise levels in the range of 51 to 56 dB L_{Aeq} ⁸. BS8233 refers to a desirable noise level of up to 50 dB L_{Aeq} and an upper limit of 55 dB L_{Aeq} ⁹. To avoid an exceedance of the upper limit it has been recommended that the rear gardens be enclosed with acoustic fencing or walling at a minimum of 3 metres in height. The rear gardens of the dwellings would have a depth of around 5 metres and would therefore have relatively small areas. I consider small gardens enclosed by fencing or walling of at least 3 metres in height would provide an uninviting external environment, further contributing to the dwellings providing their occupiers with poor living conditions.
15. I am mindful that the existing dwellings in Waterside Close have been built without the proposed attenuation measures. However, those existing

⁷ The Council's Environmental Protection Team comments of 26 October 2021

⁸ Based on the survey results from June 2016

⁹ Table 2 in the acoustic report

dwellings are sited further from the foundry than would be the case for the now proposed dwellings and given that the former's exposure to the noise emanating from the foundry is not directly comparable.

16. Given the noise originating from the foundry, it appears that from Waterside Close's first inception the land forming the gap between No 29 and the foundry was purposefully earmarked for vehicle parking and manoeuvring as opposed to a location for dwellings.
17. For the reasons given above I conclude that the development would provide unacceptable living conditions for its occupiers, having particular regard to noise in the area. There would therefore be conflict with Policies CP4(1) and DM14(8) of the Swale Borough Local Plan of 2017 (the Local Plan). That is because the development would not be of a good design, with it failing to provide a comfortable place for its residential occupiers and it being harmful to the living conditions (amenity) of those occupiers.
18. In terms of the policy stated in the National Planning Policy Framework (the Framework), while this development would involve the use of previously developed land it would be inappropriately located and would not promote healthy living conditions for its occupiers. Given that I consider there would be conflict with paragraphs 119, 124(e) and 185 of the Framework, meaning that part of the proposed development would not amount to an effective use of land. Having regard to the policy stated in paragraph 187 of the Framework and given my concerns about the suitability of the intended mitigation, I am not persuaded the new dwellings could be integrated effectively with the business operating from the foundry.

Effect on the supply of industrial/commercial land

19. The appeal site is within an industrial/employment area and Policies ST7(1), CP1(1) and NP1 of the Local Plan and Policy BIE1 of the Faversham Creek Neighbourhood Plan made in 2017 (the NP) collectively seek to maintain industrial uses in this location. Policy BIE1 states that the "*Brents Industrial Estate shall be retained in industrial use for a mixture of class B1¹⁰ and B2 uses to provide local employment and relatively low cost premises suitable for small businesses ...*". The appellant has questioned the consistency of the extent of the employment area subject to Policy BEI1 with the evidence base underpinning the adopted Local Plan. However, the NP is a made plan and the appropriate time to have queried its policies and the extent of any designations included in it was when it was being examined. I therefore consider it unnecessary for me to comment further on that aspect of the appellant's case.
20. While the proposed dwellings would occupy land forming part of an industrial/employment area that land has not been actively used for employment purposes for around twenty years. In that regard there is no evidence of the land on which the dwellings would be sited having been actively pursued as a location for commercial development, with the proximity of the dwellings at Nos 25 to 29 now being likely to preclude general industrial usage under class B2. Additionally, the plans approved in connection with the

¹⁰ Now forming part of Class E of the Use Classes Order, further to amendments made by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

planning permissions for what has become Waterside Close clearly show the land beyond No 29 as a parking and manoeuvring area.

21. The land at the northern extremity of Waterside Close continues to remain capable of becoming a parking and vehicle manoeuvring area in line with the previous planning permissions. Based on the evidence before me I am not persuaded that permitting the proposed dwellings would, in practice, amount to a significant loss of employment land. The provision of the four commercial units would accord with the development plan's industrial/employment area designation.
22. I therefore conclude that the development would not have an unacceptable effect on the supply of industrial/commercial land in the area. The residential element of the development would result in some conflict with Policies ST7(1), CP1(1) and NP1 of the Local Plan and Policy BIE1 of the NP. However, given the amount of land in question and its planning history I consider that the conflict with those development plan policies would be minor and would not fundamentally undermine the implementation of the development plan's employment policies.

Effect on the integrity of the SPA

23. The development would involve increased residential occupation a little over 80 metres from the SPA. There is therefore potential for the occupiers of the development to use the SPA as an informal recreational destination. That activity, in combination with visits made by the occupiers of other new residential development within the 6km zone of influence for the SPA, could adversely affect the integrity of the SPA or cause disturbance to qualifying features (birds) frequenting the SPA. It is therefore likely that the development would have a significant effect on the SPA's qualifying features.
24. The SPA is afforded protection under the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). To reduce the potential for recreational disturbance to arise within the SPA, as mitigation, the Council seeks developer contributions to fund the operation of an Access Management and Monitoring strategy (SAMM). Developer funding for the SAMM's operation being a form of mitigation that Natural England supports. The SAMM operates on the basis of contributions being paid in line with a fixed tariff for each new dwelling in the SPA's zone of influence. A SAMM contribution of £827.64 has been identified as the required sum in this instance.
25. In line with the guidance in the Planning Practice Guidance measures intended to inform decisions about the effects on the integrity of habitats, such as an SPA, need to be sufficiently secured and likely to work in practice¹¹. It is usual for financial contributions intended to mitigate the effects of new development to be secured through the making of a planning obligation under section 106 of the TCPA1990. Although the SPA contribution that has been paid has not been secured through the operation of a planning obligation, I am content through the provisions of the SAMM Mitigation Contribution Agreement that the appellant has submitted to the Council that the SAMM contribution could only be used by the Council for the purposes of mitigating the development's effect on the SPA.

¹¹ Paragraph 4 in section 65 of the Planning Practice Guidance, published by the Government on 22 July 2019

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26. Accordingly, I conclude that mitigation would be available so that the development would be unlikely to adversely affect the SPA's integrity. I therefore consider with the payment of the SPA contribution that the requirements of the Habitats Regulations have been fulfilled and that the development would accord with Policies ST1, DM14 and DM28 of the Local Plan and paragraph 180 of the Framework. That is because mitigation would be available to conserve the natural environment, most particularly the integrity of the SPA.

Other Matters

27. The appeal site straddles the boundary of the extensive, mixed use Faversham Conservation Area (the CA) and the dwellings and part of the commercial development would be within the CA. Special attention is to be paid to the desirability of preserving or enhancing the character or appearance of the CA. The site is vacant and I consider it is not contributing positively to the CA's character or appearance.
28. Given the siting, scale and external appearance of the proposed dwellings, I am of the view that they would appear as a natural extension to Waterside Close. I consider that aspect of the development would enhance the CA's appearance through removing a gap site. The commercial units would be of a utilitarian design, however, I consider those units would not look out of place, having regard to the various industrial buildings just outside the CA. I am therefore of the view that the presence of the commercial units would preserve the character and appearance of the CA. I am therefore of the view that the development in its totality would not harm the character or appearance of the CA.
29. The planning history for the area indicates that the Council has been accepting of Nos 5 to 8's replacement following the granting of planning permission for Waterside Close. Given that background and the intended siting of the proposed commercial units, I consider there would be sufficient separation between those units and the existing dwellings in Waterside Close for the living conditions of the occupiers of the latter not to be adversely affected. In that regard the planting in front of the perimeter fencing adjoining Nos 1 to 4 has become well established and that has softened the appearance of the southern perimeter fence. I see no reason why such planting could not be replicated as part of the development now proposed, which would similarly soften the appearance of the fencing opposite Nos 26 to 29.
30. The Council cannot currently demonstrate a five year supply of deliverable housing sites (5yrHLS). The Council places the 5yrHLS at around 4.6 years, equating to there being a need for an additional 370 dwellings per annum¹². Providing three extra dwellings at Waterside Close would amount to around 0.8% of the annual deficit and I consider that contribution would be small and would not significantly boost the supply of housing in the Council's area. In terms of boosting the supply of housing the circumstances of the appeal before me are therefore very different to the allowed Wises Lane appeal¹³, which concerned a development for up to 675 dwellings. The Rides House appeal¹⁴ involved a proposal for a net increase of one dwelling in a rural

¹² Paragraph 8.15 in the Council's officer report

¹³ APP/V2255/W/19/3233606, included as appendix 5 to the appellant's statement of case

¹⁴ APP/V2255/W/20/3262303, included as appendix 4 to the appellant's statement of case

location and that scheme is of a scale not too dissimilar to the proposal before me. However, for Rides House the Inspector in allowing the appeal found no unacceptable harm would arise, whereas I have concluded there would be unacceptable harm to the living conditions for the prospective occupiers of the dwellings. The circumstances of the Rides House case are therefore not directly comparable with the appeal before me.

Planning balance

31. The development would provide very poor living conditions for its residential occupiers and because of that I consider it would be harmful. I therefore consider substantial weight should be attached to the conflict that aspect of the development has with Policies CP4(1) and DM14(8). Policies CP4(1) and DM14(8) being consistent with the Framework and are applicable to all types of development and not just new housing schemes.
32. The positive aspects of the development concern the reuse of previously developed land relating well to the town, with there being no harm to the supply of industrial/commercial land, the SPA or the CA. Provision would be made for some dwellings and the reinstatement of commercial premises, with the former making a very modest contribution to reducing the 5yrHLS shortfall. There would therefore be various, economic, social and environmental benefits weighing for this scheme, including the creation of employment opportunities. Those matters gain support from a number of policies stated in the Framework. However, that Framework support is countered by the conflict with the Framework's policies which, as part of achieving well designed places, require new development to promote health and wellbeing for the occupiers of new dwellings.
33. Given the absence of a 5yrHLS what is commonly referred to as the "tilted balance" under paragraph 14(d) of the Framework is engaged. However, for the reasons I have set out above, most particularly in relation to my first main issue, I am of the view that the adverse impacts of the development that I have identified would significantly and demonstrably outweigh the benefits when assessed against the Framework's policies taken as a whole. I am therefore of the view this would not be a sustainable form of development.

Conclusions

34. The residential element of the development would be contrary to the development plan and I consider the development in its totality could not be made acceptable through imposing reasonable planning conditions.
35. While the tilted balance under paragraph 11 of the Framework is engaged, I am of the view that the development's adverse impacts outweigh its benefits. I am further of the view that the matters weighing for the development do not indicate that a decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Grahame Gould
INSPECTOR

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