

Agenda

Planning Committee Meeting

Date: Thursday, 14 September 2023

Time 7.00 pm

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

Membership:

Councillors Mike Baldock (Chair), Andy Booth, Simon Clark, Kieran Golding, James Hall, Mike Henderson, James Hunt, Elliott Jayes (Vice-Chair), Peter Marchington, Claire Martin, Charlie Miller, Julien Speed, Paul Stephen, Terry Thompson, Angie Valls, Karen Watson 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 13 September 2023.

Recording and Privacy Notice

Swale Borough Council is committed to protecting the security of your personal information. As data controller we process data in accordance with the Data Protection Act 2018 and the UK General Data Protection Regulation.

This meeting may be recorded. The recording will be retained in accordance with the Council's data retention policy and may be published on the Council's website. By entering the chamber and by speaking at a meeting, whether in person or online, you are consenting to being recorded and to the recording being published.

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

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

1. Emergency Evacuation Procedure

Visitors and members of the public who are unfamiliar with the building and procedures are advised 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. Minutes

To approve the [Minutes](#) of the meeting held on 17 August 2023 (Minute Nos. 226 – 229) as a correct record.

4. Declarations of Interest

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

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

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

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

Part B reports for the Planning Committee to decide

5. Report of the Head of Planning Services

5 - 222

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 13 September 2023.

Issued on Wednesday, 6 September 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 at democraticservices@swale.gov.uk. 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**

This page is intentionally left blank

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

14 SEPTEMBER 2023

Standard Index to Contents

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

This page is intentionally left blank

INDEX OF ITEMS FOR PLANNING COMMITTEE – 14 SEPTEMBER 2023

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

PART 2

2.1	23/502492/FULL	MINSTER	170 Southsea Avenue
2.2	23/502632/FULL	EASTCHURCH	8 Oak Tree Close
2.3	23/502980/FULL	LEYSDOWN	Seaview Holiday Camp
2.4	23/501777/FULL	HERNHILL	Crockham Farmhouse
2.5	23/501167/REM	FAVERSHAM	Site A Preston Fields Salters Lane
2.6	23/501017/FULL	MINSTER	Barton Hill Drive

PART 3

3.1	23/501613/FULL	UPCHURCH	Land to the East of Orchard House
-----	----------------	----------	-----------------------------------

PART 5

5.1	22/503521/FULL	SHELDWICH	Copton House 8 Ashford Road
5.2	22/504671/FULL	EASTCHURCH	Jalna Warden Road
5.3	22/504725/FULL	EASTCHURCH	Appleyard Barn Plough Road
5.4	23/500422/FULL	SHEERNESS	43 St Helens Road
5.5	21/504300/FULL	OSPRINGE	Hill Top Farm Elverland Lane
5.6		SHEERNESS	106-110 Broadway
5.7	22/503951/FULL	SHELDWICH	The Cottage Ashford Road
5.8	22/500275/OUT	NEWINGTON	London Road
5.9	21/506896/PNR	THROWLEY	Bells Forstal Farm Throwley Road
5.10	16/503414/FULL	NEWINGTON	61 Playstool Road
5.11	22/503616/FULL	MINSTER	Land to rear of No 6 Orchard Grove
5.12	22/504138/FULL	NORTON	1 The Kennels Rushett Lane
5.13	22/500680/FULL	TONGE	Fairview Lower Road
5.14	18/503627/FULL	HARTLIP	Windmill Farm Yaughar Lane

This page is intentionally left blank

PLANNING COMMITTEE – 14 SEPTEMBER 2023**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO – 23/502492/FULL		
PROPOSAL Erection of a replacement dwellinghouse with associated landscaping and parking.		
SITE LOCATION 170 Southsea Avenue, Private Street, Minster-on-sea, Sheerness, Kent, ME12 2LU		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Minster-on-Sea Parish Council objection		
CASE OFFICER Megan Harris		
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr + Mrs Yvonne and Julian Olver AGENT Jdrm
DATE REGISTERED 30/05/23	TARGET DATE 18/09/23	CASE OFFICER Megan Harris
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RV7D1BTYGTI00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 170 Southsea Avenue is a detached bungalow located within the built up area boundary of Minster. The property lies on the northern side of Southsea Avenue, along an unmade road. The property has an integral garage and driveway to the front of this, and private amenity space to the rear.
- 1.2 The surrounding area is characterised by residential development of various scale and design. A large two storey property lies immediately west of the application site with a shallow pitched roofed bungalow to the east, which fronts onto Seathorpe Avenue. To the north lies Minster Cliffs, a designated area of local green space, which also falls within a coastal change management area. To the east of the site next to the neighbouring bungalow is a public car park.

2. PLANNING HISTORY

- 2.1 **22/505204/FULL** Demolition of existing garage and side extension, front and rear single storey extensions, changes to roof and construction of a second storey. Approved - Decision Date: 23.12.2022 – Not implemented but remains extant and represents a material fallback position.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for the demolition of the existing dwelling and the erection of a replacement dwelling with associated landscaping and parking.
- 3.2 The new dwelling will measure 14.2m in depth and 9.5m in width and will be over two storeys with a gable roof. The roof will have an eaves height of 5.1m and a ridge height of 7.9m. Proposed materials include brickwork, timber cladding, aluminium fenestration and a standing seam metal roof.
- 3.3 Internally, four bedrooms, living space, a bathroom, utility room, WC and open plan kitchen and dining area will be provided in the property, along with balconies at the front and rear at first floor level which will be inset into the new roof.
- 3.4 The existing driveway will be retained and will provide parking for two cars.
- 3.5 This scheme is very similar in scale, height, siting and appearance to the extensions approved to the existing dwelling under application 22/505204/FULL. The following minor differences between the approved scheme and current application are set out below:
- The current application is to demolish and re-build the dwelling in its entirety, rather than to extend the existing dwelling as previously approved.
 - First floor bathroom window dimension changed and moved slightly;
 - First floor rear terrace door opening arrangement altered;
 - Front door design changed;
 - Existing render omitted for brickwork; and
 - Metal balustrades to terraces omitted for glass.

- 3.6 As the applicant now wishes to demolish and replace the existing bungalow rather than extend it, this represents a materially different development to that which benefits from permission, albeit that the resultant built form is effectively the same.

4. CONSULTATION

- 4.1 One round of consultation with neighbours has been undertaken, and notification letters were sent to immediately neighbouring occupiers. A site notice was also displayed at the site. The full representations are available to view online.
- 4.2 One letter of representation was received in relation to the consultation. Concerns were raised in relation to the following matter: -
- Side windows should be obscure glazed to avoid overlooking

- 4.3 Minster-on-Sea Parish Council support the application subject to the provision of adequate off-street parking and a condition being imposed that any windows facing 36 Seathorpe Avenue should be obscured/frosted glass to prevent overlooking of the neighbouring property.
- 4.4 As the development includes a side facing window that would not be obscure glazed, the Head of Planning considers that an objection is effectively raised. Officers have sought to clarify the position further with the Parish Council but have received no additional feedback to date.

5. REPRESENTATIONS

- 5.1 **SBC Environmental Health:** – As there are a number of residential properties in the locality, recommend a condition restricting the construction hours on site to protect the amenity of neighbours.
- 5.2 **Environment Agency:** - advise that Coastal change management areas (CCMAs) are set by the local planning authority and as such the Environment Agency have no comments to make on the position of the CCMA.
- 5.3 **SBC Planning Policy:** - advise that the CCMA in this location should follow the built up area boundary which runs around the boundary of the application site and neighbouring dwellings.

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

ST 1 (Delivering sustainable development)
ST 3 (The Swale settlement strategy)
ST 6 (The Isle of Sheppey area strategy)
CP 3 (Delivering a wide choice of high quality homes)
CP 4 (Good design)
DM 6 (Managing transport demand and impact)
DM 7 (Vehicle parking)
DM 14 (General development criteria)
DM 19 (Sustainable design and construction)
DM 21 (Water, flooding and drainage)
DM 23 (Coastal change management)
DM 28 (Biodiversity and geological conservation)

6.2 **Supplementary Planning Guidance (SPG) / Supplementary Planning Document (SPD)**

Supplementary Planning Guidance – ‘Designing an Extension – A guide for Householders’

Supplementary Planning Document – ‘Swale Parking Standards’

7. ASSESSMENT

7.1 This application is reported to the Committee because a Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
- Character and Appearance
- Living Conditions
- Transport and Highways
- Coastal change management area

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 Policy ST 3 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.

7.5 The application site is located within the built-up area boundary of Minster, and the development proposes the replacement of the existing dwelling on the site. The development of a replacement dwelling would be consistent with policies ST 1, ST 3 and CP 3 of the Local Plan (2017) as adopted, subject to the considerations set out in further detail below.

Character and Appearance

7.6 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.

7.7 The proposal will result in a property that is very similar in scale and form to the permission to extend the property that has already been approved at the site.

7.8 The new dwelling will be a two-storey property, and as such is greater in bulk and scale than the existing bungalow on the site. The change to a two-storey property on this plot would not cause harm to visual amenities, given the mixture of dwelling types in the local streetscene and wider road, and notably the presence of a large two storey property immediately to the west of the site. The eaves and ridge height would be lower than this adjacent property, and as such the development would not cause any detriment to the streetscene when compared to the scale and form of surrounding properties.

- 7.9 The new dwelling will be set forward of the general building line along this stretch of Southsea Avenue, but taking into account the existing property already sits forward of the building line and there are examples of other dwellings elsewhere in the road on a similar building line, this is not considered to be harmful, despite the increased bulk and scale of the proposed dwelling.
- 7.10 Whilst the footprint of the new dwelling is larger than the existing bungalow, the width of the new property is smaller than the bungalow. The height of the dwelling will reduce the amount of openness currently present in this section of the streetscene, facilitated by the shallow pitched hipped roof on the existing bungalow. Again, due to the mixture of dwelling types and presence of large two storey properties to the west, this loss of openness is not considered to be harmful.
- 7.11 The design of the new dwelling is modern and represents a significant departure from the design of the existing bungalow. Whilst the surrounding dwellings are not overtly modern in design terms, there are a mixture of dwelling styles along Southsea Avenue, and as such the design proposed here would add to the variety of house types and would not appear out of place given there is no prevailing design in the streetscene. Proposed materials include brickwork, timber cladding, aluminium fenestration and a standing seam metal roof. Whilst most of these materials are not present on the existing bungalow, given the mixed streetscene, these would not cause harm to the character and appearance of the area. No specific details have been provided relating to the materials, so a condition is included below to ensure these are submitted for approval.
- 7.12 Taking the above factors into account together with the very close similarity to the scheme permitted under 22/505204/FULL, the visual impact of the development is considered acceptable and in accordance with the Local Plan.

Living Conditions

Existing residents

- 7.13 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.14 As set out above, the proposal will result in a property that is very similar to the development already approved at the site. The main properties which will be impacted by the development are those to either side of the site. No. 168 Southsea Avenue lies to the west and the new dwelling will sit approximately 5.5m forward of the two storey element of this neighbour, and roughly 2.6m forward of the single storey extension present at No. 168. There is a gap of 2.8m between the properties, and a difference in land levels, and due to these factors, it is not envisaged that there will be any significantly harmful impacts to the windows in the front elevation of No 168.
- 7.15 The new dwelling will not project rearwards of No. 168, and as such there would be limited impacts to the windows on the rear elevation of this neighbour or its rear garden. There are several windows in the side elevation of No. 168 at first floor level. These windows are either obscure glazed, or are secondary windows and as such, any overshadowing or impacts on these windows will not be significantly harmful to amenity. The side windows on the ground floor of No. 168 are located further rearwards than the

development, and therefore there will be limited impacts to these windows, which are also secondary windows.

- 7.16 The development will be sited roughly 14.5m from the rear elevation of No. 36 Seathorpe Avenue to the east. The Council would normally seek to apply a minimum distance of 11m between flank and rear elevations of neighbouring properties. Given the distance here is in excess of this amount, the proposal would be unlikely to cause any substantial harm to No. 36 by virtue of loss of light, overshadowing or overbearing impacts.
- 7.17 There are windows proposed in the ground floor side elevations of the development, serving bathrooms, a utility room and a secondary window to the dining space. Concern has been raised by a neighbour and the Parish Council regarding overlooking of No. 36 Seathorpe Avenue from these windows. The agent has provided amended plans showing the windows serving the bathrooms and utility room will be obscure glazed with a high-level opening fanlight. However, the applicant wishes to retain the dining space window as being clear glazed. Due to land level changes, this would provide views over the fence line into the garden of the dwelling at No 36. However, there is an existing window in the side elevation of the bungalow in a very similar position which serves the living room. On this basis, whilst the comments from the neighbour and the Parish Council are noted, the window in the replacement dwelling would not cause a level of overlooking beyond that already experienced from the existing window in the bungalow. On this basis, it is not considered reasonable to impose a condition requiring this window to be obscure glazed, as the development would not make this existing overlooking relationship worse and would cause no greater harm to the living conditions of No. 36.
- 7.18 It should be noted that in approving the extensions to the property under 22/505204/FULL, a condition was imposed to require windows in the side elevation to be obscure glazed. However for the reasons set out above, it is considered that this was not reasonable in the case of the dining room window, given that it would be sited in the same location as the existing living room window. If any application to remove or vary this condition was submitted, officers would be unable to defend the requirement of this condition to obscure glaze the dining room window on the basis that the overlooking would be of no greater harm than experienced from the window in the existing dwelling.
- 7.19 First floor terraces are proposed in the front and rear elevations. These terraces would not give rise to any harmful overlooking of the properties to either side of the site, as the terraces will be inset into the roof, and as such will provide views directly forwards rather than to the side.

Future residents

- 7.20 New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.
- 7.21 The property would meet the National Space Standards and all habitable rooms are served by windows which will provide adequate outlook, light and ventilation. The rear garden is large in depth and will provide a good standard of outdoor amenity space. On this basis, the development will provide an acceptable standard of amenity for future occupiers.

7.22 Taking the above into account, the scheme is considered to be acceptable and would not cause any unacceptable impacts on living conditions. Although a side window would face across the garden towards No 36 Seathorpe Avenue, it would not cause any additional overlooking compared to the existing arrangement, and as such would not be harmful and would accord with Policy DM 14 of the Local Plan.

Transport and Highways

7.23 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver this. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.24 The NPPF also 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.”

7.25 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

7.26 The new dwelling will have four bedrooms. In line with the Council's Parking Standards SPD, a four bedroom property in this location should provide two to three spaces. Two spaces can be accommodated on the existing driveway at the property, and whilst this only satisfies the lower end of the provision, this is considered to be acceptable in this location, and in accordance with policies DM 7 and DM 14 of the Local Plan.

Coastal Change Management Area

7.27 The Council's Local Plan proposals map indicates that the eastern corner of the property is within a coastal change management area (CCMA), as defined by policy DM 23 of the Local Plan. However, following consultations with both the Environment Agency and the Council's own Planning Policy team, it has been established that there is an error with the CCMA mapping layer, and that this should not encroach onto the application site. As such, no part of the site falls within the CCMA and there are no concerns to be raised in relation to this.

8. CONCLUSION

8.1 On the basis of the above, the scheme is considered to be in compliance with policies CP 4, DM 7, DM 14 and DM 16 of the Local Plan and the SPG. It is also essentially of the same design and scale as the extended dwelling permitted under 22/505204/FULL and the small scale design changes between the two schemes are acceptable. As such, it is recommended that planning permission be granted.

9. 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 drawings: 2201(11)010 Rev B, 2201(21)010, 2201(21)011 Rev A 2201(21)012 and 2201(31)010 Rev B.

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

- (3) The dwelling hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been 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.

- (4) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and the development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- (5) The area shown on approved plan numbered 2201(11)010 Rev B as vehicle parking shall be retained for the use of the occupiers of, and visitors to, the dwelling, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- (6) 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 residential amenity.

- (7) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling shall not be occupied unless the notice for the 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.

- (8) Before the development hereby permitted is first occupied, the window openings on the east and west facing ground floor side elevations serving bathrooms and the utility room shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such in perpetuity. No further windows or openings shall be installed in the side elevations or roof slopes of the dwelling.

Reason: To prevent overlooking of adjoining property and to safeguard the privacy of existing and prospective occupiers.

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

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

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

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

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

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

- (12) 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.

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.



This page is intentionally left blank

2.2 REFERENCE NO - 23/500162/FULL		
APPLICATION PROPOSAL Proposed change of use of existing commercial building to single unit of holiday accommodation, with parking and turning space, amenity space and landscaping.		
ADDRESS The Stables Rushett Lane Norton Kent ME13 0SG		
RECOMMENDATION Approve subject to SAMMS PAYMENT		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
WARD Teynham And Lynsted	PARISH/TOWN COUNCIL Norton, Buckland And Stone	APPLICANT Mr D Petherick AGENT Kingsway Planning
DECISION DUE DATE 31/05/23	PUBLICITY EXPIRY DATE 03/02/23	CASE OFFICER Claire Attaway

Relevant Planning History of building subject to this application

19/504418/FULL

Part retrospective application for change of use from B1 commercial use of property to part residential.

Refused Decision Date: 05.11.2019

Appeal dismissed Decision Date: 10.03.2022

Enforcement notice upheld Decision date: 10.03.2022

16/503815/SUB

Submission of details pursuant to Condition 2 - Materials for Proposed Roof and Condition 3 - Hard and Soft Landscaping of 14/502507/FULL.

Approved Decision Date: 21.06.2016

15/506487/FULL

Part Retrospective - Retention of use of existing store/workshop with roof and window alterations

Refused Decision Date: 01.10.2015

14/502507/FULL

Change of use from stables to office and workshop B1 use

Refused Decision Date: 02.03.2015

Appeal allowed Decision Date: 10.03.2016

SW/04/0645

Change of use of land and erection of stable block with paddock and menage new fencing and landscaping.

Approved Decision Date: 15.07.2004

The relevant planning history in relation to the building itself begins with a planning application (14/502507/FULL) in 2014 for the change of use of the stables to an office and workshop (Use Class B1) which was refused by the Council but allowed at appeal on 26 January 2016 under ref APP/V2255/W/15/3133029. That application sought planning permission to change the flat roof of the unauthorised extension to create a double gable end to the north east elevation, as well as the insertion of a number of new windows and doors. As the appeal was allowed, the

external alterations to the appearance of the building were authorised, as well as the commercial use of the building.

An appeal against the Council's decision to refuse planning permission (19/504418/FULL) for a live/work unit was dismissed on 10 March 2022 under ref APP/V2255/W/20/3261861, and the enforcement notice upheld meaning that the residential use of the building must cease within 12 months of that date.

Planning History of wider site

SW/11/0721

Conversion of redundant general purpose farm building and change of use into Class B1, office and workshop.

Refused Decision Date: 08.09.2011

SW/09/0687

Conversion of redundant general purpose farm building and change of use into holiday let accommodation – note this is not the building subject to the current application

Refused Decision Date: 21.09.2009

Appeal dismissed Decision Date: 24.06.2010

SW/08/1135

New general purpose farm building.

Grant of Conditional PP Decision Date: 18.12.2008

SW/05/0203

Equipment store in extension to stables

Refused Decision Date: 05.04.2005

Appeal allowed Decision Date: 15.11.2005

In terms of the most relevant planning history for the wider site, an application (SW/08/1135) for a new farm building alongside the stables was approved but this was not built. Instead, a similar but substantially different (longer and wider) building (the unauthorised building) was erected, and the Council served an enforcement notice dated 4th January 2012. The enforcement appeal was dismissed on 27th June 2012 and the building was eventually demolished. In the meantime, an application (SW/09/0687) to convert the unauthorised (and now demolished) building to a holiday cottage was refused and dismissed at appeal (APP/V2255/A/10/2124902) in June 2010 due to the impact of the proposed domestic style alterations of the building on the character and appearance of the rural area. The Inspector did not consider the unauthorised building should be described as a suitable existing rural building for conversion.

1. DESCRIPTION OF SITE

- 1.1 The site, approx. 0.07 hectares in area, lies outside any Local Plan defined built up area boundary, within a small cluster of houses set along Rushett Lane. The proposal relates to a single storey timber clad building that was originally erected as stables but is now being used as a residential unit (without planning permission).
- 1.2 The building itself is L shaped and is situated on the south eastern corner of the site. The walls are clad in black stained weatherboarding above a brick plinth and the pitched roof is covered in slate tiles. The site is well screened from the road by tall boundary hedging and wooden gates. The driveway leads to a large area of hardstanding that surrounds the side of the building which is used for parking and turning. The remaining part of the

site consists mainly of a grassed area of land. Beyond that, to the north and west, the site is surrounded by paddocks which are in the applicants ownership.

2. PROPOSAL

- 2.1 This application seeks planning permission to change the use of the building permitted under 14/502507/FULL for a commercial use into a two bedroom holiday let. The proposal involves internal alterations only. The office would be used as a second bedroom. An area to the side and rear of the building will be used as garden space, and the two existing car parking spaces to the front will be retained.
- 2.2 The building will not be enlarged, and the materials will remain as existing. However, the existing elevations of the building differ slightly to that approved under 14/502507/FULL, and this application seeks to regularise the following alterations:
- South-West Elevation – glazed panel to doors altered
 - North-West Elevation – glazed panel added to door
 - South-East Elevation – fourth window deleted
 - North-East Elevation – new window inserted, and glazing added to double doors

3. PLANNING CONSTRAINTS

- 3.1 Designated countryside.

4. POLICY AND CONSIDERATIONS

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

ST1 Delivering sustainable development in Swale

ST3 The Swale settlement strategy

ST7 The Faversham area and Kent Downs strategy

DM3 The rural economy

DM7 Vehicle Parking

DM14 General development criteria

DM24 Conserving and enhancing valued landscapes

- 4.2 Supplementary Planning Document (SPD):

The Swale Borough Council Car Parking Standards SPD May 2020. The guidance advises that secure and convenient cycle parking is essential to encourage people to use this mode of travel, and that developments should incorporate electric vehicle charging points into the parking design.

The Swale Borough Council Landscape Character Biodiversity Appraisal SPD 2011. The site is located within the Lynsted Enclosed Farmlands. The overall condition of the landscape is rated good and landscape sensitivity is rated moderate. The guidelines focus on conserving and reinforcing its distinctive character.

5. LOCAL REPRESENTATIONS

- 5.1 Norton, Buckland, and Stone Parish Council recommends the application is refused, commenting as follows:

It would seem that the building as exists now is in fact that which was refused permission under application 19/504418/FULL.

This building, as now built, is a domestic dwelling, and has been occupied for some time. As such, there is no permission in place for this building. The now existing floor plan and exterior shown in this application are identical to that of refused application 19/504418/FULL.

In refusing the appeal to 19/504418/FULL the Government Inspector gave as a reason for dismissing the appeal as “Although there has been no increase in its overall size, the windows and doors that have been inserted give the building a domestic appearance. Moreover, despite the existing vegetation which partially screens the site, the residential use with its private garden area and domestic paraphernalia and associated parking has changed the rural character and appearance of the site to a harmful degree.”

What is being sought by this application is to approve the same building as was refused by Swale Borough Council and at Appeal under application 19/504418/FULL, although now as a holiday let rather than a permanent residence.

Whilst noting that the applicant suggests that if approved, occupation should be time restricted, the Council considers that such a condition would be difficult to monitor or enforce.

- 5.2 Consultation letters were sent to neighbouring properties and a site notice was displayed. One neighbour responded raising concern that further agricultural buildings could be added and then retrospective permission sought to convert to residential use resulting in a large residential site. They question if the applicant will move if the proposal is approved.

6. CONSULTATIONS

- 6.1 **Natural England:** - no objection subject to strategic mitigation (SAMMS) payment being secured in respect of possible increased recreational disturbance to The Swale SPA/Ramsar site.
- 6.2 **KCC Highways and Transportation:** - consider this to be a non-protocol matter.
- 6.3 **The Council’s Environmental Protection Team:** - no objection subject to a land contamination condition.
- 6.4 **The Council’s Economy and Community Services (ECS):** - considers the proposal supports the council’s commitment to the visitor economy and support for building the range of accommodation in the area.

7. BACKGROUND PAPERS AND PLANS

- 7.1 Application papers and drawings referring to application reference 23/500162/FULL.

8. APPRAISAL

Principle of Development

- 8.1 The site is situated within the designated countryside where Policy ST3 of the Local Plan, which seeks to resist development unless supported by the NPPF. The NPPF at paragraph 84 states that a positive approach should be taken to sustainable development to promote a strong rural economy and that support for all types of rural businesses and tourism developments can be achieved through conversion of existing buildings and well-designed new buildings which respect the character of the countryside. Paragraph 85 of the NPPF recognises that sites to meet local business and community needs in rural areas may have to be found outside existing settlements and in locations that are not well served by public transport.
- 8.2 Policy DM3 of the adopted Local Plan supports the rural economy by encouraging economic development, especially by prioritising the re-use of rural buildings over new builds. The most relevant section of the supporting text to this policy is as follows:

For the rural tourism sector, given the outstanding environment in Swale and its potential contribution to the economy, the Council wishes to see an expansion of sustainable rural tourism initiatives that can benefit local communities, economically and socially as well as raising awareness and support for the conservation and enhancement of the Borough's natural assets.

- 8.3 In this case, in terms of the current lawful use of the site, the Enforcement Notice issued by the Council in respect of the use of the building as a residential unit (which was later dismissed under ref. APP/V2255/W/20/3261861) set out that the breach of planning control was that a change of use from commercial to residential had taken place. As the Inspector did not vary the terms of the notice it must be concluded that the Inspector also concluded that the existing use at that point was commercial. On that basis, as that is the last lawful use of the site, the conversion of an existing rural building into holiday let accommodation is acceptable in terms of paragraph 84 of the NPPF and in accordance with Policy DM3 of the Local Plan. Furthermore, the Council's Tourism Officer supports the proposal and is of the view that this destination will appeal to those seeking a rural retreat.

Character and appearance

- 8.4 The Inspector for the most recent appeal (APP/V2255/C/20/3256509) considered the windows and doors that had been inserted gave the building a domestic appearance, and that its private garden area and associated parking resulted in harm to the character and appearance of the area. However, that application (19/504418/FULL) sought a residential use on a considerably larger site, where the Inspector found the benefit of one new dwelling did not outweigh the harm to the countryside. In this case, the proposal would create a good tourism opportunity in a rural location. In addition, as the site area is now much smaller, there would not be the opportunity for the same harm to the

countryside to occur. Additionally, the use of the site as a holiday let would mean that it would be less likely that residential paraphernalia associated with unrestricted residential use, such as the need for washing lines, trampolines etc. would be present on the site. Therefore, the impact on the countryside would be reduced in comparison to the harm that the Inspector identified for an alternative proposal and outweighed by the benefits the proposal would bring to the area and the Borough as a whole.

- 8.5 In respect of the differences of the external appearance of the building outlined in paragraph 2.2 above, Members should refer back to what was considered the lawful commercial use of the building. There are permitted development rights in respect of industrial / office buildings, of which these would fall within. The alternations are very minor and on this basis no concern is raised in regard to this.

8.6 Impact Upon living conditions

The closest neighbouring properties that are most affected by the proposal are situated across the lane to the south-west, and approximately 95m to the north-west. However, due to the position of the building and the significant separation distance to other properties, there is found to be no identifiable harm to the amenities of neighbouring properties surrounding the site.

Highways

- 8.7 The site is situated in a rural location with limited access to public transport and in all probability, visitors would rely on a car for their journeys. However, it seems unlikely that the holiday let would generate a significant amount of traffic, and in any case, it will be dispersed throughout the day. Furthermore, Kent Highways and Transportation does not consider the proposal meets the criteria to warrant involvement from them. The parking area is considered adequate to accommodate any visitors to the site therefore it is considered there are not any reasons to refuse the application on highway or traffic grounds.

Landscaping

- 8.8 The Planning Statement at para 19 states that additional landscaping works and biodiversity improvements could be incorporated into the scheme. Members will note condition (8) which requires landscaping details to be submitted to ensure the character and appearance of the rural landscape is enhanced.

SPA Impact

- 8.9 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, and as such the Council seeks a mitigation contribution of £314.05 for each new holiday unit. However, the applicant has already paid £245.56 in respect of application ref 19/504418/FULL that was dismissed at appeal. Therefore, the applicant is only required to pay the difference, i.e., £314.05 - £245.56 = £68.49. This matter will need to be dealt with before any planning permission can be issued.

Other Matters

- 8.10 The status of the building as a holiday let should be protected and condition (3) will ensure this is the case. However, the Parish Council raise concern that it would be difficult to monitor or enforce. It is evident from previous appeal decisions that unauthorised use on this site was dealt with by the Planning Enforcement team. Therefore, this is not seen as a reason to justify refusal of planning permission.
- 8.11 The local representation raises concerns that further agricultural buildings could be added which would be then converted to residential use. Any future development here that is not included within the proposal, and requires planning consent, would require an application for planning permission which the Council would assess on its own merits.

9. CONCLUSION

- 9.1 The proposal will re-use an existing rural building and support the rural economy. The potential impact of this proposal upon the character and appearance of the rural area, as well as the comments of the Parish Council have been considered. The impact is considered to be minimal and considerably outweighed by the benefits it would bring to the Borough. On this basis planning permission should be granted, subject to the conditions which have been included below.

- 10. RECOMMENDATION - GRANT** Subject to the following conditions and the collection of a SAMMS payment.

CONDITIONS

- (1) The development 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 development hereby approved shall be carried out in accordance with the approved drawings Floor Plans PE/13/145.01 Rev D and Block Plans PE/13/145.03 Rev D.

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

- (3) The holiday let hereby permitted shall be used solely for the purpose of holiday accommodation; shall not be used by any person or persons as their sole or main residence and the accommodation shall not be occupied by any person or group of persons for more than four weeks in any calendar year.

Reason: As the site lies outside any area intended for new permanent residential development and as the permission is only granted in recognition of the applicant's intention and the Local Planning Authority's wish to encourage suitable provision of holiday accommodation in this attractive rural area.

- (4) The area shown on approved drawing PE/13/145.03 Rev D as a vehicle parking space shall be provided before first occupation of the holiday let hereby permitted, and this area shall at all times be retained for the use of the occupiers of the

holiday accommodation. No permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to these areas.

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

- (5) Prior to the first occupation of the holiday accommodation hereby permitted, one electric vehicle charging point shall be provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wi-Fi 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: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

- (6) Prior to the first occupation of the holiday accommodation hereby permitted, provision and permanent retention of secure, covered cycle parking facilities shall be completed in accordance with details that shall first have been submitted to and approved by the Local Planning Authority.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

- (7) The holiday accommodation hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day and shall not be occupied unless the notice for the dwellings 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.

- (8) Within six months of the date of this decision, full details of both hard and soft landscape works – which shall include an ecology enhancement plan demonstrating how the site will be enhanced to benefit biodiversity – shall be submitted to the Local Planning Authority. These details shall include existing trees, shrubs, and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- (9) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be implemented in accordance with the programme agreed in writing with the Local Planning Authority.

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

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

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

- (11) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

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

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

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

INFORMATIVES

- (1) This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.

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.

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

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km of The 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).

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

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with

the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.

Due to the scale of development there is no scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

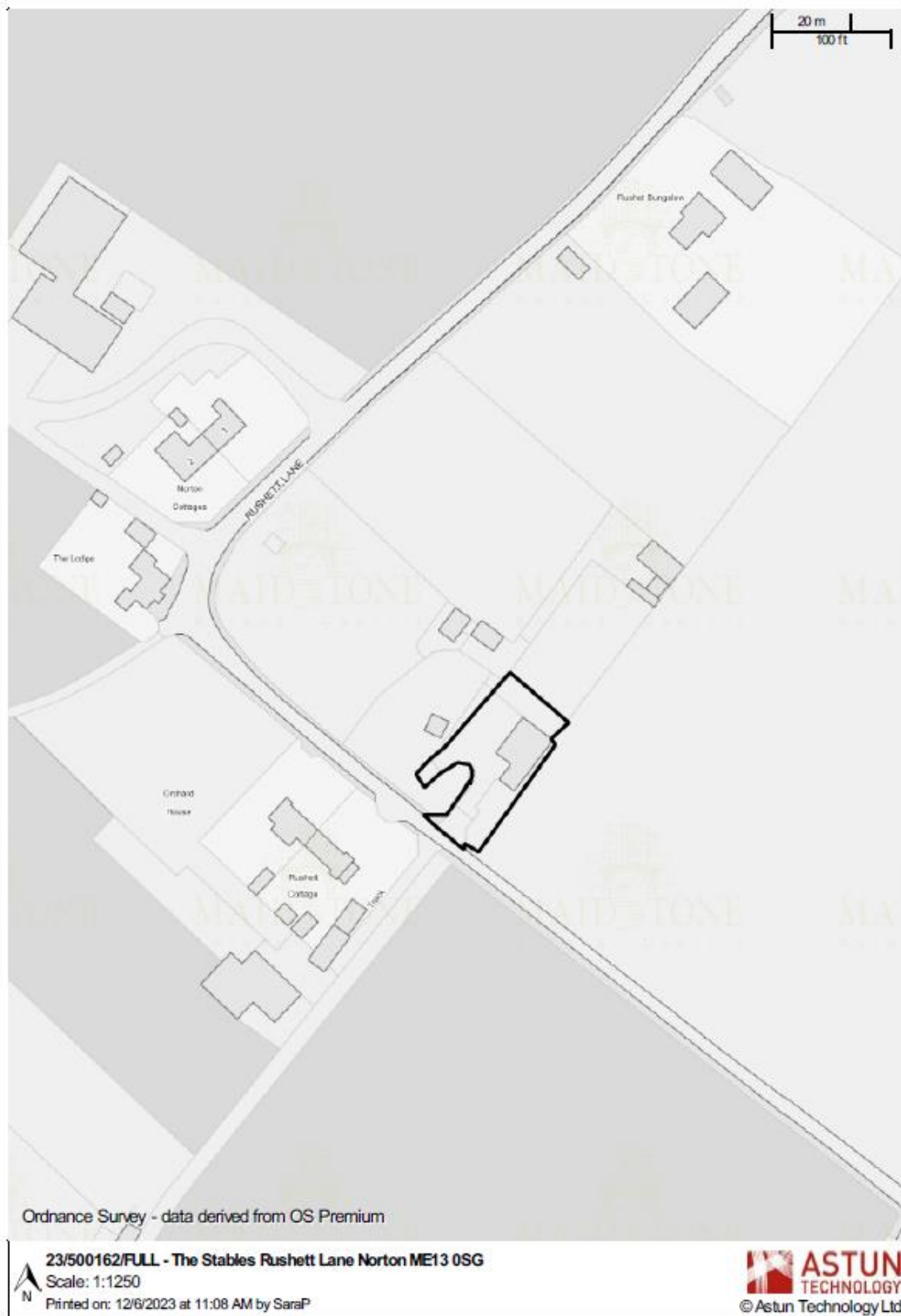
Based on the correspondence with Natural England (via the NKEPG), I conclude that off-site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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/>).

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

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



2.3 REFERENCE NO – 23/502980/FULL		
PROPOSAL Replacement of 9no. chalets at plots 1,2,3,15,16,17,18,19 and 30.		
SITE LOCATION Seaview Holiday Camp, Warden Bay Road, Leysdown, Kent, ME12 4NB		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Leysdown Parish Council Objection		
Case Officer Megan Harris		
WARD Sheppey East	PARISH/TOWN COUNCIL Leysdown	APPLICANT Mr David Collins AGENT Forward Planning And Development
DATE REGISTERED 05/07/23	TARGET DATE 30/08/23	CASE OFFICER Megan Harris
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RWV8O5TYMHO00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site is a holiday park situated on Warden Bay Road, roughly halfway between Leysdown and Warden. The site is outside of any defined built settlement boundary, but is within a designated holiday park. There are approximately 89 chalets and 90 caravan pitches on site. Chalets are generally situated around the site perimeter and static caravans in the centre. The entrance to the site is located in Environment Agency Flood Zone 3, whilst several chalets on the eastern side of the site (three of which are the subject of this application) are located in Flood Zone 2. The majority of the site lies in Flood Zone 1.
- 1.2 The site benefits from planning permission which allows for the 12 month occupancy of chalets. This situation arises from appeal decisions in the 1960's (see planning history section), which did not impose any restriction on occupancy of the chalets, and only restricted the occupancy of the caravans on site to the standard March-October period.
- 1.3 Application SW/13/1204 varied the original caravan occupancy restriction to allow an extended, 10-month occupancy for the caravans only. This is in accordance with the majority of the parks on the Island.
- 1.4 As such, the present position is that the chalets on site are not subject to a condition restricting occupancy, but the caravans are restricted to the Council's standard 10-month occupancy conditions.

2. PLANNING HISTORY

Occupancy

- 2.1 **15/509228/LDCEX** – Lawful Development Certificate granted on 16.12.2015 for 12 month annual use of 11 chalets nos. 1 - 10 including 1A.
- 2.2 **15/509233/LDCEX** – Lawful Development Certificate granted on 21.01.2016 for 12 month annual use of 10 chalets Nos.59-68.
- 2.3 **SW/13/1204** – Variation of condition 1 of NK/8/63/326 granted on 16.12.2013 to allow 10 month occupancy of caravans.
- 2.4 **SW/12/0404** – Lawful Development Certificate (Proposed) granted on 16.05.2012 for 12 month annual use of 9 chalets nos.81-89 (inclusive) shown on plan enclosed WS/01/OP.
- 2.5 **NK/8/63/326** – Permanent permission granted for the scheme below, also with no occupancy condition relating to chalets.
- 2.6 **NK/8/53/127** – Temporary permission granted for the use of land as holiday park for chalets and caravans. Allowed at appeal, the Inspector's decision restricted occupancy for caravans, but not for chalets.

Replacement units

- 2.7 **23/501608/FULL** – Planning permission granted on 06.07.2023 for removal of 9no. existing chalets/caravans and replacement with 9no. new chalets at plots 64, 65, 68, 69, 72, 100, 101, 102 and 103.
- 2.8 **22/505969/FULL** – Planning permission granted on 10.03.2023 for replacement of 9no. chalets at plots 54-59, 61 and 98 and 99.
- 2.9 **21/504871/FULL** – Planning permission granted on 17.03.2022 for replacement of 20 chalets at plots 20-27, 35-45 and 50.
- 2.10 **20/503571/FULL** – Planning permission granted on 11.12.2020 for replacement of four existing chalet units at plots 51, 51A, 53 and 60.
- 2.11 **20/500490/FULL** – Planning permission granted on 11.12.2020 for erection of nine chalets to replace existing units.
- 2.12 **19/500303/FULL** – Planning permission granted on 21.03.2019 for erection of 7no. chalets to replace existing units 13, 14, 31, 32, 33, 34, and 77.
- 2.13 **18/501184/FULL** – Planning permission granted on 25.05.2018 for erection of 8 Chalets to replace existing chalets, 4, 5, 6, 7, 62, 66, 70 & 76 and removal of chalet 8.
- 2.14 **16/508497/FULL** – Planning permission granted on 07.03.2017 for erection of replacement chalets for 63, 67, 71, 73, 75, 78 and 88.

- 2.15 **15/510027/FULL** – Planning permission granted on 19.02.2016 for erection of chalets to replace existing nos. 80, 81, 83, 87 and 89.
- 2.16 **15//502729/FULL** – Planning permission granted on 25.09.2015 for retention of two replacement chalets, nos. 84 and 85 (retrospective).
- 2.17 **SW/12/1548** – Lawful development certificate (proposed) refused on 14.02.2013 for moving 5 existing chalets within site.

Appeal History

- 2.18 **19/500141/COND** – Appeal allowed on 16.01.2020 for erection of 7no. chalets to replace existing units 13, 14, 31, 32, 33, 34, and 77.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for the removal of 9 existing chalets (No.s 1, 2, 3, 15, 16, 17, 18, 19 and 30), and the erection of 9 chalets to replace the units on the eastern side of the site.
- 3.2 The replacement chalets would have a footprint of 10m x 5.5m and will have a pitched roof with an eaves height of 2.7m and a ridge height of 4m. They would be of a relatively standard design, common across the holiday parks on the Island and regularly permitted as replacements. A small area of decking will be located to the front of each chalet.

4. CONSULTATION

- 4.1 The application was advertised via a site notice and neighbour notification letters. No comments from neighbours were received.
- 4.2 Leysdown Parish Council object to the application for the following reason:
- This is a holiday camp and the chalets should not be made into permanent occupancies to be inhabited all year round during the winter months, as this will put a strain on local services.
- 4.3 The Parish Council were contacted to set out that the chalets on this holiday site already benefit from 12 month occupancy, however they did not remove their objection to the scheme, which does amount to a material planning consideration and as such requires referral to Planning Committee.

5. REPRESENTATIONS

- 5.1 **Climate Change Officer** – Satisfied with SAP reports, but notes there is no mention of water consumption and EV charging points.
- 5.2 **Environmental Health** – No objections subject to condition limiting hours of construction to protect the amenity of occupiers of the surrounding holiday accommodation.
- 5.3 **Kent Police** – Development falls outside of remit for comments.

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

ST 1 Delivering Sustainable Development in Swale

CP 4 Requiring good design

DM 4 New holiday parks or extensions to existing parks

DM 5 The occupancy of holiday parks

DM 7 Vehicle parking

DM 14 General development criteria

DM 19 Sustainable design and construction

DM 21 Water, flooding and drainage

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Document – Swale Parking Standards

7. ASSESSMENT

7.1 This application is reported to the planning committee because the Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
- Character and Appearance
- Living Conditions

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 The application site is a designated holiday park under Policy DM 4 of the Local Plan. Policy DM 4 supports the upgrading and improvement of existing static holiday caravan and chalet sites (including their conversion from one to the other) within the existing boundaries of the Holiday Park areas as shown on the Proposals Map.

7.5 Policy DM 5 sets out that in order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. The policy goes on to allow 10-month

occupation periods where specific criteria are met. The policy sets out five further requirements that applications must comply with.

- 7.6 The proposal is for the replacement of existing chalets with modern chalets occupying a similar location on site albeit with a marginally increased footprint. The principle of this is supported under policy DM 4. In addition, several permissions have been granted for the replacement of dilapidated chalets and caravans on this site, as noted in the Planning History section of this report. As such the Council has found this principle to be acceptable and in accordance with the Local Plan.
- 7.7 Given the policy position and the previous consents, it is therefore considered that there is no in principle concern with the proposal.
- 7.8 As set out earlier, the chalets are not subject to occupancy conditions restricting use throughout the year. As such, and given that the proposal seeks to replace existing chalets with new ones, it would not be reasonable or appropriate to seek to impose occupancy conditions on the chalets proposed – despite what appears to be a conflict with policy DM 5 of the Local Plan.

Character and Appearance

- 7.9 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.10 The proposal is for replacement chalets. The proposed chalets would improve the visual appearance of the site by virtue of the fact that the new chalets are of a modern and fresh appearance, replacing those which are somewhat dilapidated.
- 7.11 Whilst they are slightly larger in scale than the existing chalets, they are in keeping with a number of the other chalets that have been replaced on site. Notwithstanding this, they are considered to be an appropriate scale and design for the site, which will enhance the visual character of the site. Moreover, they do not have an adverse impact on the character of the surrounding area or countryside. On this basis, the design of the proposed chalets is acceptable and would improve the appearance of the site.
- 7.12 Taking the above into account, in respect of the character and appearance of the proposal the scheme is considered to comply with policies CP 4, DM 4 and DM 16 of the Local Plan and the NPPF.

Living Conditions

- 7.13 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.14 There are no neighbouring residential properties outside of the holiday park that will be affected by the proposal and therefore there are no amenity concerns in this regard.
- 7.15 As the units are only slightly larger than the existing chalets, I do not envisage there will be any harmful impacts to the amenity of occupiers of surrounding chalets.

- 7.16 A condition is proposed restricting hours of construction to ensure the development does not cause harm to surrounding amenity during the construction phase. A condition is also proposed to remove permitted development rights for the replacement chalets, in order to prevent the uncontrolled expansion of the units.
- 7.17 On the basis of the above the scheme is considered to comply with policy DM 14 of the Local Plan.

Transport and Highways

- 7.18 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

- 7.19 The NPPF also 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.”

- 7.20 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.21 Each chalet will have its own dedicated parking space to the side/front and there is also additional communal parking available at the site. It is not envisaged that the development will give rise to any adverse transport impacts as the proposal does not increase the number of units at the site.

Sustainability / Energy

- 7.22 Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.23 The application is supported by SAP reports which shows the percentage of Carbon Emissions Improvement against Part L of the Building Regulations as 35%. It is noted that the matter of carbon reduction was explored in further detail in previous applications for the site and the report highlighted that to comply with a 50% reduction in dwelling Emission rates over the 2013 L1A building regulation requirements (as sought by the Council for new dwellings), although achievable, would clearly impact the build costs and that to obtain a 50% reduction for this type of development may be cost prohibitive for the developer. It was therefore agreed by a previous planning committee that a target of 35% was more appropriate. This proposal would therefore accord with recent decisions on similar applications at the site and is considered acceptable.
- 7.24 A condition is also imposed to manage water consumption to ensure the proposal is compliant with policy DM 21 of the Local Plan.

Flood Risk, Drainage and Surface Water

- 7.25 The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan.
- 7.26 Three of the replacement chalets are located within Flood Zone 2, whilst the other six chalets are located in Flood Zone 1. Taking into account this development proposes the replacement of existing chalets and does not result in an uplift of accommodation within Flood Zone 2, there are not considered to be any flood risk concerns associated with the replacement of three chalets within this flood zone. It is noted that this is for replacement units rather than entirely new, additional plots. In that regard there is also no requirement for a SAMMS contribution to be secured as there is no net gain in accommodation.

8. CONCLUSION

- 8.1 In conclusion, the chalets would replace existing chalets that are poor in appearance and construction. The replacement chalets would be of a larger scale and footprint but would be more energy efficient, and of better visual appearance. This would comply with the aims of Policy DM 4 to improve holiday stock on existing designated parks. On this basis, I recommend planning permission is granted.

9. 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) No development shall take place other than in accordance with the details shown on the following drawings: 3957_PL52, 3957_PL53, 3957_PL300A and 3957_PL302B.

Reason: For the avoidance of doubt and in the interest of visual amenity.

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

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

Reason: In the interests of local amenity.

- (4) The following external materials shall be used on the development hereby permitted: HardiePlank cladding in Sail Cloth (cream) and Cool-Light Mist (grey) and Metrotile roof tiles in red and black.

Reason: In the interests of visual amenities.

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

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

- (6) The chalets hereby permitted shall be constructed to achieve at least a 35% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended); in accordance with the SAP reports submitted with the application.

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

- (7) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the units shall not be occupied unless the notice for that chalet 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.

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.



This page is intentionally left blank

2.4 REFERENCE NO - 23/501777/FULL		
PROPOSAL Erection of annexe ancillary to main dwelling, incorporating log store and garage.		
SITE LOCATION Crockham Farmhouse Crockham Lane Hernhill Faversham Kent ME13 9LB		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE Householder		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
CASE OFFICER Claire Attaway		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT Ms S Killick AGENT Miriam Layton Architectural Design
DATE REGISTERED 17/04/23	TARGET DATE 12.06.2023	CASE OFFICER Claire Attaway
BACKGROUND PAPERS AND INFORMATION: 23/501777/FULL Erection of annexe ancillary to main dwelling, incorporating log store and garage. Crockham Farmhouse Crockham Lane Hernhill Faversham Kent ME13 9LB (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 Crockham Farmhouse is a detached dwelling situated on a generous plot along a designated rural lane to the east of the village of Hernhill. The site lies outside any Local Plan defined built-up area boundary and therefore in the countryside, and within a Local Plan designated Area of High Landscape Value (Swale Level).
- 1.2 The dwelling is located on a sharp bend on a narrow lane, opposite a former agricultural barn that has been converted into four dwellings. To the south of the dwelling lies Crockham Farm Cottage on the opposite side of lane and surrounding the site to the north and east are open fields.
- 1.3 The dwelling itself is well-screened from the road by a tall tree and some roadside hedging. There is a driveway along the southern side of the house that provides off-road parking spaces for at least two cars. There is an existing vehicular access to the grassed area to the north-western corner of the site (where the proposed annexe will be sited) that is used for informal parking.

2. PLANNING HISTORY

21/504835/FULL – Planning permission granted on 29.11.2021 for “*Erection of double garage with garden store above and erection of cart shed adequate for two vehicles, renewal of SW/05/1646.*” This permission is extant but has not been implemented.

15/504957/LAWPRO – Lawful Development Certificate granted on 21.08.2015 for “*part demolition of existing conservatory. Erection of porch. Re-roofing of existing conservatory.*”

SW/05/1646 – Planning permission granted on 11.08.2006 for “Erection of double garage with garden store above and erection of cartshed adequate for two vehicles.” This permission has lapsed.

SW/02/0435 – Planning permission granted on 05.06.2002 for “Erection of double garage.” This permission has lapsed.

SW/00/1034 – Planning permission granted on 08.12.2000 for “Infill extension and internal alterations.”

SW/97/0068 – Planning permission granted on 08.05.1997 for “Erection of double garage.” This permission has lapsed.

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the erection of a one and a half storey (with the first floor contained in the roof space) outbuilding to provide annexe accommodation, a home office, a log store, and a double garage. The proposed outbuilding will measure approximately 14.5m in length and 7.3m in width and be sited to the north west of the existing dwelling (the same position as the double garage permitted under 21/504835/FULL) with a turning area in front. The height of the proposed building at 6.2m will be the same as the approved double garage, but the footprint will be slightly less than the combined footprint of both approved buildings – the garage and cart shed (reduced from 108m² to 106m²).
- 3.2 The external walls will be clad in featheredge weatherboarding on top of a red brick plinth, with double glazed timber windows and glazed doors, and a traditional plain clay tiled roof (with solar panels).
- 3.3 The annexe accommodation will comprise of a bedroom/living/dining area with a shower room and hallway, and a home office and store within the roof space (with rear and side facing dormers). The garage will provide covered parking space measuring approx. 6.5m long x 6.5m wide.

4. CONSULTATION

- 4.1 Neighbouring occupiers adjoining the site were notified in writing and a site notice was displayed at the application site. Full details of representations are available online.
- 4.2 3 letters of representations were received in relation to the consultation, objecting to the application. Concerns/comments were raised in relation to the following matters:
 - This is a ‘creeping’ planning application that extends existing permission by stealth i.e., creates a new dwelling
 - Garage/store is a considerable distance from the main house which already has a garage and ample parking closer to the main house
 - There is already a shepherds hut on the site which is let out and already intrudes on the privacy of neighbours – this new building could be used to extend this holiday letting business
 - The proposed exit to this development is on a blind corner

- Groundworks around the main house have caused significant water to flow onto Crockham Lane causing flooding – further groundworks would only exacerbate the problem
- Harm visual amenity – outlook of the countryside setting would be largely occluded by the solid form of a long, larger building, albeit of a good design replacing the green softer landscape
- Overlook/loss of privacy for Black Barns properties
- Represents a residential overdevelopment on this corner of Crockham Lane
- It is not clear what is being proposed as there are no ground levels on the drawings, particularly finished ground levels, or a section showing the proposed building
- The retaining wall should be designed by a qualified engineer and may well require more space than that shown on the proposed plan requiring the footprint to move towards 4 Black Barns which would further reduce visual amenity
- The outdoor amenity space seems to comprise the area in front of the building – we are aware that the adjacent land marked blue is used by the owners but are not privy to their use/ownership?

4.3 **Hernhill Parish Council:** Two consultations have been carried out first on 19.04.2023 when the application was first submitted and second on 14.07.2023 with respect to additional details. They object to the application on the following grounds:

- represents overdevelopment beyond the approved scheme by creating a separate dwelling
- whilst it is the same footprint as the buildings already approved, the usage is different
- the parish council is not reassured by the inclusion of any condition stating that the separate unit of accommodation will be ancillary to the residential use of the main dwelling.

5. REPRESENTATIONS

5.1 None

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017** - policies:

ST3 The Swale settlement strategy

CP4 Requiring good design

DM11 Extensions to and replacement of dwellings in the rural area

DM14 General development criteria

DM24 Conserving and enhancing valued landscapes

DM26 Rural lanes

6.2 **Supplementary Planning Documents** – Parking Standards May 2020 and The Swale Landscape and Character Biodiversity Appraisal 2011.

7. ASSESSMENT

7.1 This application is reported to the Committee because Hernhill Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following points: -

- The principle of development
- Character and Appearance
- Living Conditions
- Transport and Highways

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 The site is situated within the designated countryside where Policy ST3 of the Local Plan states that the countryside should be protected for its own sake and that development should be restricted outside rural settlements in the interest of countryside conservation and sustainability.

7.5 In this case I give weight to two matters. Firstly, the proposal is located within the curtilage of an existing residential property, where outbuildings are, subject to other policy matters being addressed, often considered acceptable. Although Policy DM11 of the Local Plan is not directly relevant as the proposed development is not an extension to the existing dwelling, the general thrust of this policy is to ensure that development is well related in scale and design to its rural context, and this principle can also be applied to this case. Secondly, the approval of planning permission 21/504835/FULL for the erection of two outbuildings - a double garage with garden store above and a cart shed for two vehicles - indicates that the principle of development on this site is acceptable subject to the consideration of other material planning considerations, and represents a material fallback position.

Character and Appearance

7.6 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.

7.7 Policy CP4 of the Local Plan requires proposals to be of a high quality design that is appropriate to its surroundings. It goes on to say that development will reinforce local distinctiveness and be appropriate to the context in respect of materials, scale, height and massing. Policy DM24 of the Local Plan states that for locally defined Areas of High Landscape Value (Swale Level) planning permission will be granted subject to “*the conservation and enhancement of the landscape*” and “*avoidance, minimisation and*

mitigation of adverse landscape impacts” unless social and or economic benefits ... outweigh the harm. It goes to say that for all landscapes, the design of the development will be informed by the Swale Landscape and Character Biodiversity Appraisal SPD.

- 7.8 This particular landscape is identified within the Swale Landscape and Biodiversity Appraisal SPD as falling within the “Woodland Landscape Types” category and the Blean Woods West character area. It describes the landscape as gently to steeply sloping with ancient woodland; enclosed landscape; linear village, scattered isolated cottages and farms; and with a sense of remoteness and quiet rural lanes. The overall condition of the landscape is rated good, and landscape sensitivity is rated as moderate. The guidelines focus on conserving and reinforcing the woodland character. In relation to buildings it suggests appropriate materials for walls - weatherboarding, red or occasional yellow stock bricks or occasionally brick and flint, and for roofs - Kent peg tiles or occasionally slate.
- 7.9 The planning policies and local guidance relevant today are the same as they were in 2021 when the Council approved the proposals for two separate outbuildings upon this site. As such, there is now an extant permission to build two outbuildings that are separated by a large area of hard surfacing. Such considerations need to be carefully balanced against the benefits of the proposal and whether the current proposal would have a significantly greater impact on the surrounding countryside.
- 7.10 The proposed outbuilding with its timber clad walls, small timber windows and steep tiled roof is very much in-keeping with the traditional style of buildings which are found in the countryside in Swale. The adjacent converted barn is constructed of similar materials and the proposal would not be out of character with the area. In addition, as the outbuilding is a high standard of design and the area of hard surfacing is now much smaller, the impact on the countryside and designated landscape would be reduced in comparison to the approved scheme (21/504835/FULL).
- 7.11 It is recognised that due to the extant planning permission there is the possibility that if permission was granted for this current proposal, then the scheme now being proposed could be constructed in addition to the cart shed as approved under ref. 21/504835/FULL. This would have an additional impact which would introduce further built form into this rural area. On that basis, a condition is recommended which removes the ability for this permission to be implemented in addition to the planning permission previously granted.
- 7.12 The proposed building would be detached from the main house and visible from the road. It would remain subservient to the house in terms of scale and both the existing dwelling and proposed building would be accessed via the same vehicle entrance. In my opinion, the relationship with the main house is such that the development would not be viewed in isolation but as an ancillary detached building to the main house.
- 7.13 On that basis, the proposal will be less intrusive within the rural landscape than the approved scheme and is in accordance with Policies ST3, CP4, DM14 and DM24 of the Local Plan and The Swale Landscape Character and Biodiversity Appraisal SPD.

Living Conditions

- 7.14 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

- 7.15 The closest neighbouring property impacted by the proposal is No. 4 Black Barns where the principal (front) elevation of this barn conversion faces the grassed area where the new outbuilding will be sited. There will be a separation distance of approx. 13m between the proposed outbuilding and the barn conversion. The Council does not operate a policy of minimum window to window distances in relation to front windows. But in any case, given the separation distance, that the outbuilding is limited to 6.2m in height, only has windows at ground floor level on the elevation facing No.4 Black Barns and is located on the opposite side of the highway, it is not considered to create a loss of privacy or loss of light sufficient to cause significant harm to the amenity of the occupiers of the barn conversion.
- 7.16 The dormers on the rear and side facing roof slope will overlook open land surrounding the site and as such are considered to be suitably positioned to avoid any harmful overlooking to neighbouring properties. As such the proposal is considered to have an acceptable impact upon the living conditions of surrounding neighbouring properties and as such is in accordance with Policies DM14 and DM16 of the Local Plan.

Transport and Highways

- 7.17 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

- 7.18 The NPPF also 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.”

- 7.19 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.20 The Council’s adopted Parking Standards SPD recommends at least three parking spaces (5.0m long x 2.5m wide) for a three or four bedroom dwelling situated in rural location. The recommended dimensions for a two car garage are 7.0m long x 6.0m wide. The three parking spaces shown in front of the annexe meet the minimum car parking space dimensions of the SPD, but the length of the garage is slightly under the recommended dimensions. However, the footnote to Table 7 of the SPD states that smaller garages can be justified where provided in addition to the overall parking provision. On that basis, the required parking standards have been achieved and as such, the proposal complies with Policy DM7 of the Local Plan and the Parking Standards SPD.
- 7.21 The site is situated on a country lane which is designated as a rural lane in the Local Plan, where policy DM26 seeks to safeguard against development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes. It is not considered that the use of the building as an annexe would generate a significant amount of traffic. The existing vehicular access will be used as the entrance to the parking area and garage – which is the same access as included within the previously approved scheme which currently remains extant under ref. 21/504835/FULL - therefore

the proposal is unlikely to result in significant harm to the rural character of the lane and is in accordance with Policy DM26 of the Local Plan.

Other matters

- 7.22 The level of accommodation being proposed does not go beyond what can be considered as annexe accommodation. Nonetheless, the status of the building as ancillary accommodation should be protected, and Condition (4) has been recommended to ensure this is the case. The Parish Council does not believe this addresses their concern but if there is a material change of use in future to create a separate dwelling, then a separate grant of planning permission would be required, and the building may be at risk of enforcement action if such permission is not granted.
- 7.23 The neighbour objection refers to the stationing of a 'shepherds' hut on land outside of the application site. This matter is being dealt with by the Planning Enforcement team and has no bearing on the consideration of this planning application.
- 7.24 Local objectors raise concern about drainage and water run off particularly during winter months and the retaining wall needing to be designed by a qualified engineer. The site does not lie within a Flood Zone and in any case, for schemes of this scale matters such as drainage details would be controlled separately under Building Regulations. The retaining wall is of modest height and sited well within the site boundaries, and the details of this would be controlled via a condition.
- 7.25 The comments regarding land levels and the need for a section drawing are noted. It is recognised that a section drawing was provided in respect of the planning permission issued under ref. 21/504835/FULL. In this case, to ensure that the finished levels of the building are appropriate in this setting a condition has been recommended requiring appropriate details to be agreed. This is considered to adequately address this issue.

8. CONCLUSION

- 8.1 On the basis of the above, the proposal is considered to be in compliance with Policies ST3, CP4, DM7, DM14, DM24 and DM26 of the Local Plan, and the Council's Parking Standards SPD and The Swale Landscape and Character Biodiversity Appraisal SPD.
- 8.2 It is recommended that planning permission be granted.

9. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS

- (1) The development 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 development hereby approved shall be carried out in accordance with the following approved drawings:

Site Plan as Proposed 2223_03 P02
Floor Plans 2223_03 P03

Elevations 2223_03 P04

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

- (3) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted 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.

- (4) The building including the annexe hereby permitted shall not be used or occupied at any time other than for purposes ancillary and/or incidental to the residential use of the dwelling known as “Crockham Farmhouse”.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

- (5) This permission shall be an alternative to the permission granted on 29 November 2021 under reference 21/504835/FULL and shall not be in addition thereto, or in combination therewith.

Reason: The exercise of more than one permission would result in an over intensive use of the land.

- (6) No development shall be commenced until details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels have been 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 order to secure a satisfactory form of development having regard to the nature of the site.

- (7) No development beyond the construction of foundations shall take place until full details and section drawings, including details of the external material finish, of the retaining wall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development.

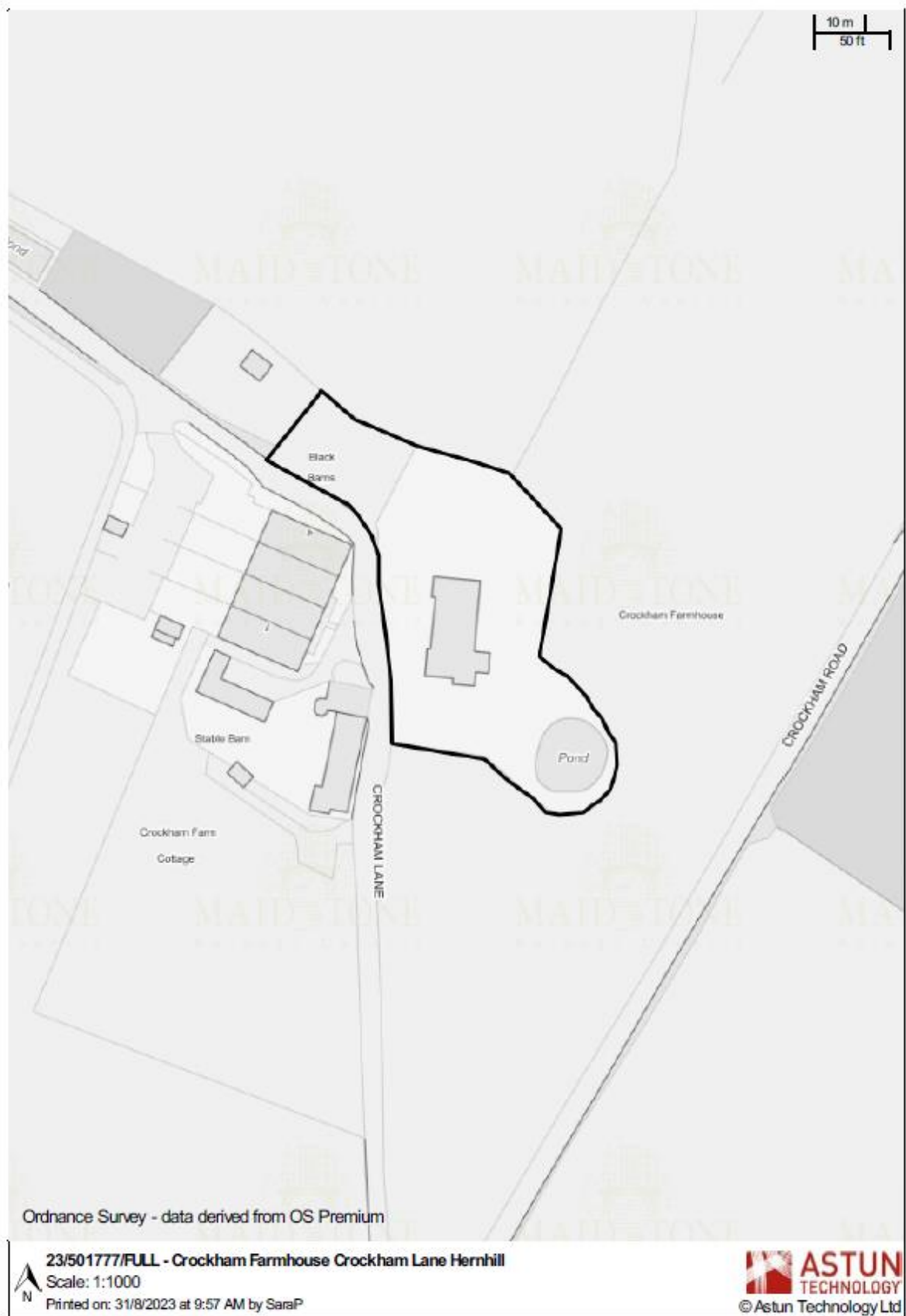
The Council's approach to the application

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.



This page is intentionally left blank

2.5 REFERENCE NO – 23/501167/REM		
PROPOSAL Approval of reserved matters (scale, design, layout, and landscaping being sought) for the erection of 231 dwellings (houses and apartments, C3 Use Class) with landscaping, associated highway works, including car parking and open space, pursuant to 16/508602/OUT for - Outline application for erection of up to 250 dwellings with all matters reserved except for access.		
SITE LOCATION Site A, Land at Preston Fields, Salters Lane, Faversham, Kent, ME13 8YD		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions, in consultation with the Chair of Planning Committee.		
APPLICATION TYPE Major – Reserved Matters		
REASON FOR REFERRAL TO COMMITTEE Objection from Faversham Town Council		
Case Officer William Allwood		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Redrow Homes Ltd AGENT Urbanissta Ltd
DATE REGISTERED 20/03/2023	TARGET DATE 19/06/2023	CASE OFFICER William Allwood
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/		

1. **SITE LOCATION AND DESCRIPTION**

- 1.1. The site has outline planning permission (ref: 16/508602/OUT for up to 250 units with all matters reserved except access; granted with conditions and subject to a S106 Agreement, on the 14th February 2023.
- 1.2. The application site is part of the larger site that is split in to two parts; site A and B. Site A is the (application site); which is 10.34 ha in size and is situated between site B that borders the M2 motorway to the south and Canterbury Road (A2) to the north. West of the site are mainly detached two-storey houses fronting Ashford Road (A251) with rear gardens facing towards the application site and east of the site is Faversham Highway Depot with car parking for HGV vehicles and a Household Waste and Recycling Centre which is accessed from Salters Lane.
- 1.3. Part of the site lies immediately to the east of the Faversham Town Conservation Area and 82 metres to the east of Orchard Cottages, a pair of early C19 semi-detached Grade II listed buildings. Preston-Next-Faversham Conservation Area lies 48 metres to the east of the site. A commercial business is run from the land at Orchard Cottage supplying traditional building materials and training events. Access to that site is from the A2 and lies 14 metres from the western boundary of the application site. Cherry Tree Cottages – Grade II listed buildings - lie 53 metres to the north-east of the application site and on the opposite (northern) side of the A2.

- 1.4. It is also worth noting that since the original application for the outline (March 2018) was first considered, the upgrade of the A2 – A251 junction has been built out, together with the provision of a pavement along the southern side of the A2 from immediately to the west of the Preston Fields site, through the junction with the A251 (where a pedestrian and cycle phase is included in the new traffic signals) and onwards to the Abbey School entrance, facilitating safe pedestrian / cycle journeys from the site to Abbey School and locations on the northern side of the A2. Part of the funding for these improvements will come from this development, via the s106 agreement. In addition, a signal-controlled pedestrian crossing has now been provided on the A251, close to the roundabout giving vehicular access into the Perry Court development.
- 1.5. Part of the eastern boundary also adjoins what appears to be an inactive scrap metal yard and a small plot of land that is used as paddocks/open storage and Salters Lane. A short section of the eastern boundary also adjoins an Ambulance Station, which fronts onto the A2. The southern boundary of the application site adjoins agricultural fields that are within the same ownership as the application site. The wider surrounding area is characterised by open agricultural fields to the east, south and west. Suburban housing lies to the north of the site at a low-medium density. Beyond that, Faversham Town Centre is characterised by medium-high density housing and a mix of commercial uses. Abbey School – a Secondary Academy - lies 480 metres to the west of the application site.
- 1.6. The southern boundary of application site lies 252 metres to the north of the M2. There is an access track that crosses the 'blue land' from Salters Lane providing access to rear parking for a few of the properties fronting and close to Ashford Road. The land immediately to the south of the M2 is designated as an Area of High Landscape Value under Policy DM24 of the SBLP. Approximately 1.32km to the south of the site, and beyond the M2, lies the Kent Downs Area of Outstanding Natural Beauty (AONB). The site lies approximately one mile to the south of the Swale Special Protection Area (SPA), Special Area of Conservation and Ramsar site, which are designated on account of their ecological value.
- 1.7. The boundaries of the site largely consist of vegetation of varying heights, although some of the rear gardens of the Ashford Road properties have 1.8- to two-metre-high close boarded fences. A two-metre-high palisade fence runs along most of the eastern boundary of the site to secure the KCC Highways depot and the Household Waste and Recycling Centre. Where the site adjoins the A2, vegetation is sparse, and the site is open to views from that road.
- 1.8. There is currently one vehicular access to the application site, from Ashford Road (A251) that is used by the farmer to access the fields. There is a bus stop on the A2 immediately to the north of the application site.
- 1.9. The land levels vary markedly across the site. The site gently rises from north to south with a more significant slope from west to east where the land falls by approximately five metres. Salters Lane sits above the level of the application site by approximately five metres. The Orchard Cottage site also sits higher than the application site by approximately three metres. At the front (north) of the site, the height above Ordnance Datum (AOD) is typically in the range 19 to 21 metres, while where the site adjoins Salters Lane (in the south-eastern corner), the typical height AOD is 27 metres, but drops down to approximately 24 metres towards the centre of the site. Where the site adjoins Ashford Road (between Numbers 93 and 97), the height AOD is typically between 34 and 35 metres AOD.

- 1.10. The application site falls within a housing allocation that is included within the SBLP – Policy A16 which seeks to enable the provision of a minimum of 217 dwellings, and which is set out in full below.
- 1.11. A high-pressure gas pipeline crosses the site from east to west close to its southern boundary.

2. PLANNING HISTORY

16/508602/OUT - Land at Preston Fields, Salters Lane, Faversham
 Granted - 12.05.2022
 Outline application for erection of up to 250 dwellings with all matters reserved except for access.

21/500766/OUT - Land at Preston Fields (South), Salters Lane, Faversham
 Granted - 12.05.2022
 Outline application for the erection of up to 70 dwellings (all matters reserved) and land reserved for a link road connecting the A251 with Salters Lane.

23/500966/SUB - Land at Preston Fields, Salters Lane, Faversham

Granted 09.08.2023

Submission of details pursuant to condition 4 (Design Code) of application 16/508602/OUT.

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the Approval of Reserved Matters (scale, design, layout and landscaping being sought) for the erection of 231 dwellings (houses and apartments, C3 Use Class) with landscaping, associated highway works, including car parking and open space, pursuant to 16/508602/OUT for - Outline application for erection of up to 250 dwellings with all matters reserved except for access.
- 3.2 The scheme predominantly consists of 2 storey houses, with a small number of 2 ½ storey dwellings and 1 block of 2 ½ storey apartments. Several dwellings also have single storey detached garages. Dwellings predominantly consist of detached houses, but there are also some semi-detached houses, terraces, and maisonettes. The arrangement and orientation of dwellings has been carefully considered, to limit the impact upon existing surrounding dwellings, which are situated to the back or side on to the site boundaries. Parcels in the centre of the development form perimeter blocks to reduce the number of exposed boundaries. Development fronts out over public open space for natural surveillance and views. The proposal has a similar massing and density to the surrounding areas, and closely follows the outline application and approved design code.
- 3.3 The following obligations and s106 contributions were secured at the outline planning application stage under application 16/508602/OUT to include the following:
- Strategic Access Management and Monitoring Scheme SAMMS (SPA mitigation) - £281 per dwelling.
 - Secondary education –KCC have recently submitted an increased request of £4115 per house and £1029 per flat (the original request being £2359.80 per applicable house and £589.95 per applicable flat) and amounting to £1,028,750 assuming a development of 250 houses.
 - Libraries - £230.09 per dwelling.
 - Community learning - £60.43 per dwelling.

- Youth services - £55.55 per dwelling.
- Social care - £262.94 per dwelling.
- Bins - £92 per dwelling.
- NHS – £225,000 total
- Off-site highway contribution (M2 junction 7) - £53,200
- Off-site highway contribution (A2/A251 junction) - £87,900
- Discounted residents' tickets for bus travel (this will consist of the '7-Day Swale Megarider' ticket for six months to be provided for each dwelling, at a cost of £364 per dwelling).
- Off-site allotment - £40.00 per dwelling.
- Off-site formal Sport - £593.00 per dwelling.
- 3 wheelchair adaptable homes as part of the affordable housing requirement.
- Residential Travel Plan.
- 35% affordable housing with a 90:10 split between affordable rent and shared ownership, with proportionate mix spread across the site; three units of wheelchair adapted accommodation are also sought.
- Section 278 Agreement to require off-site highway works in respect of a pedestrian crossing at the A2, the delivery of a new footpath on the southern side of the A2 to connect the application site to the A251, and a bus shelter and paved waiting area to existing bus stop on A2 (east of the site), and localised carriageway widening to the A251.
- Provision and landscaping of, and on-going maintenance/management, of land to the south (edged in blue) as accessible, natural open space.
- Local Labour and Apprenticeships provisions are required, and the Economy and Community Services Manager advises that "...he anticipates training outcomes, largely within the context of apprenticeship opportunities provided". He also expects that the use of local labour and suppliers will be optimised; and
- A monitoring and administration fee.
- Regarding air quality mitigation measures, the sum of £225,513 has been calculated through a damage cost calculation process.
- Regarding the pavement link between the A251 and Abbey School – the applicant has agreed to provide this pavement (for a total length of approximately 500 metres), which would extend up to the existing vehicular access to the school from the access to the development site.

4. CONSULTATION

- 4.1 All immediate adjacent neighbours have been consulted, SBC Ward Councillors, relevant consultees from SBC and KCC, the Parish Council and National Consultees i.e., Environment Agency, etc. Two consultations have been carried out; first on 21/03/2023 when the application was first submitted and second on 25/07/2023 with respect to the amended and additional details required by various consultees.
- 4.2 Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper.. Full details of representations are available online.
- 4.3 8 letters of representation were received in relation to the consultation. Concerns / objections were raised in relation to the following matters: -
- Proposed positioning of the access and egress onto the main A2(Canterbury Road). During dark hours cars will have their headlights or even main beam

on and this will cause extreme lighting and flashing into neighbours Main Bedroom windows on St Catherines Drive.

- Regarding the exit road onto A251, residents were told no traffic could use the proposed exit onto the A251 as there was a major gas pipe underneath and only buried ten feet. If that is the case, how is it possible to use this as an exit when the pipe cannot be moved.
- The plans seem to indicate a significant amount of private land has been taken from the rear gardens on Ashford Road. There is an existing line of boundary demarcation post and wire fence to the rear of properties on Ashford Road, which the developer/architects have ignored. Developer's fencing directly in some of the rear garden.
- Mature Walnut tree within a property boundary that seems to be scheduled for felling. Aside from being private property, this would lead to a significant loss of privacy, overlooking, and nuisance.
- Boundaries should be observed there would be no detriment or loss of privacy, but this is not reflected in the plans.
- With all the additional extra traffic coming and going this will also create more noise and air pollution
- There is a concern with a risk of accidents with this turning so close to the Preston Park entrance, these puts are boundaries at risk of a vehicle striking against neighbour boundaries, The A2 is already heavily congested and gridlock at certain times of the day this will only add to the misery of noise, pollution, and health.
- Unwanted development.
- Salters Lane has never been identified as access or egress to the Redrow site this would dissect the Lane rather than being a means to serve either site should the application be formalised, application 21/5000766 now refers to a link road between the A251 and Salters Lane. The Lane currently has rural lane designation, with most of its entirety being single carriageway along with only a handful of passing points being carved out by vehicles, and also has a weakened bridge with a weight limit currently applied. The application has also not shown any indication of traffic flow and how this could affect the lane.
- Badgers set, this is a very active set that has only been hampered with the introduction of security fencing, with the set now not being able to access the fields that the animals once roamed freely,
- Trees that form G20, trees were identified during the application and correspondence between Highways and that they do not form as part of the curtilage of the site with boundary lines being realigned as part of this process. The trees referred to were planted as a feature of planting when the M2 was introduced and provide an invaluable habitat along with noise suppression to the M2 to all neighbours. Any reduction to these trees would need to demonstrate that noise pollution to properties would be negated should Highways decide to allow any reduction of these trees.
- Further clarification about the planned landscaping in the report, would like confirmation that any existing planting that falls within our fenced boundary in rear garden(s) of Ashford Rd will not be removed. Would like reassurances that this will not damage the growth or alter the existing height planting, they are just cutting it back to the boundary line. Also that there are no plans to make any changes to the existing boundary lines of our properties. Otherwise, this would lead to a significant loss of privacy, security to the rear of our garden and overlooking by the new houses planned. If the current position and height of our planting remains, then have no objections.
- We are told there is increased demand for 'affordable housing'. So where is the employment to sustain this? Some may work from home, others will increase demand on transport links, the main casualty being increased road traffic. The new A251/A2 junction routinely tails back already.

- Where are the increased services: schools, medical etc for an increased local population?
- Object to development on such scale extending the town into its historically rural landscape, dating back to Roman times, and now on a scale comparable with growth around the development of the railway.
- Loss of prime agricultural land, and local market garden amenity (1940-60 according to historic aerial photography).
- Awful trend of urbanisation along the A2 through Swale from Rainham eastwards.
- Blurs historic village boundaries in a pervasive manner similar to the sprawl of cities like London.
- Increased pressure on water supply, sewerage, and drainage all within a natural valley. Although drainage amelioration has been designed, excess is scheduled to be pumped east along the Canterbury Road, with no further explanation.
- Adjustment to housing layout, appears more dull and orderly to previous plan.
- Housing category names and styles bear no relationship to this area.
- Lack of detail about buildings: sustainable & energy efficient design / construction / materials; rainwater harvesting; heating / cooling methods; heat recovery, ventilation. Light and shade, passive methods.
- Traffic from this location will adversely affect already crowded road conditions on to which this area will feed.
- In the event of fire, there are insufficient access / egress points for adequate public safety.
- This is almost the last vestige of a rural view that most people travelling by or from Faversham see along the A2. It is currently resonant of a 'rural' town. Its loss will be a massive blow to the environment.
- There are good soils on the site, should not even be considered for housing. They take hundreds of thousands of years to form and are a precious resource.
- The local council(s) should strongly and actively resist such development if they are accurately to reflect the electorate's mood and wishes.
- Despair at the nature of the whole planning process. It is not based on the people's wishes.
- Worst potential developments for Faversham, extremely sad and angry about it.

4.4 Faversham Town Council commented on the application: -

- It is noted in the drainage strategy that green design features such as rainwater harvesting, green roofs and rain gardens have all been discounted as potential features. The Drainage Strategy simply states they are either not appropriate for the site or there is no scope for them within the scheme. There is no rational or justification for such elements not to be included.
- As a greenfield site, the design does include the scope for green design features to be incorporated. Furthermore, there is no attempt at including any other features such as integrated P.V panels, or other elements that reduce carbon use, or contribute to superior energy performance. This is a standard design that does not exceed building standards and makes no positive contribution to reducing carbon on site or creating a climate resilient development.
- Whilst the principle of residential development is supported, the lack of design consideration for green design features and creating a climate resilient development requires a reconsideration. The Town Council made this clear in the representation of the consented outline application. We would recommend either the application is withdrawn and amended or is refused.

- Considering the Borough Council has declared a climate emergency, it would be inappropriate to grant permission for development on a greenfield site that fails to demonstrate how the design mitigates impact of climate change or creates a climate resilient development. National policy and guidance, Local Plan policy and emerging Neighbourhood Plan policy all make clear this should be an integral part of new development.
- Conditions 33 and 34 of the outline consent made clear further details to be submitted and agreed. Having considered the submitted documents, including plans and technical reports it is noted in the drainage strategy that there are surface water SuDS features, three attenuation ponds and four below ground cellular attenuation storage tanks proposed. However, the Planning Layout plan reference A-1002 001-D includes all hard landscaped area details as either non-permeable asphalt or Marshalls Keyblock. Having confirmed with Marshalls, Keyblock is non-permeable. Any proposed hard landscaped areas must be permeable. The plans should be amended to include details of permeable hard-landscape surface materials to be provided throughout the development.
- The Town Council welcomes the inclusion of E.V charging for all new dwellings and the contribution for visitor parking also.
- The retention of trees and existing hedgerows is supported. The incorporation of new street and garden trees is also supported, together with the wildflower seed areas in the street.
- Details on the proposed landscape plans only appear to show a slim wildflower meadow planting buffer strip between the existing and proposed development. Given that the proposed boundary treatment is panel fencing it is unclear how this would provide natural screening to the proposed development. However, with hedging and existing trees to be retained it will create a wildlife corridor.
- The Town Council support the principle of the design code in trying to identify the character of the area and respond through the proposed design. However, fundamentally the proposed development fails to take into consideration carbon reduction, green design or creating climate resilient communities.
- To support active travel the development should also include adequate secure, covered cycle storage as part of the development. The Town Council supports the linear traffic free active travel route that forms part of the SuDS system in the development.
- Improvement to the A2/A251 junctions were noted providing improving access to the centre of town via Forbes Road. Members invite the developers to liaise with the Town Council to further improve active travel to the station and centre of town.
- To improve active travel, members request cycle/pedestrian access onto Salters Lane.
- The Town Council support the distribution of proposed affordable homes across the site. It is important that the proposed development has a tenure blind layout, and members were disappointed that affordable/social housing was positioned next to the existing refuse site at Salters Lane.

- The Town Council support the provision of affordable and social rent. However, the provision of 90% differs from the identified need. The AECOM Housing Needs Assessment for the Neighbourhood Plan shows a requirement of 66% affordable rent not the proposed 90% and a 34% affordable ownership need. It is recommended that the affordable housing provision be reconsidered.
- Provide increased capacity to deliver local GP service.
- The importance of adequate infrastructure for schools, health, shops for the residents of these houses should be noted.

The latest Faversham Town Council comments are included as Appendix 1 to this Report.

4.5 Ospringe Parish Council – consulted on second round, were not consulted first time.

4.6 Letters of representation were received in relation to the second consultation. The following additional concerns/ comments were raised in relation to the following matters: -

1 letter of objection to the application on the second round of consultations with the following additional grounds: -

- I object to the latest plans from Redrow as the development shown will overshadow and block light from a residential dwelling that is being constructed at the bottom of the garden at number 81 Ashford Road. The current plans shown by Redrow are out of date and do not include this dwelling although it received full planning permission from Swale Borough Council in March 2022 and building regulations approval in June this year. Previous plans by Redrow, to which I had no objection, have shown gardens running along the boundary with the back gardens of properties on the Ashford Road but the latest plans show houses very close to the boundary edge with number 81 Ashford Road.

(Case Officer comment: Planning approval was granted for an Annexe structure within the garden of the property in 2022. The nature of an Annexe building is that its occupation is ancillary to the use of the host dwelling as a single-family property and is not an independent dwelling.)

5. **REPRESENTATIONS**

SBC Conservation: - Original commentary

Brief review of the site layout plan, the materials plan, the enclosure plan and the massing (i.e., storey-heights) plan, that the overall design quality of the scheme is not as good as it perhaps ought to be, particularly given its location, in part, directly adjacent to a southern finger of the Faversham Conservation Area.

The proposed use of concrete roof tiles at the northern entrance to the scheme and adjacent the boundary of the conservation area is disappointing, and I would suggest the use of clay roof tiles and/or natural slate ought to be used on the more visually sensitive edges of the application site.

The proposed use of close boarded fencing on the walk-through from the application site to the Marchant Grove scheme (within the Faversham Conservation Area) is also poor. A 1.8m high brick wall should be used at this location in association with the proposed landscaping to

either side of the footpath to create a more attractive transition from one site through to the other. Again, referencing the enclosures plan, clarification is needed on the space shown between the rear boundary treatments to the housing plots and what appears to be a parallel/secondary line of fencing. Maybe this is explained by comparison with another plan, but the enclosures plan should make sense.

The lack of any significant variation in the proposed storey heights (as is very apparent from viewing the street scenes drawing) together with limited variation in eaves and ridge height and overall roof form will lead to a degree of visual monotony in the new townscape to be created. Street scenes B-B and D-D are particularly problematic in this respect, but all could do with some reconsideration and improvement. Even just using 2.5 or 3 storey units on corners/road junctions would go some way to addressing this concern, but ideally, we should be expecting a wider range of storey heights from 1 up to 3, and a greater variety of roof forms (some incorporating dormers) would go a long way to creating a more acceptable standard of design needed to achieve the necessary quality of distinctiveness. Given the traditional design approach being taken, it is perhaps surprising that only the A2 road frontage units incorporate chimneys, given how much chimneys can contribute to roofscape interest and the quality of townscape more generally.

Further commentary

Drawing no. A 001 Rev. D has now been superseded by a Rev. F version. Whilst this revision brings some positive changes in relation to my previously stated concerns (most notably the removal of the visitor parking spaces from within the green corridor area, the changes do not go far enough to address my concerns in terms of achieving a meaningfully visually strong and effective green corridor spine throughout the scheme. As previously indicated a hedgerow running from adjacent the northern end car park down to the main (wider) section of green corridor would go a long way to addressing the previously stated concerns in this respect. The compliance document does indicate that there some marked design improvements over the original submission, but it seems to me that the reserved matters scheme is not of as high a design standard as we could reasonably expect based on the final iterations which were being made to the design code, two example of this being in the limited variation in storey height and the still very limited use of chimneys in an overall design approach based on an Arts & Crafts typology where chimneys are a consistent design feature, and typically a key architectural element.

(Case Officer comment: The green corridors have been substantially amended and widened to incorporate commends made by the Conservation and Design Team which are reflected in the July resubmission. A tree lined boulevard has been provided to reinforce the green character of this northern part of the site. Details of chimneys, tile hanging details and other material enhancements are also shown on the submitted materials plan.)

Mid Kent Environmental Health: - Air Quality

Relative to the above reserved matters an air quality Technical Note by Royal Hoskoning DHV on 31st January 2023 has been submitted. Environmental Health have reviewed the documents within the 23/501167/REM reserved matters but can only see the attached technical note. Looking at the outline application there was a substantial damage cost amount equating to £255,513 in another technical note dated 21st Feb 2017. This was broken down into Part A and B amounts, but this is not mentioned within the reserved matters.

The recent AQ technical note, that shows an amount of £24,800.

If this amount is the smaller amount being used, then we would like to ask for more details related to the cost of measures and that green infrastructure is not included in the mitigation damage cost amount.

Would like to see more in the provision of mitigation measures to promote active travel and reduce single car use, this could include the provision of subsidised train and bus tickets for all new residents. In addition to this, we would recommend that a monitoring strategy is included in the travel plan which provides reports on progress, and that these reports be submitted to the Environmental Health team.

(Case Officer comment: This is covered off in the s106 Agreement secured at the outline planning application stage)

SBC Housing: -

Site A Land at Preston Fields that proposes the delivery of 231 dwellings, including 81 s106 affordable homes. This application is pursuant to 16/508602/OUT with Schedule 4 of the s106 setting out the requirements for the affordable housing delivery on this part of the development. As such, comments for this REM application will refer to this schedule for Site A.

35% of the total number of dwellings on Site A have been offered as 81 affordable homes which is in accordance with the s106. The unit types and sizes are detailed in the Accommodation Schedule on planning layout - A1002_01_Planning Layout_Final_REV C Plan, and it is accepted that these homes have been provided as a reasonable and proportionate mix to the open market homes that will meet the broad needs of all households on the Council's Housing Register. The location of the affordable homes also appears to be well integrated within the development and evenly spread cross the site.

90% (73 units) should be provided as affordable/social rented housing with the remaining 10% (8 units) as shared ownership. This has not been set out in the REM application documents, therefore a suggested tenure split is detailed in the table below (green columns).

10% of the affordable homes should be delivered to M4(3) standard with the remaining affordable housing being built to M4(2) standard housing. It is welcomed that all nine flats in Block A (plots 170-178) are offered as M4(3) adapted housing, with the remaining 72 homes provided to M4(2) standard.

The table below details the mix of the 81 affordable homes with a suggested tenure split (two green columns), although if required this can be reviewed in partnership with the chosen Registered Provider.

Type/Size	Total	Private	Affordable	90% Rent	10% SO	M4(3)	M4(2)
1BF-2P (Block A)	3	0	3	3		3	
1B-Spey (flat)	12	0	12	8	4		12
2BF-3P (Block A)	6	0	6	6		6	
2BH	6	0	6	6			6
2BH+Study	41	41	0				
3BH	64	36	28 (5P)	26	2		28
3BH + Study	24	24	0				
4BH	61	35	26 (6P)	24	2		26
5BH	14	14	0				
TOTAL	231	150	81	73	8	9	72

If the total number of homes, or the mix of types of dwellings change through the planning process, a revised reasonable and proportionate of affordable homes will need to be further agreed with the Council, with the correct tenure split also applied of 90% affordable rented and 10% shared ownership housing.

Swale BC is a non-stock holding authority; therefore, a Registered Provider (RP) will be required to deliver the affordable homes on this site. I am happy to provide a list of Registered Providers and work in partnership to enable the delivery of the affordable homes ensuring a good and balanced mix is made available to prospective occupiers.

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 Faversham area, including adapted homes.

KCC Highways: - Original Comments

It is recognised that this is a reserved matters application to consider the detailed layout of this part of the wider Preston Fields development, as the principle of providing the 231 dwellings contained in this scheme for site A which has been permitted through the granting of Outline planning approval reference SW/16/508602/OUT. That application was supported by a Transport Assessment at the time to consider the highway impacts on the local road network and was accepted at that stage.

Looking at the specific details of the proposed scheme and submitted documents, I have several items that I would like addressed in order to allow me to properly assess the application, and amendments made to respond to concerns that I shall raise:

In general, the form of parking meets Swale District Councils adopted standards, as these accept the use of tandem parking arrangements and consequently, parking spaces no longer have to be independently accessible. It is considered that the reliance on tandem parking spaces proposed for this development comply with Swale's adopted standard.

The following items to address:

46 Visitor parking spaces have been provided and, on the whole, this has been distributed well along the primary and secondary routes around the development however there seems to be a high proportion located at the entrance to the site which are not positioned directly

nearby any dwellings, equally, there does not seem to be many around the Western section between plots 187 and 206.

Plots 72, 98, 138, 146, 216 have 2 spaces allocated however there is a distance in front of these that is likely to encourage parking for additional vehicles. This space will need to be reduced to ensure vehicle will not be inclined to use this area leading to overhang. It is recommended that the garage is brought forward.

There is a heavy reliance on rear parking in 'hidden courts' some of which are located a distance to the dwellings. Plots 27-58 all rely on courtyard style parking, and this will likely lead to drivers parking on the footway/verge directly in front of these properties. There are several visitor spaces located in the vicinity of these plots, that are closer than the allocated spaces and therefore are likely to be used by residents as opposed to intended visitors.

I note that Swale Borough Council would locate this development within the edge of town criteria whereby 4 & 5 bed dwellings require 3 parking spaces. The 4 and 5 bed units have only been provided with 2 spaces plus a garage, but garages are not counted towards the provision unless in town centre locations with controls to prevent on-street parking. Plots where there are 2 spaces have been offset by the provision of an additional space in a garage however this is not acceptable. Garages included within this development will be in addition to the required parking allocation. The following plots will need to be amended to address this; 1, 2, 15, 22, 27, 28, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 69, 70, 71, 72, 84, 85, 86, 98, 99, 107, 109, 110, 119, 121, 122, 123, 124, 128, 135, 137, 138, 144, 145, 146, 158, 159, 160, 161, 164, 165, 190, 192, 193, 194, 195, 196, 197, 200, 210, 211, 212, 213, 218, 220, 227, 228, 231.

Swept path drawings have been submitted alongside a refuse plan which demonstrates tracking for a 11.4m freighter however there are some areas where manoeuvring is tight to parking bays and kerb lines. This is particularly evident around plot 10, should a vehicle be parked in the allocated space, this could lead to vehicle strike and is tight to the kerb line on Through Lane. The visitor parking bays located opposite 83 and 87 on the Tertiary Route will need to be relocated as the tracking shows vehicle overrun.

Speed restraint features are required every 60m to provide a target speed of 20mph, where carriageway bends are too shallow to encourage lower speeds. The section of road between Block A and 148 is straight over a length of around 100m, so will not accord with the design guidance. A suitable feature will be needed to shorten the uninterrupted distance. The section between 133 and 126 have slight deflection however this may not be enough to contribute towards target speeds and therefore an additional feature should be included.

Although it has been indicated that cycle storage has been provided by means of a shed in the rear gardens, it must be demonstrated that this space is sufficient to accommodate a minimum of 1 cycle per bedroom.

A plan should be provided to specify the areas to be proposed for adoption. A suitable extent would include the spine road and the shared surface access roads, but not the shared private driveway areas.

Revised Highways comments

I refer to your consultation dated 20th July 2023 in respect to the above planning application following the submission of amended plans and additional information to address the comments made in the Local Highway Authority's previous response.

I have reviewed the content of the Parking Justification Note and consider that the parking provision does comply with the minimum parking standards described in the adopted Swale Borough Council parking standards document, and together with the amendments made to the layout drawings I would no longer raise objection to the level of parking proposed on the development. It is noted that additional on-street parking has been provided to address several the concerns previously raised regarding the spread of visitor spaces around the site and to mitigate the distance between hidden courtyard parking and the associated dwellings.

The updated refuse vehicle swept path analysis has demonstrated that the development can be satisfactorily serviced, and amendments have been made to the layout to provide speed restraint measures at the appropriate distances to accord with the requirements of Kent Design Guide for a target speed of 20mph.

Following subsequent discussions with the applicant, further amended plans have been received to demonstrate compliance with the Section 106 Agreement requirement for provision of the A251 southern access road to meet local distributor road standards and safeguarding of a future link through to Salter Lane. Drawing numbers PFF-PPC-00-XX-DR-C-2097 P1 S106 Link Road Alignment-A3 and PFF-PPC-00-XX-DR-C-2096 P0 TRO Lining Arrangement-A1 have now been submitted to address this and I am satisfied that the proposed amendments to the link road would satisfy the requirement. This stipulated that any of the development access road constructed on the alignment of the safeguarded route would need to be constructed to a minimum width of 6.7m and include a 3m wide footway/cycleway on its northern side. The amendment does now comply with the S106 planning obligation, and I understand that the full suite of layout drawings for the development will now be updated to reflect these changes.

In addition, a Traffic Regulation Order plan has been submitted to include waiting restrictions along this section of road. These will need to be implemented prior to occupations to prevent on-street parking becoming established along the route, particularly given the width of the road and the rear courtyard parking allocated to the apartment block A that faces onto this road. Vehicle ownership levels must be influenced by parking availability from the outset, as it will be difficult to introduce restrictions after occupations have taken place and behaviours established. A planning obligation will be required to secure the implementation of the waiting restrictions.

While drawing PFF-PPC-00-XX-DR-C-2097 P1 does also indicate the possible future link road alignment through the safeguarded land to Salters Lane, at this time it is not possible to confirm exactly where the connection will be. As this current reserved matters application does not cover the wider development area that included the southern site approved by application reference 21/500766/OUT, the alignment has been contained within the red line boundary of the application extents. The indicative layout plan attached to the S106 Agreement for the combined developments envisaged the alignment connecting to Salters Lane through the southern site. In order not to prevent this scenario from being delivered, the remaining land to the south of the alignment shown on drawing PFF-PPC-00-XX-DR-C-2097 P1, up to the red line application boundary will need to be kept available.

On the assumption that the full set of application drawings are updated to correspond with the link road design show on drawing PFF-PPC-00-XX-DR-C-2097 P1, and it is confirmed that an alignment of the possible future link road could still route into the southern site, then I would be satisfied that all matters have now been addressed.

Consequently, I confirm that provided the following requirements are secured by condition or planning obligations not covered by the consent under outline application 16/508602/OUT, then I would raise no further objection on behalf of the local highway authority:

- No dwelling to be occupied until an application for a Traffic Regulation Order has been made to introduce waiting restrictions as shown on drawing PFF-PPC-00-XX-DR-C-2096 P0, and the restrictions introduced in accordance with the application decision.

SBC Travel Officer: -

Generally, more detailed drawings are required, particularly of the roads, junctions and pathways.

To this end, please confirm that all crossing points are raised and when at junctions, are brought in line with the desire line. Every crossing must also incorporate tactiles to ensure safety of all pedestrians.

The earlier application utilised LTN2/08, this has been superseded by LTN1/20. Please see Section 14 of this Transport Note.

Please also see the Faversham LCWIP that has been adopted by Swale Borough Council and Kent County Council.

The design of the Canterbury Road junction included a shared path. This is no longer an acceptable solution - footpaths along roadsides are for pedestrians.

Please amend the design to include a footpath and separate cycle track. The same principals should be applied to the Ashford Road junction

Both the major and minor access roads throughout the site should have segregated cycle tracks as stipulated in LTN1/20.

Please ensure that the short Green Links are a minimum of 3m wide so they can be utilised by cyclists and pedestrians

Please provide cycle access to Salters Lane in the southeast corner of the site. Please see Chapter 8 of LTN1/20 for traffic-free route design guidance.

Please ensure the green link to the development to the west is 3m wide so that it can be utilised by cyclists and pedestrians.

There appears to be no submission of a Travel Plan. Assuming this is in draft now, please note that with the site being on the outer edge of Faversham, more work needs to be done to encourage mode shift and the following actions should be included:

The application of these initiatives will create a stronger community and a more attractive place to live.

- Free Bikeability Sessions (including ebikes)
- Free guided introductory town walks
- Low cost ebike cycle hire onsite from the communal areas
- Low cost cargo bike hire
- Access to interest free Annual Season Ticket loans – bus & train
- Shopping trolley provided for each home
- Funded Liftshare subgroup
- Promotion of the Kent Connected App

(Case Officer comment - these matters are covered at the outline planning stage via the s106 Agreement)

KCC Waste Management: -

This development will border our Household Waste Recycling Centre (HWRC) situated to the northern end of Salters Lane and its junction with the A2 London Road. The HWRC sits behind and is joined to the KCC Highways Depot which is directly accessed from the London Road.

Whilst we do not wish to raise objection to the proposal, there are concerns, that can hopefully be addressed, regarding the proximity of our existing operation to the proposed residential development. We seek these to minimise any potential disturbance to those who will be our "new neighbours".

The primary issue is to ensure the development provides both visual and sound screening. Whilst our activity is generally not one that generates sustained or excessive noise disturbance, there are times during HGV and waste container manoeuvring when this will be so. In addition, there is a steady stream of householders and site related operations including full waste containers being removed and empty ones delivered all accessing the site via Salters Lane. This section of highway is single track with passing places and any intensification of use will require additional safety measures to be introduced. These potentially would be either widening the road at this point, provision of additional passing bays or a combination of both.

Further, Developer Contributions raised through the construction of these new dwellings is earmarked for "Waste services" and will provide for capacity improvements, either at this site or to existing or new HWRC facilities with the Swale Borough Council administrative area.

(Case Officer comment - these matters are covered at the outline planning stage via the s106 Agreement).

Environment Agency: -

No Objections, subject to Informative.

Natural England: -

Natural England has no comments to make on this reserved matters application.

Historic England: -

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

Southern Water

No discharge of foul sewerage from the site shall be discharged into the public system until offsite drainage works to provide sufficient capacity within foul network to cope with additional sewerage flows are complete. Southern Water is currently in process of designing and planning delivery of offsite sewerage network reinforcements. As previously advised Southern Water seeks to limit the timescales to a maximum of 24 months from a firm commitment of the development.

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 submitted drainage details indicate SuDS to be maintained within private ownership and maintenance.

Mid Kent The Health and Safety Executive: -

Do Not Advise Against, consequently, HSE does not advise on safety grounds, against the granting of planning permission in this case.

Lower Medway Int. Drainage Board

The site is outside the drainage district of the Lower Medway Internal Drainage Board, and we understand that the preferred method of surface water disposal is via infiltration and foul water for the development will discharge via pumping to the east along Canterbury Road and connect to the existing public foul water network. As such, the development does not impact on the Board's interests or fall within its remit, and we expect Kent County Council acting as Lead Local Flood Authority to comment.

Notwithstanding that, the Board welcomes the proposals for SuDS features and the consideration of their maintenance. We encourage above ground features wherever possible as they are easier to maintain and provide amenity and habitat. We also welcome that water up to a 1 in 100-year storm event including 45% climate change will be attenuated within the curtilage of the site in the proposed drainage system and that consideration has been given to exceedance events i.e., that flows will be conveyed away from any properties to minimise risk.

KCC Minerals and Waste: -

Advise that the County Council has no minerals or waste management capacity safeguarding objections or comments to make regarding these proposals.

NHS - NHS (SWALE)

Dealt with at the Outline Planning stage, and contributions secured as set out in paragraph 3.3 of this Report.

Asset Engineer (Pipelines)

No comments received.

KCC Ecology

We have reviewed the ecological information and we advise that sufficient ecological information has been provided but we advise that additional information is required demonstrating what ecological enhancement features will be incorporated into the site.

The submitted information has confirmed the presence of an active outlier badger sett, 8 species of foraging/roosting bats and two species of reptile within the adjacent site. It has detailed there is potential for breeding birds and dormouse within the site. With the exception of badgers, a precautionary mitigation approach has been proposed to avoid impact on protected/notable species and we advise that we are satisfied that the proposed approach is appropriate. We have provided further details on the ecological mitigation as part of application 23/503442/SUB.

Lighting

Nocturnal species including at least 8 species of foraging bats and badger are present within the site and therefore there is a need to ensure that the lighting design minimises impacts from light spill. We note that as part of application 16/508602/OUT condition 18 requires a lighting plan as such we are satisfied that details on the proposed lighting is not required as part of this application. We highlight that the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night' 1 should be consulted in the lighting design of the lighting scheme.

Designated Sites

The development includes proposals for new dwellings within the zone of influence (6km) of the Swale Special Protection Area, Special Protection Area) and Wetland(s) 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.

Ecological Enhancements

We advise that we provided detailed comments as part of application 23/503442/SUB. As detailed within that submission we recommend that a plan is submitted, as part of this application, demonstrating where all the integrated ecological enhancement features will be located.

Kent Police: -

No further comments to make.

KCC Developer Contributions

Dealt with at the Outline Planning stage, and contributions secured as set out in paragraph 3.3 of this Report.

UK Power Networks

No comments received.

Parks And Open Spaces

Dealt with at the Outline Planning stage, and contributions secured as set out in paragraph 3.3 of this Report.

Green Spaces Manager: -

Public Open Space secured as part of the Outline planning permission.

SBC Trees: -

Advises that from an arboricultural perspective the proposed layout would appear to respect the arboricultural constraints the existing trees pose and provided the scheme follows the tree protection measures as outlined in the submitted arb report by Aspect Arboriculture, dated July 23, Rev B, then I have no principal objections.

In terms of the landscaping for the development the submitted landscape drawings by Lloydbore show a balanced mix of native and non-native planting that is considered acceptable for the proposed development layout.

To ensure compliance, the landscaping details together with the tree protection measures are to be conditioned should you be minded approving the application.

KCC Flood and Water Management

Advise that Kent County Council as Lead Local Flood Authority have reviewed the updated Drainage Strategy and accompanying hydraulic modelling and are generally satisfied that our previous comments have been addressed. As such, we have no objection to the approval of reserved matters.

We note that the network design for the south catchment does not match Drainage Strategy drawing provided, however, we acknowledge that the contributing area is consistent and as such would expect that the drainage network can be accommodated within the proposed layout. At detailed design stage we would expect for the modelled network to fully match the drainage layout drawing.

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. **DEVELOPMENT PLAN POLICIES**

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017

- ST1 Delivering Sustainable Development in Swale
- ST2 Development Targets for Jobs and Homes 2014-2031
- ST3 The Swale Settlement 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 – Providing for Green Infrastructure
- A16 Land at Preston Fields, Faversham
- DM6 Managing Transport Demand and Impact
- DM7 Vehicle Parking
- DM8 Affordable Housing
- DM14 General Development Criteria
- DM17 Open Space, Sports, and Recreation Provision
- DM19 Sustainable Design and Construction
- DM21 Water, Flooding and Drainage
- DM24 Conserving and Enhancing Valued Landscapes
- DM28 Biodiversity and Geological Conservation
- DM29 Woodlands, Trees, and Hedges
- DM34 Scheduled Monuments and Archaeological Sites

Neighbourhood Plans-

The Faversham Neighbourhood Plan (FNP) is in the process of being formulated. The FNP is currently at Regulation 14 stage, where the Plan would have *limited weight* as a material planning consideration. Further, Swale Borough Council ran a Regulation 16 consultation from Monday 04th September 2023 for a period of 6-weeks.

The Faversham Neighbourhood Plan policies that require limited consideration in respect to this application:

- FAV2: Housing Development
- FAV3: Residential Mix and Standards
- FAV4: Mobility and Sustainable Transport
- FAV5: Critical Road Junctions

FAV6: Footpaths, Bridleways and Cycleways

FAV7: Natural Environment and Landscape

FAV8: Flooding and Surface Water

FAV9: Air Quality

FAV10: Sustainable Design and Character

FAV11: Heritage

FAV12: Health, Recreation and Community

FAV13: Local Green Space

FAV14: Local Renewable Energy Schemes

Swale BC Supplementary Planning Guidance/Documents

- Developer Contributions (2009)
- Parking Standards (2020)
- Swale's Landscape Character and Biodiversity Appraisal (2011)
- Faversham Characterisation Study (2021)
- Swale Landscape Assessment (2019)

7. **ASSESSMENT**

7.1.1 This application is reported to the Committee because the Faversham Parish Council has objected to proposal. Considering these comments, the Committee is recommended to carefully consider the following points: -

- The Principle of Development
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Archaeology
- Design of the Proposed Development
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy

Principle

- 7.2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.2.2 The National Planning Policy Framework (NPPF) provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan. It must however be noted that the Swale Local Plan is out of date.
- 7.2.3 The application site lies within land that has been allocated for housing under Policy A16 of the adopted Local Plan - Bearing Fruits 2031: Swale Borough Local Plan 2017. The principle of housing development on this land has therefore been clearly established and matters in relation to the loss of Best and Most Versatile agricultural land were previously considered at the time of the Local Plan allocation, and have been subject to thorough review at the public examination to the Local Plan.

Size and Type of Housing

- 7.3.1 The Local Plan requires the mix of tenures and sizes of homes provided in any development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types, which reflect that of the Strategic Housing Market Assessment and as such proposals for new housing on major schemes should seek to achieve the following mix for a scheme of 231 dwellings, as set out in Policy CP3 of the adopted Local Plan: -
- 1 bedroom – 16 dwellings
 - 2 bedrooms – 83 dwellings
 - 3 bedrooms – 97 dwellings
 - 4+ bedrooms – 35 dwellings
- 7.3.2 The proposed development provides the mix of dwelling types and sizes proposed as follows:
- 1 bedroom – 15 dwellings
 - 2 bedrooms – 59 dwellings
 - 3 bedrooms – 84 dwellings
 - 4+ bedrooms – 73 dwellings
- 7.3.3 The mix of housing size and types is considered acceptable as it provides for a range of options within the site itself using the context and characters of the area to determine density as set out in Policy CP3 of the Local Plan.

Affordable Housing

- 7.4.1 The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Through policy DM 8, the Local Plan requires 35% of the total number of dwellings on Site A; in this regard, 81 dwellings have been offered as affordable homes, which is in accordance with the s106 Agreement.

7.4.2 The following tenure type for affordable housing will be incorporated within the scheme: -

Type/Size	Total	Private	Affordable	90% Rent	10% SO	M4(3)	M4(2)
1BF-2P (Block A)	3	0	3	3		3	
1B-Spey (flat)	12	0	12	8	4		12
2BF-3P (Block A)	6	0	6	6		6	
2BH	6	0	6	6			6
2BH+Study	41	41	0				
3BH	64	36	28 (5P)	26	2		28
3BH + Study	24	24	0				
4BH	61	35	26 (6P)	24	2		26
5BH	14	14	0				
TOTAL	231	150	81	73	8	9	72

7.4.3 The Swale BC Affordable Housing Enablement Manager has assessed the proposals and has advised that they are happy that the affordable dwellings are the types, sizes and tenures already agreed and that all nine flats will be delivered to M4(3) wheelchair user dwelling standard, with the remaining houses to M4(2) accessible and adaptable dwelling standard.

7.4.4 The proposals are therefore considered consistent with the provisions of Policy DM 8 of the adopted Local Plan, together with emerging Policies FAV 2 and FAV 3 of the Faversham Neighbourhood Plan.

Landscape and Visual

7.5.1 The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by "Protecting and enhancing valued landscapes, geological conservation interests and soils". Policy DM24 of the adopted Local Plan states that 'The value, character, and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed.' For non-designated landscapes (Preston Fields) Policy DM24 states that they will be protected and enhanced and planning permission will be granted subject to 'the minimisation and mitigation of adverse landscape impacts...'

7.5.2 At a National Level, the site lies within the North Kent Plain (National Character Assessment) and is within the 'Eastern Fruit Belt' as identified by the Kent Landscape Character Assessment (2004). On a local level, the site is identified as being within the Faversham and Ospringe Fruit Belt by the Swale Landscape Character and Biodiversity Appraisal (2011). Key characteristics of this landscape type that are relevant to the application site are:

- Gently undulating landscape that steadily climbs southwards;
- Mixed geology of head brickearth, Thanet beds drift, clay-with-flints and chalk;
- Small to medium-scale orchards and large open arable fields;
- mature fragmented hedgerows supplemented with post and wire fencing;
- Motorways, A and B roads, narrow winding lanes.

- 7.5.3 The guidelines for the Faversham and Ospringe Fruit Belt encourage the conservation and reinforcement of the landscape and built form and go on to recommended types of trees and shrubs as well as finishing materials for buildings.
- 7.5.4 The application site does not hold a landscape designation but the supporting text to Policy A16 (housing allocation) notes that the site makes a positive contribution to the heritage setting of the town and its rural setting and views. A green corridor is shown along the centre of the site and an area of open space and SuDs feature provided to the north of the site to retain an open aspect from the A2 and to integrate with the Conservation Area; play areas and further SuDS features are also found to the south and southeast of the site.
- 7.5.5 It is therefore considered that the proposal is consistent with the provisions of paragraph 109 of the NPPF and Policy DM24 of the adopted Local Plan; it is also considered that the proposals are consistent with Policy FAV7 of the emerging Faversham Neighbourhood Plan.

Heritage, including Archaeology.

- 7.6.1 The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. 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 that may arise and this is endorsed by the Local Plan.
- 7.6.2 The key heritage assets in respect of this site and upon which the development might have an impact are as follows:
- Non-designated heritage assets – potential archaeological finds (Roman, Saxon, Prehistoric);
 - Designated heritage assets – Faversham Conservation Area, Preston-Next-Faversham Conservation Area,
 - Designated heritage assets - Listed buildings: - Orchard Cottages, Gazebo, Former Cherry Tree Public House, Cherry Tree Cottages, Outhouse attached to the right of No. 3 Cherry Tree Cottages, The Windmill Public House, and Thatched Cottages
- 7.6.3 Most of the listed buildings close to the site, and noted above, are located on the opposite (northern) side of the A2 to the application site.
- 7.6.4 The significance of each heritage asset must be considered as part of the planning process. Significance is defined in the NPPF as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
- 7.6.5 The outline application 16/508602/OUT considered matters of the impacts of the development on heritage assets, including archaeology, in great depth, and concluded that the proposed development would preserve the setting of adjoining listed building's, together with protecting the character and appearance of nearby Conservations Area, and lastly, subject to securing appropriate mitigation for archaeological findings by way of planning conditions, which would protect the setting of on-site archaeology.

- 7.6.6 The proposals are therefore considered to comply with the provisions of Policies DM32, DM33 and DM34 of the adopted Local PLAN, and the relevant sections of the NPPF. Further, it is considered that the proposals are consistent with emerging Policy11 – Heritage - of the Faversham Neighbourhood Plan.
- 7.6.7 In considering the impact of this proposal upon designated heritage assets, Officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

Character and appearance

- 7.7.1 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.7.2 Drawing on reference from the approved Design Code for the site, the following guidance is provided:

Context

- 7.7.3 Faversham is an historic market town located to the east of the Borough of Swale.
- 7.7.4 The application site is in a highly sustainable location on the southern edge of Faversham. There are frequent bus services along Ashford Road and the nearest train station is a 10-minute walk away. Faversham enjoys a main-line railway connection to London Victoria and St Pancras stations. Shops, restaurants, and facilities of Faversham town centre are within walking distance of the site, as well as other local establishments. Footpaths are provided surrounding the site, and there is the opportunity to connect onto the existing Public Right of Way located off Canterbury Road.
- 7.7.5 The 18th and 19th century residential areas are laid out in a planned and ordered fashion and dealt with the demand for housing. They are characterised by generally wide streets of predominantly narrow terrace houses arranged in the most efficient way. Adapting to increased private car ownership, the streets are now lined with parked cars. Later 20th century development blocks are influenced by increased car use and ownership. In these areas the street networks are less regular, often including roads that meander and turn into cul-de-sacs, creating a less legible overall street network. The design of these winding streets also leads to many areas where the street frontage is faced by rear gardens.
- 7.7.6 The wider townscape of Faversham lies to the north of the site. Land to the east and west comprises a mixed agricultural landscape of scattered farmsteads and rural lanes. The following paragraphs appraise the local townscape and characteristics that can inform the development at Preston Fields.

'Faversham has developed from a small Creekside settlement to one of the larger towns in Kent, well connected and thriving. Its early organic development gave way to more formally planned development during the Victorian era. This expansion can clearly be seen in the well-structured urban plan, with tight-knit streets running alongside each other to create easily legible and well-articulated neighbourhoods. In the latter half of the 20th century, the effect of car use on town planning becomes increasingly apparent, as the newer streets become more open and broken up, leading to rapid growth and urban sprawl. Streets that

would once have been well ordered now meander through low-density housing estates.'
Faversham Characterisation Study.

Constraints

- Draw back development from the route of the underground gas main;
 - Draw development back from noise, movement associated with the M2 and A2;
- As noted in the Faversham Characterisation Study April 2021

'Though the M2 Motorway crosses the area from east to west, it makes surprisingly little impression on the wider landscape, as it is mainly hidden within cuttings and/or bordered by established trees.'

- Set development back from the northern site boundary with the A2 (Canterbury Road) and implement a soft but active edge to the development;
- Consider views towards the site from the east (public footpath and Salters Lane) and draw development back from Salters Lane;
- Provide new buffer planting to the north eastern site boundary to ensure screening and a development offset from the adjacent Faversham Household Waste Facility;
- Ensure built development has regard to the vernacular character of Faversham and Kent

Opportunities

- Opportunity for two points of access, one with Ashford Road (A251) and one with Canterbury Road (A2).
- The topography of the site provides the potential for gravity based sustainable drainage techniques;
- Opportunity to retain existing trees and hedgerows within the site and around the site boundaries where practicable to help assimilate development into the receiving landscape;
- Create a strong landscape framework to reinforce the existing trees and hedgerows and support biodiversity; to include new native tree, hedgerow, structural and amenity planting with local provenance and in-line with landscape character guidance;
- Opportunity to create a soft built edge between new development and countryside to the east and south (including the SLA) through a landscape buffer;
- Provide a strong green linkage through the development to connect potential open spaces to the north and south of the scheme. Priority should be given to pedestrian and cycle movements;
- Opportunity to deliver housing that will complement the existing settlement edge in terms of building heights, detailing and materials so that the development is seen as a continuation of the townscape edge;
- Internal vehicular and pedestrian routes can encompass new street trees, ornamental shrubs and native hedgerows to further enhance the onsite Green Infrastructure provision and improve biodiversity.'

Block Pattern

- 7.7.7 The block pattern comprises development blocks typically 50m in depth. The alignment reflects the natural topography of the site such that the blocks will have a prevailing east-west aspect in response to the site contours. At the eastern and western edges, the block pattern

secures existing rear gardens and private spaces. Along Salters Lane, to the south and addressing Canterbury Road are proposed frontages. Long cul-de-sacs should be avoided. Short cul-de-sacs will be accommodated within in larger blocks. Where possible, vehicular access should be provided around the whole perimeter block.

1. Development blocks will be broadly arranged in a distorted grid layout to respond to topography and context
2. Development blocks broadly rectilinear for efficiency
3. All development blocks should have active edges on four sides

Building Typologies

- 7.7.8 Informed by location, the pattern and grain, the prevailing built form would be of lower density forms such as the detached house. To provide for a balanced community there will also be terraces, semi-detached houses and flats, maisonettes. In accordance with the Coding Plan, the greater variety of dwelling types would be accommodated into the site. Lower density forms (a greater number of detached houses) would be along the green corridor and to the northern edge (Canterbury Road).

Detached Houses / Single Storey Houses

Appropriate considering the edge of town location, particularly along the green corridor, Salters Lane and adjacent to the northern area of open space.

Semi Detached Houses

Appropriate within the development areas and along the principal and secondary roads.

Terraced Houses

Appropriate within the development areas where their urbanising form would not detract from the edge of town location.

Flats and Maisonettes

Limited by height constraints on the site and normally expected around the urban centre. Important to achieving a balanced community.

Materials

- 7.7.9 Informed by the context appraisal and the built form guiding principles, the palette should apply to the built form across the whole site. The proposals are for a predominantly red/orange brick scheme, with red, russet, and brown roof tiles. Grey (artificial slate) roof tiles, render and timber cladding/ decoration are accent materials. Consistent with the facade design principles, elevations should be typically plain comprising a predominant or single material (brick or render) with a second material used as an accent. Render should be applied to the whole of the elevation(s) or gable. All building materials should be durable and age well.

Car Parking

- 7.7.10 Car parking should be designed so as not to detract from the overall quality of the public realm. This can be achieved through the siting and design of buildings and considered landscaping

proposals. Anti-social parking should be mitigated through design. Trees, bollards, and planting can be used to control parking.

On Plot Parking

- Car parking should be predominantly provided behind the building line;
- Where frontage parking is provided, landscape strips should soften the appearance of parking spaces;
- Surface materials for driveways should complement the streetscape in colour and materials; and
- Detached garages should be perceived as ancillary to the dwelling, integral garages should not dominate the principal elevation.

Courtyard Parking

- Shared parking courts will be provided for groups of dwellings such that they are convenient, safe and secure in order to encourage use and discourage anti-social parking on surrounding streets;
- Car parking areas of four or more spaces should be broken up by planting such as landscape strips, planting beds and trees; and
- Courtyards should be well lit and benefit from passive surveillance from surrounding dwellings.

Visitor Parking

- Visitor parking will be provided close to key spaces;
- A limited number of on street parking could be incorporated into the carriageway, streets could be widened at appropriate locations to accommodate parking; and
- Landscaped strips should break up the appearance of multiple parking spaces.

Cycle Parking

- Cycle parking will be provided as an integral component of both the public realm and on private plots.

Typologies

7.7.11 1 Low density edge: Predominantly low density detached dwellings

1i Low density edge - Canterbury Road

1ii Low density edge - Salters Lane

Low density suburban block form with informal character

Block type Informal

Target density range: 20-25 dph

Target plot ratio < 0.5

Building typology Predominantly detached with variety of individual dwelling types

2 Suburban edge: Mixed with short terraces (3-4 dwellings), semi-detached houses, flats and some detached houses

Low density suburban block form with informal character

Block type Generally formal perimeter block (linear pattern)

Target density range: 25-40 dph

Target plot ratio >0.5

Building typology Predominantly terraced / semi-detached houses; some flats and detached dwellings

- 7.7.12 The approved Design Code has informed the proposed layout and form of this development, subject to this Approval of Reserved Matters application, and is considered consistent with the provisions of the Site Allocation under Policy A16 *Land at Preston Fields* of the adopted Local Plan, together with associated Policies CP3, DM7 and DM14, the emerging Policies FAV 2 and FAV 10 of the Faversham Neighbourhood Plan, and the National Planning Policy Framework.

Trees

- 7.8.1 The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM 29 of the Local Plan.
- 7.8.2 The application is supported by an Arboricultural Method Statement, together with planting plans.
- 7.8.3 The Swale BC Tree Officer advises that from an arboricultural perspective the proposed layout would appear to respect the arboricultural constraints the existing trees pose and provided the scheme follows the tree protection measures as outlined in the submitted arb report by Aspect Arboriculture, dated July 23, Rev B, then there are no principal objections. In terms of the landscaping for the development the submitted landscape drawings by Lloydbore show a balanced mix of native and non-native planting that is considered acceptable for the proposed development layout. To ensure compliance, the landscaping details together with the tree protection measures are to be conditioned should the Council be minded approving the application.

(Case Officer comment: The landscaping details and tree protection measures are referenced as Approved plans)

Ecology

- 7.9.1 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.9.2 Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the NPPF states at paragraph 174 that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The NPPF states at paragraph 180 that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'

- 7.9.3 National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 7.9.4 In terms of the Local Plan Policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.9.5 KCC Ecology have reviewed the ecological information and we advise that sufficient ecological information has been provided but we advise that additional information is required demonstrating what ecological enhancement features will be incorporated into the site.
- 7.9.6 The submitted information has confirmed the presence of an active outlier badger sett, 8 species of foraging/roosting bats and two species of reptile within the adjacent site. It has detailed there is potential for breeding birds and dormouse within the site. Except for badgers, a precautionary mitigation approach has been proposed to avoid impact on protected/notable species and we advise that we are satisfied that the proposed approach is appropriate. Further details on the ecological mitigation have been provided as part of application 23/503442/SUB.

Lighting

- 7.9.7 Nocturnal species including at least 8 species of foraging bats and badger are present within the site and therefore there is a need to ensure that the lighting design minimises impacts from light spill. KCC Ecology note that as part of application 16/508602/OUT condition 18 requires a lighting plan as such we are satisfied that details on the proposed lighting is not required as part of this application. We highlight that the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night' 1 should be consulted in the lighting design of the lighting scheme. Designated Sites
- 7.9.8 The development includes proposals for new dwellings within the zone of influence (6km) of the Swale Special Protection Area, (SPA) and Wetland(s) 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.

Ecological Enhancements

- 7.9.9 We advise that we provided detailed comments as part of application 23/503442/SUB. As detailed within that submission we recommend that a plan is submitted, as part of this application, demonstrating where all the integrated ecological enhancement features will be located.

(Case Officer comment: Details pursuant to lighting and ecological enhancement are subject to conditions associated with the approved outline planning approval 16/508602/OUT; in addition, the SAMMS contribution is secured under the S106 Agreement in association with the above outline approval. The LPA have consulted Natural England on the HRA/ AA and have clarified the SAMMS position as set out above.)

Transport and Highways

- 7.10.1 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

- 7.10.2 The NPPF also 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.”

- 7.10.3 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

- 7.10.4 In response to the amended proposals, KCC Highways advised the following:

I refer to your consultation dated 20th July 2023 in respect to the above planning application following the submission of amended plans and additional information to address the comments made in the Local Highway Authority’s previous response.

I have reviewed the content of the Parking Justification Note and consider that the parking provision does comply with the minimum parking standards described in the adopted Swale Borough Council parking standards document, and together with the amendments made to the layout drawings I would no longer raise objection to the level of parking proposed on the development. It is noted that additional on-street parking has been provided to address a number of the concerns previously raised regarding the spread of visitor spaces around the site and also to mitigate the distance between hidden courtyard parking and the associated dwellings.

Following subsequent discussions with the applicant, further amended plans have been received to demonstrate compliance with the Section 106 Agreement requirement for provision of the A251 southern access road to meet local distributor road standards and safeguarding of a future link through to Salter Lane. Drawing numbers PFF-PPC-00-XX-DR-C-2097 P1 S106 Link Road Alignment-A3 and PFF-PPC-00-XX-DR-C-2096 P0 TRO Lining Arrangement-A1 have now been submitted to address this and I am satisfied that the proposed amendments to the link road would satisfy the requirement. This stipulated that any of the development access road constructed on the alignment of the safeguarded route would need to be constructed to a minimum width of 6.7m and include a 3m wide footway/cycleway on its northern side. The amendment does now comply with the S106 planning obligation, and I understand that the full suite of layout drawings for the development will now updated to reflect these changes.

In addition, a Traffic Regulation Order plan has been submitted to include waiting restrictions along this section of road. These will need to be implemented prior to occupations in order to prevent on-street parking becoming established along the route, particularly given the width of the road and the rear courtyard parking allocated to the apartment block A that faces onto this road. Vehicle ownership levels must be influenced by parking availability from the outset, as it will be difficult to introduce restrictions after occupations have taken place and behaviours established. A planning obligation will be required to secure the implementation of the waiting restrictions.

While drawing PFF-PPC-00-XX-DR-C-2097 P1 does also indicate the possible future link road alignment through the safeguarded land to Salters Lane, at this time it is not possible to confirm exactly where the connection will be. As this current reserved matters application does not cover the wider development area that included the southern site approved by application reference 21/500766/OUT, the alignment has been contained within the red line boundary of the application extents. The indicative layout plan attached to the S106 Agreement for the combined developments envisaged the alignment connecting to Salters Lane through the southern site. In order not to prevent this scenario from being delivered, the remaining land to the south of the alignment shown on drawing PFF-PPC-00-XX-DR-C-2097 P1, up to the red line application boundary will need to be kept available.

On the assumption that the full set of application drawings are updated to correspond with the link road design show on drawing PFF-PPC-00-XX-DR-C-2097 P1, and it is confirmed that an alignment of the possible future link road could still route into the southern site, then I would be satisfied that all matters have now been addressed.

Consequently, I confirm that provided the following requirements are secured by condition or planning obligations not covered by the consent under outline application 16/508602/OUT, then I would raise no further objection on behalf of the local highway authority:

- *No dwelling to be occupied until an application for a Traffic Regulation Order has been made to introduce waiting restrictions as shown on drawing PFF-PPC-00-XX-DR-C-2096 P0, and the restrictions introduced in accordance with the application decision. Reason: To protect the reasonable residential amenities and highway safety of the locality.*

Air Quality

7.11.1 The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing, or preventing harmful concentrations of air pollution.

7.11.2 The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be considered in planning decisions. The Planning Practice Guidance on Air Quality states that:

“whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise

where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.

- 7.11.3 The Local Plan at Policy DM 6 sets out that development proposals will 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.
- 7.11.4 The applicant has undertaken an Air Quality Assessment in support of this proposal, this has been reviewed by the Council and advises that the proposed development will provide the following mitigation measures as part of the design:
- Provision of a pedestrian / cycle path through the areas of formal and informal Public Open Space connecting the A251, A2 and Salters Lane;
 - Provision of a travel plan welcome pack available to all new residents online and as a booklet, containing information and incentives to encourage the use of sustainable transport modes from new occupiers;
 - Travel Plan measures to promote and establish sustainable models of transport which will help in reducing potential air quality impacts such as;
 - Travel notice board to provide information on public transport, walking and cycling routes, car sharing, bike hire scheme;
 - Welcome packs with the above information;
 - Initiative to promote walking and cycling;
 - Initiatives to promote public transport; and
 - Initiative to promote car sharing.
 - Adequate provision of secure cycle storage;
 - Electric Vehicle Charging Infrastructure (charging point);
 - Provision of a travel plan coordinator to oversee the travel plan process and undertake monitoring;
 - Provision of green infrastructure, in particular trees, to absorb dust and other pollutants;
 - Encouragement by the Travel Plan Coordinator for residents to sign up to the Kentjourneyshare website. This initiative is part of the Liftshare network which identifies opportunities for residential in the local area to car share when travelling to work;
 - Mitigation Measure Detailed in Framework Travel Plan such as;
 - ~ Walking to school club to promote safe journeys to local schools; and
 - ~ Discounted bus tickets for residents.
 - Reducing NOx emissions with Air Source Heat Pumps (ASHPs). Heat pumps reduce greenhouse gas emissions by at least 20% compared with a gas boiler, even when running on emissions-intensive electricity. This reduction can be as large as 80% with cleaner electricity. Despite not reducing PM emissions, they are preferred over gas boilers.
- 7.11.5 The provision of the above measures is expected to more than cover the calculated £24,800 damage cost and is therefore considered to be sufficient to offset the increase in emissions generated by the development.

- 7.11.6 The above measures, secured as part of the S106 Agreement in the Outline planning application 16/508602/OUT, are therefore consistent with the provisions of Policy DM6 of the adopted Local Plan, in terms of mitigating air quality impacts caused by this development.

Open Space

- 7.12.1 Policy DM17 of the Local Plan sets out that new housing development shall make provision for appropriate outdoor recreation and play space, including urban parks, children's play areas, open space for sport, allotments or community gardens proportionate to the likely number of people who will live there. This space should be fully accessible all year round and therefore is generally not appropriate for Sustainable Urban Drainage Systems such as stormwater ditches.
- 7.12.2 The Public Open Space provision as set out within the application amounts to 2.5ha (6.17 acres); this area of open space is contained outside of the proposed SUDs areas, which amounts to 0.41ha (0.41 acres).
- 7.12.3 The public open space provisions are set out within the S106 agreement secured at the outline planning application stage, under reference 16/508602/OUT, and as set out in paragraph 3.3 of this Report.

Flood Risk, Drainage and Surface Water

- 7.13.1 The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan.
- 7.13.2 Kent County Council as Lead Local Flood Authority have advised that Kent County Council as Lead Local Flood Authority have reviewed the updated Drainage Strategy and accompanying hydraulic modelling and are generally satisfied that our previous comments have been addressed. As such, KCC as LLFA have no objection to the approval of reserved matters. The LLFA note that the network design for the south catchment does not match Drainage Strategy drawing provided, however, the LLFA acknowledge that the contributing area is consistent and as such would expect that the drainage network can be accommodated within the proposed layout. At detailed design stage the LLFA would expect for the modelled network to fully match the drainage layout drawing.

Contamination

- 7.14.1 The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 7.14.2 IMid Kent Environmental Protection have reviewed the decision notice for 16/508602/OUT which includes conditions for contaminated land. Those conditions are not required to be completed for the reserved matters stage and are standalone conditions that will be completed 16/508602/OUT planning reference.

Living Conditions

Existing residents

- 7.15.1 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

- 7.15.2 As set out in Section 1 – *Site Location and Description* – to this Report, this provides an analysis of the context of the site in relationship to its boundaries. The key connection of the site is in respect of properties to the west off Ashford Road; typically, these properties have 50m. long gardens to the east and forming the common boundary with the application site. The only exception to this rule is where Planning permission was granted for an Annexe structure within the garden of the property at Ashford Road in 2022. The nature of an Annexe building is that its occupation is ancillary to the use of the host dwelling as a single-family property and is not an independent dwelling. There are no other properties in Ashford Road or around the other boundaries of the site, which would be prejudiced in terms of the living conditions of neighbouring occupiers.

Future residents

- 7.15.3 New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings. These proposals have been assessed against the DCLG Technical housing standards – nationally described space standard and are acceptable in this context.

Sustainability / Energy

- 7.16.1 Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.16.2 Measures set out within the Air Quality section of this Report deal with Sustainability and Energy matters.

Conclusion

- 7.17.1 The application site forms part of the Allocated Site A16 Land at Preston Fields, Faversham as identified within the Adopted Local Plan. Swale Borough Council currently has less than 5-years housing supply, and therefore the delivery of this site for 231 new homes would make a significant contribution to the housing delivery situation. In addition, this allocated site makes a valuable contribution towards meeting identified housing need, particularly affordable housing,
- 7.17.2 Whilst acknowledging the comments and observations of third parties and the Faversham Town Council, many of these refer to the principle of development, which has also been secured by virtue of the outline planning approval 16/508602/OUT. In addition, the s106 Agreement secured under the above outline permission seeks to mitigate any adverse impacts of development on this Allocated site.
- 7.17.3 Finally, and whilst acknowledging the status of the emerging Faversham Neighbourhood Plan (FNP), this application would not prejudice the future consideration of the FNP as an allocated site within the Adopted Swale Local Plan.
- 7.17.4 The application for the Approval of Reserved Matters is therefore recommended for APPROVAL, subject to conditions as set out.

CONDITIONS

1. Approved Plan numbers:

Planning Statement & Statement of Community Involvement

Heritage Impact Assessment

PC4334 Preston Fields Faversham_Air Quality_Technical Note_July2023

A1002_01_Rev H_Planning Layout_Black White

A1002_01_REV H_Planning Layout_Final Layout_COLOUR 30.08.23

A1002_04_Site Location Plan

A1002_07_Rev E_Materials Plan

A1002_08_Rev E_Enclosure Plan

A1002_09_Rev E_Character Area Plan

A1002_10_Rev E_Occupancy Plan

A1002_11_Rev E_Massing Plan

A1002_12_Rev E_Parking Plan

A1002_13_Rev E_Affordable Housing Plan

A1002_14_Rev E_Refuse Plan

A1002_15_Rev D M4-3 -APARTMENT PLANS

A1002_16_Rev D M4-3 -APARTMENT ELEVATIONS

A1002_17_Rev F_POS Area Plan

A1002_18_Rev E_Street Scenes A-E

A1002_19_Rev E_Gas Easement Plan

A1002 - HOUSE TYPE BROCHURE REV E - 30.08.23

1002_Design Justification Statement_Rev C 30.08.23

6150-LLB-EA-E1-DR-L-0003-S4-P04_Planting Plan

6150-LLB-EA-E2-DR-L-0004-S4-P04_Planting Plan

6150-LLB-EA-E3-DR-L-0005-S4-P04_Planting Plan

6150-LLB-EA-E4-DR-L-0006-S4-P04_Planting Plan

6150-LLB-EA-E5-DR-L-0007-S4-P03_Planting Plan

6150-LLB-EA-E6-DR-L-0008-S4-P04_Planting Plan

6150-LLB-EA-E7-DR-L-0009-S4-P04_Planting Plan

6150-LLB-EA-E8-DR-L-0010-S4-P03_Planting Plan
6150-LLB-EA-E9-DR-L-0011-S4-P03_Planting Plan
6150-LLB-EA-E10-DR-L-0012-S4-P04_Planting Plan
6150-LLB-EA-E11-DR-L-0013-S4-P03_Planting Plan
6150-LLB-EA-E12-DR-L-0014-S4-P06_Planting Plan
6150-LLB-EA-E13-DR-L-0015-S4-P07_Planting Plan
6150-LLB-EA-E14-DR-L-0016-S4-P03_Planting Plan
6150-LLB-EA-E15-DR-L-0017-S4-P03_Planting Plan
6150-LLB-EA-E16-DR-L-0018-S4-P03_Planting Plan
6150-LLB-EA-E17-DR-L-0019-S4-P03_Planting Plan
6150-LLB-EB-E1-DR-L-0020-S4-P05_Planting Plan
6150-LLB-EB-E2-DR-L-0021-S4-P04_Planting Plan
6150-LLB-EB-E3-DR-L-0022-S4-P04_Planting Plan
6150-LLB-EC-E1-DR-L-0023-S4-P04_Planting Plan
6150-LLB-EC-E2-DR-L-0024-S4-P05_Planting Plan
6150-LLB-ED-E1-DR-L-0002-S4-P07_Play Equipment Plan
6150-LLB-ED-E1-DR-L-0002-S4-P08_Play Equipment Plan
6150-LLB-ED-E1-DR-L-0025-S4-P06_Planting Plan
6150-LLB-EC-E3-DR-L-0026-S4-P01_Planting Plan
6150-LLB-RP-L-0003-S0-P01_Play Equipment Specifications
6150-LLB-ZZ-ZZ-DR-L-0001-S4-P18_Indicative Site Landscape Masterplan
PFF-PPC-00-XX-DR-C-0201 P9 External Levels Strategy-A1L
PFF-PPC-00-XX-DR-C-0301 P12 Highways Review-301
PFF-PPC-00-XX-DR-C-0302 P12 Highways Review-302
PC-00-XX-DR-C-0303 P12 Highways Review-303

PRE-PPC-00-XX-RP-C-0016 Preston Fields TechNote - KCC Highways rev 1
Parking Justification Note (Preston Fields) V1.0
PFF-PPC-00-XX-DR-C-0297 P0 S106 Salters Lane Connection Layout-A3
PFF-PPC-00-XX-DR-C-2095 P0 Link Road Future Junction-A3
PFF-PPC-00-XX-DR-C-0304 P12 Tracking Plans-304
PFF-PPC-00-XX-DR-C-0305 P12 Tracking Plans-305
PFF-PPC-00-XX-DR-C-0306 P12 Tracking Plans-306
PFF-PPC-00-XX-DR-C-0210 P5 Drainage Strategy-A1L
PRE-PPC-00-XX-RP-C-0010 Preston Fields Site A Drainage Strategy Rev 1.4 Complete
PRE-PPC-00-XX-RP-C-0019 Preston Fields TechNote - KCC LLFA
PRE-PPC-00-XX-RP-C-0018 Preston Fields TechNote - Southern Water
10327 2023-08-24 RGM - Basin Central M5-60
10327 2023-08-24 RGM - Basin North M5-60
10327 2023-08-25 RGM - CS2 Tank M5-60 1-30
10327 2023-08-25 RGM - CS2 Tank M5-60 1-100
10327 2023-08-25 RGM - CS3 Tank M5-60 1-30
10327 2023-08-25 RGM - CS3 Tank M5-60 1-100
10327 2023-08-25 RGM - CS4 Tank M5-60 1-30
0327 2023-08-25 RGM - CS4 Tank M5-60 1-100
10327 2023-08-25 RGM - CS5 Tank M5-60 1-30
0327 2023-08-25 RGM - CS5 Tank M5-60 1-100
10327 2023-08-52 RGM - Basin South M5-60
11362_AMS.001 Rev C
UE0520_PrestonFldsSiteA_EcIA_5_230830
UE0520_PrestonFldsSiteA_PEA_5_230830

UE0520_PrestonFlds_PSR_5_230830

2. No dwelling to be occupied until an application for a Traffic Regulation Order has been made to introduce waiting restrictions as shown on drawing PFF-PPC-00-XX-DR-C-2096 P0, and the restrictions introduced in accordance with the application decision.

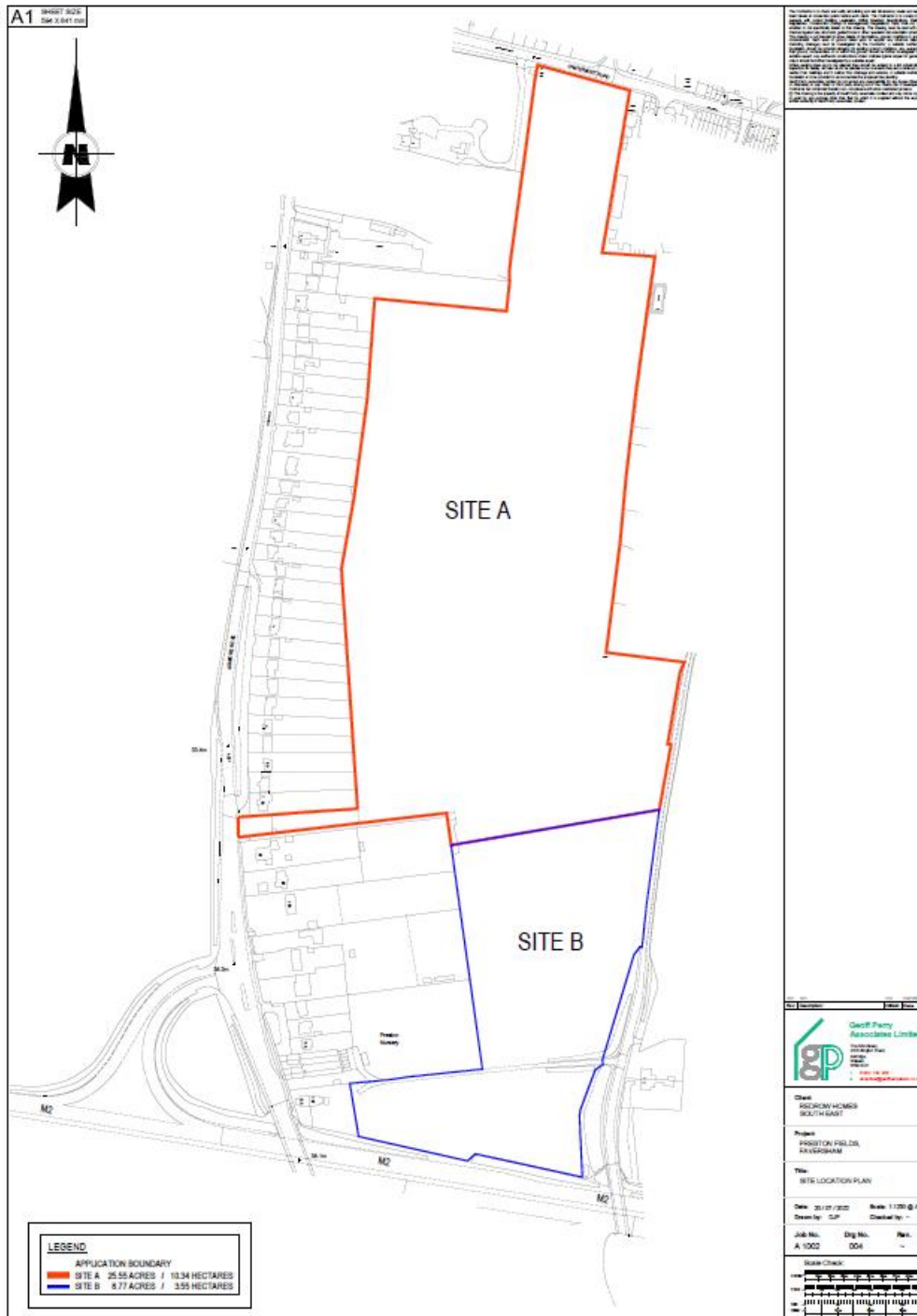
Reason: In the interests of residential amenity and highway safety.

3. Notwithstanding the provisions of Class B & C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no additions or alterations of any roof any dwellings in respect of plots 1 – 10 (inclusive) and 213 – 231 (inclusive) shall be carried out, the subject of this permission.

Reason: To safeguard the amenities of the area and setting of adjacent listed buildings and Faversham and Preston-next Faversham Conservation Areas, by enabling the Local Planning Authority to consider whether planning permission should be granted for enlargement of these dwellings

4. A monitoring strategy shall be included in the travel plan which provides progress reports on the proposed measures and that these reports be submitted to the Local Planning Authority, in consultation with the Environmental Health team.

Reason: To enable the appropriate monitoring of the Travel Plan.



This page is intentionally left blank

APPENDIX 1

Appendix 1

Approval of reserved matters (scale, design, layout and landscaping being sought) for the erection of 231 dwellings (houses and apartments, C3 Use Class) with landscaping, associated highway works, including car parking and open space, pursuant to 16/508602/OUT for - Outline application for erection of up to 250 dwellings with all matters reserved except for access. Land At Preston Fields Salters Lane Faversham Kent ME13 8YD

Application Reference: 23/501167/REM

Bearing Fruits Adopted Local Plan

The site is identified as a strategic allocation in the adopted Local Plan.

SHLAA April 2020

The SHLAA identifies this site as reference SLA18/178. In the assessment it classifies the current land use as agricultural and the site type as greenfield.

Reserved Matters

Faversham Town Council expected that the following outcomes to be achieved as a part of the reserved matters application. Where appropriate these were conditioned in the application 16/508602/OUT. This representation deals with each matter in turn in respect of the amended details submitted in July 2023 and should be considered alongside previous representations made on this application:

Climate Resilient Development and Carbon Reduction

Include superior energy performance and demonstrate BREEAM 'excellence' in design. It should be noted that from the 15th June 2022 there are revised building regulation commitments that seek to further achieve net zero development. Consideration for these measures should be integrated as part of any scheme.

All surface and storm water should be collected and discharged to at least one cellular soak away of appropriate such as is sufficient to ensure zero off-site discharge of storm water, and such as to ensure discharge is to the aquifer.

As a greenfield site the design does include the scope for green design features to be incorporated. Furthermore, there is no attempt at including any other features such as integrated P.V panels, or other elements that reduce carbon use, or contribute to superior energy performance. This is a

APPENDIX 1

Appendix 1

standard design that does not exceed building standards and makes no positive contribution to reducing carbon on site or creating a climate resilient development. This element remains unchanged in the revised documents.

Whilst the principle of residential development is supported, the lack of design consideration for green design features and creating a climate resilient development requires a reconsideration. The Town Council made this clear in the representation of the consented outline application and in our previous representation to this current application. We would recommend either the application is withdrawn and amended or is refused.

Considering the Borough Council has declared a climate emergency, it would be inappropriate to grant permission for development on a greenfield site that fails to demonstrate how the design mitigates impact of climate change or creates a climate resilient development. National policy and guidance, Local Plan policy and emerging Neighbourhood Plan policy all make clear this should be an integral part of new development.

Address local surface water flooding originating from the application site through development on greenfield, agricultural land.

Conditions 33 and 34 of the outline consent made clear further details to be submitted and agreed. Having considered the revised documents, the Planning Layout plan reference A-1002 001-F includes all hard landscaped area details as either non-permeable asphalt or Marshalls Keyblock. Having confirmed with Marshalls, Keyblock is non-permeable. Any proposed hard landscaped areas must be permeable. The plans should be amended to include details of permeable hard-landscape surface materials to be provided throughout the development. It is disappointing that this revision has not been addressed.

Natural Environment

Consider Green corridors and significant tree planting, a detailed landscaping proposal should be submitted, demonstrating how it delivers 20% biodiversity net gain.

The addition of the Biodiversity Mitigation report, July 2023 is supported. However, it does not demonstrate how the scheme delivers any Biodiversity Net Gain (BNG). Whilst it acknowledges mitigation measures, it fails to apply the BNG metric, provide a score for the current site and then test the proposed mitigation measures to demonstrate what BNG percentage these actually deliver.

The report is a positive step, however, remains inadequate in terms of demonstrating any BNG provision. The mitigation measures proposed relate to protected species identified in the Protected Species Survey, July 2023.

Given that all major applications must demonstrate a minimum of 10% biodiversity by November 2023 we strongly advise the application to provide evidence of a minimum 10% BNG. If this is not possible then the applicant must calculate the BNG credits and make a financial contribution. The Town Council would welcome a discussion on where these could be best utilised to improve BNG in the area, as we have a strong commitment to protecting and enhancing the natural environment.

APPENDIX 1

Appendix 1

Other Urban Design Matters

Create a site-specific design that responds to the site character and locality, providing a soft transition to the open countryside and edges of development.

The Town Council support the principle of the design code in trying to identify the character of the area and respond through the proposed design. However, fundamentally the proposed development fails to take into consideration carbon reduction, green design or creating climate resilient communities. This remains unchanged in the revised documents.

Take opportunities to create and enhance active travel routes.

To support active travel the development should also include adequate secure, covered cycle storage as part of the development. The Town Council supports the linear traffic free active travel route that forms part of the SuDS system in the development.

Improvement to the A2/A251 junctions were noted providing improving access to the centre of town via Forbes Road. Members invite the developers to liaise with the Town Council to further improve active travel to the station and centre of town.

To improve active travel members request cycle/pedestrian access onto Salters Lane.

To improve active travel into the town centre provision should be made via Preston Park, Preston Land and St. Catherines Drive.

Crossing points on the A2 should be provided for both cyclists and walkers to promote a north to south route.

Public Transport

An operational bus stop is needed in the vicinity to serve this development.

Housing

Development should be tenure blind.

The Town Council support the distribution of proposed affordable homes across the site. It is important that the proposed development has a tenure blind layout. This has still not been addressed in the revised details. The homes identified for affordable rent should be integrated within the development to create a tenure blind scheme. Members are still disappointed that the proposed layout includes all affordable units adjacent to the existing refuse site at Salter Lane.

Where there is an affordable housing element this should be made for affordable rent on the open market and by social landlords.

The Town Council support the provision of affordable homes. Again, we recommend that affordable housing mix is revised to reflect the AECOM Housing Needs Assessment for the Neighbourhood Plan, which shows a requirement of 66% affordable rent not the proposed 90% and a 34% affordable ownership need. For more information on the Housing Need Assessment please visit: <https://favershamtowncouncil.gov.uk/wp-content/uploads/2022/12/HSN-FINAL.pdf>

APPENDIX 1

Appendix 1

Infrastructure

Provide increased capacity to deliver local GP services. The importance of adequate infrastructure for schools, health, shops for the residents of these houses should be noted.

Summary

The Town Council has considered the revised documents. We note the applicants covering letter suggests a planning committee date in August 2023. This would not allow sufficient time for the applicant to positively address the comments raised on the revised submission documents.

If Officers are minded to take this to Planning Committee in August 2023, we would recommend refusal on the basis that the proposed design, layout and materials are of a standard layout and construction and fail to make a positive contribution to delivering climate resilient development. There are no details of BNG and therefore it is not possible to determine if the 10% can be achieved.

The applicant has made limited changes to the proposed scheme. We would strongly recommend the application is withdrawn and amended to take account of the representation.

2.6 REFERENCE NO: 23/501017/FULL		
PROPOSAL Erection of a three storey 66no. bed care home for older people (Use Class C2) with associated access, parking and landscaping and ancillary facilities.		
SITE LOCATION Land West of Barton Hill Drive, Minster-on-sea, Kent, ME12 3LZ		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE – Major Full Application		
REASON FOR REFERRAL TO COMMITTEE Objection from Minster-on-Sea Parish Council		
Case Officer William Allwood		
WARD Queenborough & Halfway	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT LNT Care Developments AGENT LNT Construction
DATE REGISTERED 07.03.2023	TARGET DATE 06.06.2023	CASE OFFICER William Allwood
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/simpleSearchResults.do?action=firstPage		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Site is located within the urban confines of Minster. It is within a larger strategic development allocation for a minimum of 620 dwellings (Policy A12 – Land West of Barton Hill Drive) and which benefits from outline planning permission (granted on appeal) for up to 700 dwellings (18/503135/OUT). The site is located between the Barton Hill Drive and Lower Road (A2500) roundabout, which is to the south. To the east of the site consists predominantly residential development mainly in the form of two-storey semi-detached and detached homes. To the west of the site is open agricultural land and yet to be developed as part of the wider approval for 18/503135/OUT. To the south of the site beyond the highway (Lower Road A2500) is characterised by open agricultural land. Further west along the A2500 is Sheppey Rugby Football Club.
- 1.2. The Site is approximately 1.1 acres (4,452 sq. m.) and is currently open agricultural arable land. The site is predominately clear of vegetation with a hedgerow protruding into the north of the Site boundary (identified for removal to accommodate development).
- 1.3. The site is accessible via the Barton Hill Drive and Lower Road roundabout. It is also well-served by level pedestrian/cycle routes, with two bus stops within 100m.

- 1.4. The Site is allocated in the Local Plan for a minimum of 620 dwellings ‘Land West of Barton Hill Drive’ (Policy Ref A12). This allocation confirms the principle of development for residential uses, and therefore the site is suitable for future development.
- 1.5. The site is located within Flood Zone 1, which is an area with the low probability of flooding and it also within 1 – 2 km of the Medway Estuary and Marshes RAMSAR site and Site of Special Scientific Interest (SSSI), and the Medway National Nature Reserve (NNR).
- 1.6. As noted in the Committee Report dated 28 February 2019 as part of the wider development of a larger site (18/503135/OUT)

“The site... presents an undulating topography, gradually rising from the lowest points at Lower Road, Barton Hill Drive and another located centrally within the site. The land eventually steepens towards a crest at the north-western boundary. The site is visually exposed due to its sloping landform, with long reaching views due south-west across the site from the highest point adjacent to the northern boundary. These views are broken by native species of hedges that form part-field boundaries, although these are sporadically interrupted by trees.”

2. PLANNING HISTORY

- 2.1. 18/503135/OUT: refused and granted on appeal ref: APP/V2255/W/19/3238171, March 2020 for *outline planning permission for the development of up to 700 dwellings and all necessary supporting infrastructure including land for the provision of a convenience store / community facility, internal access roads, footpaths, cycleways and parking, open space, play areas and landscaping, drainage, utilities and service infrastructure works.*
- 2.2. 21/504759/SUB: Approved, 23.09.2022 for *Submission of Details to Part Discharge (Phase 1a) Condition 7 - Design Code and Discharge Condition 8 - Landform parameter plan subject to 18/503135/OUT (APP/V2255/W/19/3238171).*
- 2.3. 23/500161/REM: Pending Consideration, submitted 24.01.2023, *Application for the approval of Reserved Matters for Phase 1A (Appearance, Landscape, Layout and Scale.) Pursuant to conditions 1,12, 26,27,33,34,37,39,40,41,42,43 and 46 of Outline Planning Permission 18/503135/OUT for a development for residential dwellings including landscaping, drainage and earthworks.*

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the erection of a three storey 66no. bed care home for older people (Use Class C2) with associated access, parking and landscaping and ancillary facilities.
- 3.2. The application is for a care home that will be accommodated within a purpose-built three-storey 66-bed residential care facility for older people. It will be situated within a wider site allocated for and delivering new development (LPA ref: 18/503135/OUT), and so it will be surrounded by various uses such as residential dwellings, play areas, open space and landscaping, a convenience store (as part of the wider housing development) and community facilities.

4. REPRESENTATIONS

- 4.1. One round of publicity was carried out on 07.03.2023, in which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. 2 letters of representation were received in response. Concerns / objections were raised in relation to the following matters: -
- Who will be funding this, who will be staffing this? Care homes are being closed on Sheppey due to lack of funds and staffing problems. It is for the sake of the government inspector from Bristol, he will look at this as an important opportunity to solve accommodation for the elderly, he certainly won't look into care homes already closing in the area.
 - The application seems a good idea until you look at the details. We already have nursing homes on Sheppey, which are contemplating closing due to lack of funds and difficulty in recruiting staff.
 - The proposed site is in completely the wrong place. The application shows a pleasing building with grounds and garden furniture for the residents to enjoy outside cups of coffee etc., due to the situation of the building the residents will be unable to sit outside or indeed open their windows due to the pollution and noise being discharged from the congested traffic on the totally inadequate and inappropriate A2500 which runs alongside the proposed site.
 - Presumably the applicant - LNT Care Developments will purchase the land from Persimmon if their application is passed. This will presumably mean that Persimmon will continue with their proposed housing on the remainder of the land and continue to build the original allocation of houses on the remaining site, thereby ensuring that the houses will be crammed in closer together with lack of privacy and open green spaces.
 - The current residents of the Isle of Sheppey do not need Nursing Homes or more houses, they just need the land to be used for a wildlife country park.
- 4.3. Minster-on-Sea Parish Council object to the application on the following grounds: -
- The proposal presents as over-intensive development of the site.
 - The care home is situated in the worst possible location.
 - Parking provision is also inadequate.
 - The design, sheer scale and structure of the three-storey building is not in keeping with the street scene. It will also have a detrimental impact on visual amenity.
 - Furthermore, what presents as a very substantial building is positioned between two oversubscribed roads - Barton Hill Drive leading to Minster, Halfway and Sheerness which is seriously congested and the A2500 Lower Road to Minster, Eastchurch and Leysdown which suffers from the same fate.

- Consequently, the resultant tailbacks and noise and traffic pollution created by the care home's location will be detrimental to the quality of life and health and wellbeing the future occupants might reasonably be expected to enjoy.
- Put simply, the picture painted within the documentation of an environment that is pleasing with benches outside etc is contrary to the reality that those residents will experience.
- The noise assessment to assess the impact of the existing noise environment on the proposed new care home which referenced an existing noise assessment previously carried out for the wider site is also flawed.
- The Sustainability Statement does not reflect the actual situation either.
- For all these reasons and more, Minster-on-Sea Parish Council urges Swale Borough Council's Elected members to reject the application.

4.4. CONSULTATIONS

Environmental Protection Team MIDKENT Environmental Health: -

- 4.5. Note the contents of the Air Quality Statement and Noise Assessment that accompanies the application.
- 4.6. Raise no objection subject to conditions relating to a construction management plan to protect the air quality during the construction phase and noise condition to protect the amenity of the proposed care home.

KCC Contributions: -

- 4.7. 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.

	Per Dwelling (66)	Total	Project
Library Service	£55.45	£3,659.70	Contributions requested towards additional services, resources, and stock at Libraries serving the development, including Minster Library.
Waste	£183.67	£12,122.22	Towards additional capacity at HWRCs and WTS' within the Borough
<i>Highways</i>	<i>Kent Highway Services will respond separately</i>		

- 4.8. I am satisfied that the contributions requested for library and HWRC Services are not required for this application. The total amount being sought from KCC Strategic Planning will therefore

amount to £3,553.00 for the purposes of providing additional capacity at the Sittingbourne WTS to deal with the additional waste generated from the development.

KCC Drainage:

- 4.9. Kent County Council as Lead Local Flood Authority have reviewed the application and have no objection to the proposals, subject to conditions.

Lower Medway Internal Drainage Board: -

- 4.10. The whole site is within the Lower Medway Internal Drainage Board's district and as such, we are particularly interested in the proposed discharge of surface water. The Council may wish to consider using a suitable planning condition to encompass both these recommendations and include for the drainage system's verification on site by a competent engineer.
- 4.11. The Applicant is advised to contact the Board with details of the maximum discharge rate for surface water in litres per second (l/s) from their site and the increase in impermeable area of their site to progress the consenting process. Alternatively, the Applicant should clarify if the surface water scheme is wholly being dealt with under the umbrella of the wider site.

National Highways: -

- 4.12. No objections. Having assessed application 23/501017/FULL we are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability, and operational efficiency of the Strategic Road Network in the vicinity of the site.

KCC Highways: -

- 4.13. It is noted that this application is supported by a Transport Statement (TS) and Travel Plan whereby section 4.2 mentions traffic generation however a Traffic Impact Assessment will need to be submitted to consider the effect that the additional traffic will have on the highway network. The TS states that the change in transport movements on the site has been considered and accepted through the outline planning permission however application 18/503135/OUT was for up to 700 dwellings and included land for provision of a convenience store / community facility and does not appear to include provision for a care home. It is not clear if this facility will be in addition to that granted in the outline application 18/503135 however its impact on the highway network will need to be considered on its own merit. This assessment is to include TRICS to determine the trip rates for the proposed care home.
- 4.14. 25 parking spaces have been allocated and in general the layout appears to be satisfactory. The sizes of the bays meet the minimum required standards and additional room has been provided for the disabled spaces however in order to assess the number of spaces provided for staff, further information will need to be submitted regarding the number of resident staff. SBC parking standards recommend that parking is calculated as 1 space per resident staff and 1 space per 2 other staff. The applicant has given a breakdown of indicative staff and shift patterns which is useful however the exact number of staff per residents is required.
- 4.15. The plans show an area for bin storage however there are no turning areas within the carpark for refuse vehicles. Swept path drawings will need to be provided showing a freighter entering the site and turning to egress in a forward gear. There shall be no vehicle overrun of kerbs or parking bays and this will need to be shown for an 11.34m refuse vehicle.

- 4.16. In response to Highway comments made on 23rd March, the applicant has provided further details set out in a Supporting Statement which outlines how concerns raised will be mitigated.
- 4.17. Details regarding staff shift patterns has been provided which states the total number of staff on site at any one time. I can confirm staff numbers combined with residents and visitors and a total of 25 spaces is adequate and conforms with the Borough Council's parking standards.
- 4.18. In addition, the applicant has provided further details regarding the traffic impact associated with the proposed care home. It is appreciated that visitors to the facility are unlikely to visit in the network peak hours and therefore can confirm the additional movements for staff is likely to result in an additional 7 movements in the AM peak and 3 in the PM peak. The proposed development therefore would not result in a severe impact on the road network.
- 4.19. Raise no objection subject to conditions relating to parking provision, cycle parking, EV charging and provision of a Construction Management Plan.

KCC Minerals and Waste: -

- 4.20. The County Council has no minerals or waste management capacity safeguarding objections or comments to make regarding this proposal.

Environment Agency: -

- 4.21. No comments to make on this planning application as it falls outside our remit as a statutory planning consultee.

Natural England: -

- 4.22. No objections subject to securing appropriate mitigation for recreation pressure impacts on habitat sites (European Sites)
- 4.23. Natural England notes that the Habitats Regulations Assessment (HRA) has not been provided with the application. As competent authority, and before deciding to give permission for the project which is likely to have a significant effect on a European Protected Site, you must carry out a HRA and adhere to its conclusions.
- 4.24. The applicant is challenging the need for a SAMMS contribution in respect of the development of a Care Home. The LPA have also written to Natural England with a HRA/AA, and agree with the applicant that such a payment is not required in these particular circumstances. Any further correspondence from Natural England will be reported to Committee.

- 4.25. Second consultation: no comment to make on its details.

Southern Water: -

- 4.26. 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.

- 4.27. 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.
- 4.28. Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

Kent Police: -

- 4.29. We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).
- 4.30. Applicants/agents should consult us as Designing out Crime Officers (DOCOS) 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 Behaviour (ASB), Nuisance and Conflict.

KCC Ecology

- 4.31. We are satisfied that sufficient ecological information has been provided to determine the planning application, subject to conditions.
- 4.32. KCC Archaeology: - no comments received.
- 4.33. KCC Commissioning: - no comments received.
- 4.34. SBC Ward Councillors – No comments received.
- 4.35. Asset Engineer (Pipelines): - No comments received.
- 4.36. NHS (SWALE): - No comments received. Officers have contacted the NHS for comment, and any response will be reported to Members.
- 4.37. UK Power Networks: - No comments received.

5. DEVELOPMENT PLAN POLICIES

5.1 Bearing Fruits 2031: The Swale Borough Council Local Plan 2017.

- ST1 Delivering Sustainable Development in Swale
- ST2 Development Targets for Jobs and Homes 2014-2031
- 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 – Providing for Green Infrastructure
- A12 Land west of Barton Hill Drive, Minster
- DM6 Managing Transport Demand and Impact
- DM7 Vehicle Parking
- DM8 Affordable Housing
- DM14 General Development Criteria
- DM17 Open Space, Sports, and Recreation Provision
- DM19 Sustainable Design and Construction
- DM21 Water, Flooding and Drainage
- DM24 Conserving and Enhancing Valued Landscapes
- DM28 Biodiversity and Geological Conservation
- DM29 Woodlands, Trees, and Hedges
- DM34 Scheduled Monuments and Archaeological Sites

Supplementary Planning Guidance/Documents

- Developer Contributions (2009)
- Parking Standards (2020)
- Swale’s Landscape Character and Biodiversity Appraisal (2011)
- Swale Landscape Assessment (2019)

6. ASSESSMENT

6.1. This application is reported to the Committee because Minster-on-Sea Parish Council Parish Council has objected to the proposal. Considering these comments, the main considerations involved in the assessment of the application are:

- The Principle of Development
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Archaeology
- Design of the proposed development
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Surface Water

- Contamination
- Living Conditions
- Sustainability / Energy

6.2. Principle

- 6.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 6.2.2. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 6.2.3. The site is within a larger strategic development allocation for a minimum of 620 dwellings (Policy A12 – Land West of Barton Hill Drive). This general area is identified for substantial development growth. The site covers 0.44ha. (1.1 acres) and it has most recently been used for agricultural purposes but is allocated and committed for residential development. Planning permission has been granted for large scale residential development on the wider land. The care home proposed would provide a form of residential accommodation and the principle of such development on an allocated site is acceptable. The development of this part of the site for a Care Home would clearly impact upon the delivery of dwellings on the wider allocated site coming forward as part of subsequent reserved matters applications, but it is considered that the provision of a Care Home is appropriate in the wider context of the development of the site, and would not materially affect the delivery of housing across the remainder of the allocation.

6.3. Size and Type of Housing

- 6.3.1. The Local Plan requires the mix of tenures and sizes of homes provided in any development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types, which reflects that of the Strategic Housing Market Assessment.
- 6.3.2. The proposed care home (C2) is a purpose-built three-storey 66-bedroom residential care facility for older people with associated access, parking, and landscaping. The proposal seeks to accommodate need to cater for a growing elderly population, part of which will need to be met by care homes. The development is also designed to enable the operational care home to provide two types of care, general and dementia care.

6.4. Landscape and Visual Impact

- 6.4.1. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. Policy DM 24 of the Local Plan deals with designated landscapes (Part A), non-designated landscapes (Part B), and for all landscapes (Part C); the Policy seeks to conserve and enhance valued landscapes. This application site is however not within a valued landscape and therefore Part B and C of Policy DM24 are applicable.

6.4.2. Part B of this Policy 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.

6.4.3 Part C of this Policy states that:

The scale, layout, build and landscape design of development will be informed by landscape and visual impact assessment having regard to the Council's Urban Extension Landscape Capacity Study and Landscape Character and Biodiversity Appraisal SPD, including, as appropriate, their guidelines, and the key characteristics, sensitivity, condition and capacity of character area(s)/landscapes, taking opportunities to enhance the landscape where possible, including the removal of visually intrusive features.

6.4.4 The application site is contained within Local Plan allocation site A12 (Land West of Barton Hill Drive, Minster), within the built-up framework of Minster-on-Sea. The site is however close to the Minster Marshes landscape designation as defined in the Swale Landscape Character and Biodiversity Appraisal 2011. The appraisal advises that the key characteristics of the Minster Marshes are:

- Low lying alluvial marshland
- Generally flat but gently rises to the south east
- Long uninterrupted views
- Limited tree cover includes scattered mature standard poplars and willows as well as scattered blocks of scrub
- Small-scale irregular field pattern enclosed by sinuous drainage ditches
- Remnant marsh containing historic elements such as ditches, counter walls and medieval salt mounds
- Abbey Rise is an important feature in the local landscape
- Important function of visually and physically separating Minster, Halfway and Sheerness

6.4.5 The appraisal continues by stating that the overall landscape condition is poor, and that it has a moderate sensitivity to change.

6.4.6 The site forms part of a much larger allocation for development. The existing planning permission includes substantial landscaping on the southern boundary designed to help mitigate the impact of development on the surrounding landscape. The care home would be set back from this southern boundary and it is noted that the existing housing on Barton Hill Drive extends further to the south towards the more open landscape to the south of the A2500. It is therefore considered that this proposal for a Care Home, located within a Local Plan allocation, would not have a significant impact upon the landscape character of the adjoining Minster Marshes landscape, consistent with the provisions of Policy DM24 of the Local Plan.

6.5. Heritage

- 6.5.1. The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. 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 that may arise and this is endorsed by the Local Plan.
- 6.5.2. There are no heritage assets in close proximity to the application site. The proposed design and form of the proposal is considered to be of high quality, which will make a positive contribution to the character of the street scene.

6.6. Archaeology

- 6.6.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 6.6.2. Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 6.6.3. No comments have been received to date from Kent County Council Archaeology. However a planning condition to safeguard any archaeology that may be at the site, in line with similar conditions applied under the outline permission.
- 6.6.4. On this basis, the proposal is considered consistent with the provisions of Policy DM 34 of the Local Plan, and the NPPF.

6.7. Character and appearance

- 6.7.1. The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement; under policies CP4 and Policy DM14.
- 6.7.2. The proposed Care Home is designed as a “half-butterfly” form, which creates an attractive layout in the context of the site. The proposed three-storey care home is considered appropriate within its context and the generous plot size will allow for substantive landscaping, creating an attractive frontage. The proposed landscaping will soften the appearance of the building and will provide an appropriate backdrop within the wider site.
- 6.7.3. It is the intention of the applicant to create a landmark building at the approach to the wider development as part of the site allocation. The building's form and orientation will integrate well with the surrounding residential development, to enhance the local area's distinctiveness. Whilst the existing scale of dwellings at Barton Hill Drive is typically at 2-storey, as will the development as part of the wider Reserved Matters on the wider site, a building of 3-storey in scale would not appear unduly incongruous in its context.

- 6.7.4. It is therefore considered that the proposal is consistent with the provisions of Local Plan policies and the NPPF.

6.8. Ecology

- 6.8.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 6.8.2. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 6.8.3. National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 6.8.4. In terms of the Local Plan policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 6.8.5. KCC Ecology advises that sufficient ecological information has been provided to determine the planning application, subject to conditions as set out.
- 6.8.6. The development includes proposals for a care home within the zone of influence (6km) of the Swale Special Protection Area, and Wetland(s) of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that, if the care home has active residents, 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.
- 6.8.7. A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be considered 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. As previously advised, the LPA and the applicant are challenging the need for a SAMMS contribution in the context of a Care Home and are corresponding with Natural England on this basis; any further advice will be provided to Members in updates.

6.9. Transport and Highways

- 6.9.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development on locations which are sustainable.”

- 6.9.2. The NPPF also 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.”

- 6.9.3. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. The Local Highway Authority have considered the application and advised the following:

In response to Highway comments made on 23rd March, the applicant has provided further details set out in a Supporting Statement which outlines how concerns raised will be mitigated.

Details regarding staff shift patterns has been provided which states the total number of staff on site at any one time. I can confirm staff numbers combined with residents and visitors and a total of 25 spaces is adequate and conforms with the Borough Council's parking standards.

In addition, the applicant has provided further details regarding the traffic impact associated with the proposed care home. It is appreciated that visitors to the facility are unlikely to visit in the network peak hours and therefore can confirm the additional movements for staff is likely to result in an additional 7 movements in the AM peak and 3 in the PM peak. The proposed development therefore would not result in a severe impact on the road network.

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

- 6.9.4. On that basis, the proposal is not considered to give rise to any unacceptable highways conditions and would provide sufficient car parking, consistent with the provisions of the Local Plan and the NPPF

6.10. Air Quality

- 6.10.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing, or preventing harmful concentrations of air pollution.

- 6.10.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

6.10.3. The Planning Practice Guidance on Air Quality states that

“Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”

6.10.4. The Local Plan at policy DM 6 sets out that development proposals will 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. The application site is not within an Air Quality Management Area

6.10.5. The applicant has undertaken an Air Quality Statement in support of this proposal, this has been reviewed by the Council and sets out measures including Electric Vehicle Charging Points, as well as secure cycle spaces. The submitted Travel Plan also seeks to capitalise on this and the benefits of travel planning by setting targets to reduce single occupancy car journeys and encourage the uptake of sustainable modes of transport with staff and visitors. The proposed measures and initiatives reflect those set out in Planning Practice Guidance and are therefore appropriate to achieve local air quality objectives.

6.10.6. The Local Planning Authority acknowledge that the Minster on Sea Parish Council have raised concerns over air quality matters. The application has however been assessed by Mid Kent Environmental Protection and have advised that they have no objections to the proposal, subject to the imposition of conditions as set out.

6.11. Open Space

6.11.1. Policy DM17 of the Local Plan sets out that new development shall make provision for appropriate outdoor recreation and play space, including urban parks, children’s play areas, open space for sport, allotments or community gardens proportionate to the likely number of people who will live there. This space should be fully accessible all year round and therefore is generally not appropriate for Sustainable Urban Drainage Systems such as stormwater ditches.

6.11.2. The design and density of the development ensures the building sits comfortably within its surroundings. Within the site, the surrounding amenity/green space will be used as secure outdoor amenity space. This approach reflects the community nature of the proposals and maximises opportunities to create an attractive and distinctive setting, with good outlook and daylight for future residents.

6.11.3. The proposal is therefore considered consistent with the provisions of Policy DM17 of the Local Plan.

6.12. Flood Risk, Drainage and Surface Water

6.12.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan.

6.12.2. The site is within Flood Zone 1, which has ‘Low Probability’ of flooding from river or sea flooding. This area is most suitable for the proposals. The application is supported by a Flood Risk and Drainage Statement, which has been assessed by Kent County Council as Lead

Local Flood Authority (LLFA). The LLFA have considered the applicants additional information, and do not object to the application, subject to the imposition of conditions as set out.

6.12.3. These proposals are therefore consistent with Policy DM21 of the Local Plan and the NPPF.

6.13. Contamination

6.13.1 The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.

6.13.2 The land subject to this application is currently used as an agricultural field.

6.13.3 The application has been considered by Mid Kent Environmental Protection, who do not object to the application on the basis of site contamination, given the low risk considering the previous land use.

6.14. Living Conditions

Existing residents

6.14.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

6.14.2. Existing dwellings in the immediate area include bungalows and two-storeys of predominately semi-detached form. Many existing dwellings face on / look over Barton Hill Drive. Given the physical separation of the application site to the west of the existing housing to the east and across Barton Hill Drive, there is no prospect of overlooking or overbearing impacts upon existing residents locally.

Future residents

6.14.3. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.

6.14.4. The Health and Social Care Act 2008 is the current legislation relating to Care Homes, and whilst it does not set out the specific design parameters, it refers to CQC requirements. These involve providing single-room accommodation with en-suite facilities and a generous ratio of communal/recreational space to residents.

6.14.5. The amenities of future residents are therefore considered adequate. Although concerns have been raised in respect of noise in close proximity to the proposed Care Home and gardens, the application has been assessed by Mid Kent Environmental Protection on the basis of noise and air quality impacts and no objection is raised to the development, subject to conditions.

6.15. Sustainability / Energy

6.15.1. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change.

6.15.2. The application is supported by a Sustainability Statement, which provides a summary of the site's sustainable design, construction, and operational benefits. Policy DM19 states that for major developments BREEAM (very good) should be met.

- 6.15.3. The site is well-served by existing public transport connections, and by foot and bike. The proposals intend to make best use of this to minimise the use of private motor vehicles through the implementation of the submitted Travel Plan. The proposed layout, design, materials and landscaping have been designed to be resilient, minimise energy demand and maximise the benefits of natural heating, cooling and ventilation. Local materials will be sourced where possible and existing planting will be retained and improved with new planting to enhance biodiversity in the immediate area.
- 6.15.4. Appropriate forms of renewable energy (including solar PV panels and Ground Source Heat Pumps) will be used to continually manage the care homes operational viability and resource efficiency. Waste will also be regularly monitored and appropriately managed through construction and operation stages.
- 6.15.5. On this basis, it is suggested that the proposals incorporate sufficient measures to meet the requirements of Policy DM19 of the Local Plan and the NPPF.

6.16. S106 Agreement

- 6.16.1 Kent County Council have advised that the total amount being sought from KCC Strategic Planning will therefore amount to £3,553.00 for the purposes of providing additional capacity at the Sittingbourne WTS to deal with the additional waste generated from the development.
- 6.16.2 Natural England have also requested a SAMMS contribution in respect of the recreational impacts of the development upon nearby European habitat areas. The applicant has produced a Habitat Screening Report i.e. an Appropriate Assessment, and advises that this development is not residential and falls within Class C2 development. It is considered that the care home development will not result in recreational impacts on the designated sites due to the nature of the care home and the residents within. As such no further impacts are predicted because of the development.
- 6.16.3 The Assessment has been forward to Natural England for review, and any further comments will be reported to Committee.

6.17. Conclusion

- 6.17.1. The application site is located within a large scale development site allocated under Policy A12, and which benefits from outline planning permission for 700 dwellings. The use of the site for a well-designed Care Home is considered appropriate in this context and in accordance with the Local Plan..
- 6.17.2. Whilst acknowledging the comments and observations of Minster-on-Sea Parish Council, none of the statutory consultee's object to the application, subject to the imposition of appropriate planning conditions and the satisfactory conclusion of the S106 negotiations.
- 6.17.3. The application is therefore recommended for APPROVAL on this basis, subject to completion of a S106 Agreement and confirmation from Natural England that a SAMMS payment is not required for mitigation in this instance.

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 the following approved drawings:

Site Plan as Proposed ME12 3LY - A-03
Site Location Plan as Proposed ME12 3LY - A-01
Floor Plans as Proposed ME12 3LY - A-04
Elevations as Proposed ME12 3LY - A-05

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

3. No development beyond the construction of foundations shall take place until samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority

Reason: To ensure a satisfactory appearance to the development in the interests of visual amenity.

4. Prior to the commencement of development hereby permitted, a Construction Management Plan shall be submitted to the Local Planning Authority, 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 accordance with the approved details.

Reason: To protect highway safety and residential amenity locally

5. Prior to first use / occupation of the development, 2no. Electric Vehicle charging points shall be provided to Mode 3 standard (providing a 7kw output). 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>. The charging points shall be maintained in perpetuity.

Reason: For the avoidance of doubt, and to enable the Local Planning Authority to retain control of the development.

6. Prior to the first occupation of the development, the vehicle parking spaces shown on the submitted plans (ME12 3LY - A-03) shall be completed and made available for use, and shall be retained for such purposes only thereafter.

Reason: To enable the Local Planning Authority to retain control of the development in the interests of highway safety.

7. Prior to the first occupation of the development, the cycle parking facilities shall be provided as shown on the submitted plans (ME12 3LY - A-03) and thereafter retained for such use.

Reason: For the avoidance of doubt, and to enable the Local Planning Authority to retain control of the development in the interests of highway safety.

8. Development shall not begin 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 and Drainage Statement prepared by LNT Care Developments (February 2023), together with Care Home General Arrangement ref. 8663-100-001 Rev. D dated 19th May 2023, 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.

9. No building within 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 169 of the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in gardens and other relevant amenity areas will conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning

Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation, and thermal comfort for future occupants. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: To protect the amenity of the proposed care home.

11. 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 construction of the development shall then be carried out in accordance with the approved methodology.

Reason: To protect the air quality during the construction phase.

12. No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved scheme.

Reason: To record or safeguard any archaeological evidence that may be present at the site and to comply with the National Planning Policy Framework.

13. Prior to any works commencing, an ecological mitigation strategy must be submitted to the LPA for written approval. The ecological mitigation strategy must be implemented as approved in accordance with a timetable to be included within the strategy.

Reason: In the interests of ecology in accordance with the NPPF.

14. Within 3 months of works commencing an ecological enhancement plan must be submitted to the LPA for written approval. It must provide details of ecological enhancement features to be incorporated into the building and the wider site. The plan must be implemented as approved.

Reason: In the interests of ecology in accordance with the NPPF.

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

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

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

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

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

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

18. The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

19. Prior to the commencement of development, details of the finished floor levels of the proposed development shall be submitted and approved in writing by the Local Planning Authority and shall include full details of finished floor levels for the proposed building and finished site levels (for all hard surfaced and landscaped areas) in relation to existing ground levels. The development shall thereafter be carried out in accordance with the approved level details.

Reason: For the avoidance of doubt and to ensure a satisfactory form of development.

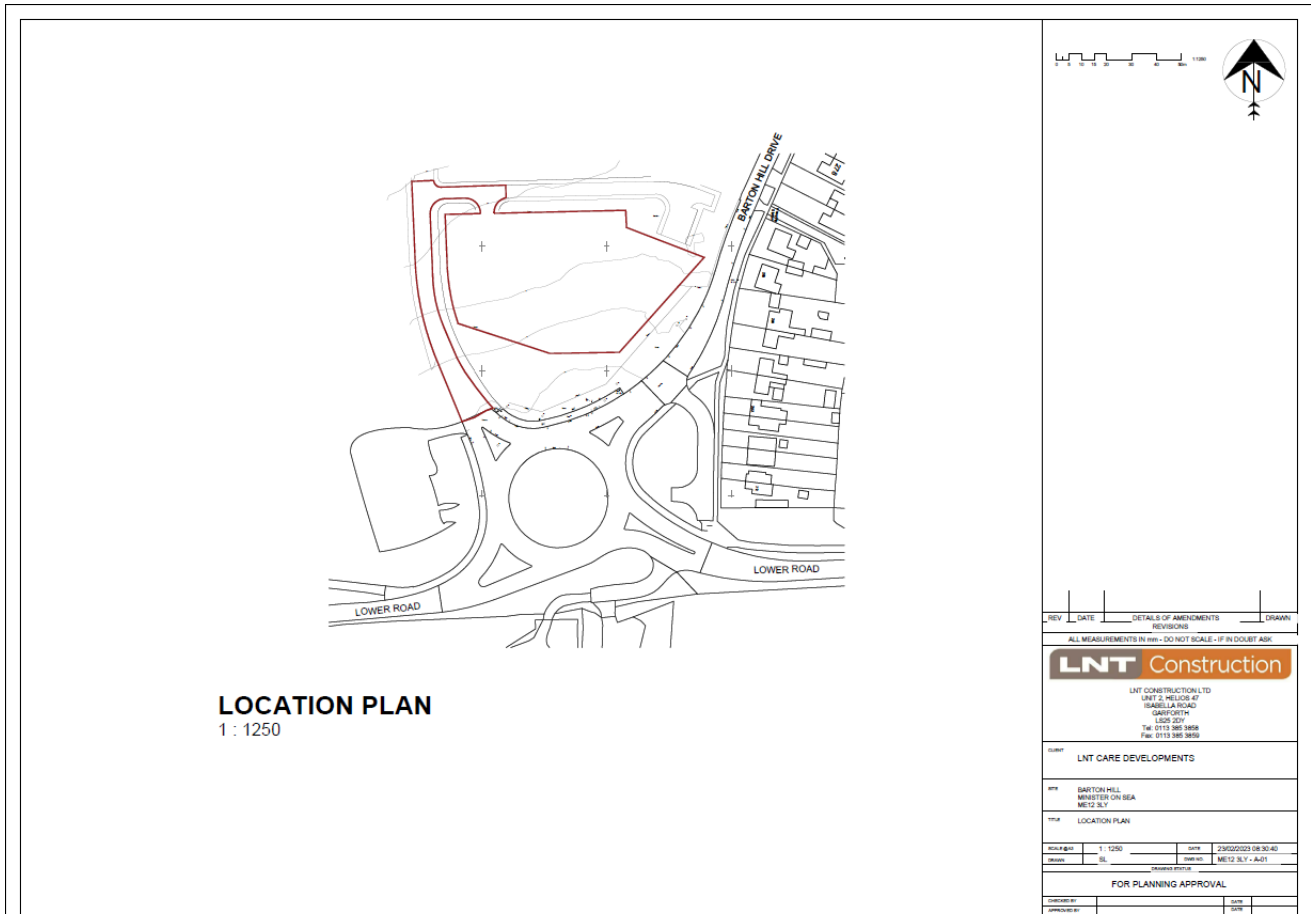
The Council's approach to the application

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.



This page is intentionally left blank

PLANNING COMMITTEE –**PART 3**

Report of the Head of Planning

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

3.1 REFERENCE NO – 23/501613/FULL		
PROPOSAL Erection of a 1no. three bedroom dwelling with associated landscaping, parking and access		
SITE LOCATION Land To The East Of Orchard House London Road Upchurch Kent ME8 8PT		
RECOMMENDATION- Refuse		
APPLICATION TYPE Minor residential development		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to Planning Committee by Councillor Palmer		
Case Officer Rebecca Corrigan		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Mr & Mrs Rowe AGENT Urban Curve Architecture Limited
DATE REGISTERED 14.04.2023	TARGET DATE 12.06.2023	CASE OFFICER Rebecca Corrigan
BACKGROUND PAPERS AND INFORMATION: 23/501613/FULL Erection of a 1no. three bedroom dwelling with associated landscaping, parking and access. Land To The East Of Orchard House London Road Upchurch Kent ME8 8PT (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site is located in the countryside outside of the settlements of Rainham, Newington and Hartlip. It relates to a parcel of land on the northern side of London Road, to the east of Orchard House, a two storey property within the same ownership. The land consists of scrubland / grassland, with a building to the rear which was originally used as a pool house. It appears there was also once an outside swimming pool in front of the pool house.
- 1.2 The site rises in a northern direction towards a railway embankment which forms the northern boundary. The southern boundary of the site fronts the London Road (A2).

This boundary is heavily vegetated. Within this frontage there is a field entrance proposed to be utilised as the entrance for the development subject to this application.

2. PLANNING HISTORY

- 2.1 **14/503968/FULL** – Planning permission granted on 13.04.2015 for The construction of a 4-bay carport on the side of an existing detached garage, with an extension of the current driveway to suit.
- 2.2 **SW/94/1037** – Planning permission granted on 18.01.1995 for Alterations and extensions to existing house and construction of a detached replacement garage.

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the erection of a three bedroom dwelling with associated landscaping, parking and access.
- 3.2 The dwelling would be set back from the boundary of the site with the A2 by approximately 32m. The access and driveway would be located to the east of the dwelling. Soft landscaping to include areas of lawn, a wildflower meadow and additional hedgerow and tree planting is also proposed.
- 3.3 The proposed dwelling itself is single storey and of a contemporary design, incorporating two wings with a monopitch roof flanking a central flat roofed element of the dwelling. The footprint of the dwelling measures approximately 19m x 22m, and is approximately 3m in height to the eaves and 5m to the highest point of the roof.
- 3.4 The external finishing materials would be vertically laid timber cladding for the walls, with the two monopitched flanks of the dwelling incorporating a green roof. The windows would be constructed from grey timber / aluminum composite.

4. REPRESENTATIONS

- 4.1 One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers and a notice was displayed at the application site. Full details of representations are available online.
- 4.2 Eleven letters of support were received in relation to the consultation raising the following points: -
- The development would contribute to housing shortfall
 - The development would contribute to supply of custom build homes
 - Shortages of bungalows in the local area
 - Makes good use of previously developed land
 - Renewable energy/low carbon footprint
 - Would achieve biodiversity enhancements
 - This is a sustainable location within close proximity to the amenities of Rainham and Newington as well as a bus route
 - Increase in trees and hedgerows
- 4.3 **Upchurch Parish Council** raise no objections but ask for neighbours' comments to be taken into consideration.

5. CONSULTATIONS

- 5.1 **Mid Kent Environmental Health:** - No objection subject to conditions relating to land contamination and noise outbreak from the inverter related to the solar panel system.
- 5.2 **KCC Minerals and Waste:** - No objections.
- 5.3 **KCC Highways:** - No objection subject to conditions relating to parking, EV charging, cycle parking, set-back of gates from the highway and use of a bound surface adjacent to the highway.
- 5.4 **Network Rail:** - provide advisory informatives for development in proximity to rail infrastructure.
- 5.5 **Natural England:** - No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (SAMMS).
- 5.6 **KCC Archaeology:** - No objection subject to condition.
- 5.7 **KCC Ecology:** - No objection subject to conditions.

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

Policy ST1 Delivering sustainable development in Swale
Policy ST3 The Swale settlement strategy
Policy ST4 Meeting the local plan development targets
Policy ST5 The Sittingbourne Area Strategy
Policy CP2 Promoting sustainable transport
Policy CP3 Delivering a wide choice of high quality homes
Policy CP4 Requiring good design
Policy DM6 Managing transport demand and impact
Policy DM7 Vehicle parking
Policy DM14 General development criteria
Policy DM19 Sustainable design and construction
Policy DM28 Biodiversity and geological conservation

6.2 **Supplementary Planning Guidance/Documents**

Landscape Character Assessment and Biodiversity Appraisal 2011

Swale Parking Standards 2020

7. ASSESSMENT

- 7.1 This application is reported to the Committee at the request of Cllr Palmer.
- 7.2 The main considerations involved in the assessment of the application are:
- The Principle of Development
 - Location of the development
 - Landscape and Visual Impact

- Archaeology
- Design of the proposed development
- Ecology
- Transport and Highways
- Living conditions
- The provision of a self-build development

Principle

- 7.3 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.4 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.5 The site is located within the countryside and approximately 1.2km from the edge of the built settlement of Rainham to the west and 1.5km from the built up area boundary of Newington to the east. Policy ST3 of the Local Plan states that development in the open countryside will not be permitted unless supported by national policy. The principle of residential development in this location is not supported under the Local Plan.
- 7.6 However, the Council cannot currently demonstrate a five-year supply of housing land. 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”.
- 7.7 For these reasons, paragraph 11 of the NPPF applies. Paragraph 11 d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Location of development

- 7.8 The site is divorced from the settlements of Rainham to the west and Newington to the east. The local shopping centre in Rainham is approximately 2.2 km from the site and the train station is approximately 2.5km. Local facilities and the train station at Newington – which is classed as a Tier 4 Rural Local Service Centre under policy ST 3 of the Local Plan - are a similar distance to the east.
- 7.9 The site is located on the north side of the A2 which has a continuous, albeit narrow footpath in both directions to Newington and Rainham. As such it would be possible to

walk to both settlements, although this would not be a particularly pleasant experience along the A2 London Road. An hourly bus service operates along the A2 between Medway and Sittingbourne.

- 7.10 It is therefore considered that the site would be distant from local services and facilities. There are some sustainable travel options, but given the relatively infrequent bus service and the distance to the nearest settlements, and the need to use the walkway on the main A2, the location of the proposed dwelling would be likely to predominantly give rise to car borne journeys. It would be possible to cycle on the A2 but this would again not be a particular pleasant or safe experience. Policy CP2 of the Local Plan seeks to minimise the need to travel and promote use of sustainable transport. As future residents would rely to a considerable extent on the private car to get around, the scheme would be contrary to this policy.
- 7.11 As such, the distant location of the site from services and facilities is not considered to be suitable for housing and with particular regard to minimising travel and promoting sustainable travel options, contrary to policies CP2, ST3 and ST5 of the Local Plan which seeks, amongst other matters, to support the aims of sustainable development, and adhere to the Council's settlement strategy.

Self-Build Development

- 7.12 The application has been submitted as a self build / custom build housing project. The Council is required to keep a register of individuals seeking to acquire serviced plots of land within the Borough for their own self build and custom housebuilding.
- 7.13 The Council's Self-Build Register as at August 2022 contains approximately 110 individuals and 5 associations of individuals. A self/custom build development has been permitted nearby at Callum Park which allowed for 9no. custom build homes (Ref: 20/501002/OUT). In this instance, weight was given to the removal of existing significant built form on the site and to the financial benefits to the existing equestrian centre as a rural facility. A further self build development was permitted at planning committee - Westfield Cottages, Breach Lane (22/502340/OUT). This brings the total number of self-builds in the local area outside of the built-up area boundaries to 10 dwellings.
- 7.14 Whilst weight is given to the need for sites for self build /custom housing in the borough, the site performs poorly in terms of its location.

Landscape and Visual Impact

- 7.15 The supporting statement sets out that the site is brownfield due to the presence of the pool room situated toward the northern boundary of the site. The NPPF definition of brownfield / previously developed land is land that is or was occupied by a permanent structure, including the curtilage of the developed land. The definition makes clear that it should not be assumed that the whole of the curtilage should be developed. The existing outbuilding would be considered previously developed land, however

predominantly the site is undeveloped and open in character and appearance. As such, whilst a building on a very small part of the site could be held to be previously developed land, the extent to which this impacts upon the character and appearance of the area is very limited. As such this is given little weight.

- 7.16 Although it is recognised that the proposed dwelling would not be isolated in the true sense of the word given the proximity to Orchard House to the west and the further sporadic development to the east, the site is largely of an open and undeveloped character and appearance. It forms part of the generally open landscape to the north of the A2 which has an undeveloped appearance and makes a significant contribution to the open rural landscape of the area, despite the presence of the A2 itself.
- 7.17 The proposal is to create a new single storey, 3no bedroom dwelling set in a generous garden. The scheme will provide a custom built dwelling offering biodiversity enhancements by incorporating a sedum (green) roof and landscaping.
- 7.18 The dwelling is designed with two main parallel pitched roof wings separated east to west by a central flat roofed element and partially covered courtyard. The southern wing is connected to a flat roof covered carport and garage.
- 7.19 The supporting design and access statement places great emphasis on the sensitivity of the design for this rural location. The design of the dwelling is good quality. However, the building has an expansive footprint positioned centrally in an open field and proposes a sweeping entrance through the centre of an adjoining field. The dwelling as proposed, in addition to the service road and area of hard landscaping would add further built form to an otherwise undeveloped landscape and this would be to the detriment of the character and appearance of the countryside.
- 7.20 The site is currently largely screened from the road by landscaping. There would be some removal and replacement landscaping to facilitate visibility splays. However, whilst landscaping may offer screening, this cannot be guaranteed to remain in place. In addition, landscaping should not be used to hide otherwise inappropriate forms of development.
- 7.21 The site is not located within an Important Countryside Gap. However Policy ST5 of the Local Plan sets out that important countryside gaps should be maintained in accordance with Policy DM25, and within the A2 corridor to the west of Sittingbourne through to Rainham. The supporting text to the policy sets out that the cumulative impact of development pressures within the A2 corridor between Sittingbourne and Rainham would have a negative impact upon the character of settlement patterns. In this instance, the development would add built form on the A2 between Newington and Rainham. However, given this is limited to one dwelling and the site is not part of a defined Important Local Countryside Gap, this is not considered to be significantly harmful in isolation.
- 7.22 Nonetheless, the proposal would encroach into largely undeveloped land, resulting in an urbanising infill effect on the northern side of London Road (A2) by introducing an

urban and domestic character and appearance to the site through the built form, layout and domestic paraphernalia that would arise from residential development. This would be harmful to the character and appearance of the countryside and would be contrary to the aims of paragraph 174 of the NPPF, as well as policies ST3 and DM14 of the Local Plan.

Archaeology

- 7.23 Policy DM 34 of the Local Plan sets out that for development on sites where there is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified, suitable mitigation must be achieved.
- 7.24 The main archaeological potential arises from the location of the site immediately to the north of the A2, the main roman road between the coast and London. Given the site's location, there is potential for archaeological remains to be present and the KCC Archaeological Officer advises that a planning condition should be secured for the implementation of archaeological works to be submitted and approved by the Local Planning Authority. Subject to this the proposal would be compliant with policy DM 34 of the Local Plan.

Ecology

- 7.25 The site falls within 6km of the Thames, Medway and Swale Estuary SPA and Ramsar sites. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.26 The proposal would add to recreational pressure on the SPA's and Ramsar sites. The application has been the subject of an Appropriate Assessment (AA), as set out below. The AA concludes that these impacts can be mitigated. In this regard, a SAMMS payment of £314.05 has been received by the LPA and is therefore acceptable.
- 7.27 In terms of site specific ecological impacts, KCC Ecology have been consulted as part of this application and advise that the development has limited potential to result in significant ecological impacts. Subject to conditions to secure ecological enhancements, no objections are raised on ecology grounds.

Transport and Highways

- 7.28 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.29 The NPPF also 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.”

7.30 The site would be accessed by upgrading an existing field access from London Road. There is also an existing field gate from the land onto the scrubland on the eastern boundary of the garden. This is the location of the proposed new entrance gate. A permeable surface drive will be formed to provide access to the site. The existing access is also used for maintenance access to the pylon located in the scrubland. KCC Highways have been consulted and raise no objection to the proposal on highway safety grounds.

7.31 Turning to parking, Swale Parking Standards 2020 requires 3 spaces for a 3 bedroom dwelling in this location. At the request of KCC Highways the parking arrangement has been revised and the resulting revised scheme is found to be acceptable.

7.32 An electric vehicle space is proposed and there are suitable cycle parking and refuse facilities to comply with policies DM6(3e) and DM7(3).

Living Conditions

7.33 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, 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.

7.34 In terms of potential impact upon neighbouring properties, the closest and only residential property likely to be affected is Orchard House which is a two storey dwelling as opposed to the single storey build of the new dwelling. The new dwelling would be set back and roughly align with the rear flank of Orchard House and a separation distance of 20.5m would be retained between dwellings at their closest point. Overall, based upon the relationship between dwellings the proposal would not result in an unreasonable loss of privacy, or an unreasonable loss of outlook or loss of privacy for the residents of Orchard House.

7.35 Turning to noise, the proposal would generate domestic noise over and above the existing situation however due to the proximity of Orchard House and the London Road (A2), this is unlikely to cause unacceptable impacts to a degree that would be harmful.

7.36 The Local Plan requires that new development has sufficient regard for the living conditions of future occupiers and in this regard, the proposal would provide a good standard of living accommodation for future occupiers. It provides a single storey development with three bedrooms and accords with the National Space Standards. All habitable spaces are provided with natural light and ventilation.

8. CONCLUSION

8.1 The site is located outside of any built confines and within the countryside, some distance from the nearest settlements of Newington and Rainham. However in the absence of a five year housing supply, the tilted balance applies. The proposal would offer benefits in terms of adding to the housing supply in the Borough, and delivering a self-build plot. However, these benefits are given a small degree of weight given that the proposal relates only to 1 dwelling.

8.2 The proposal would conflict with policies in the Local Plan relating to the location of development and the need to protect the local and natural environment, which are generally consistent with the aims of the NPPF. It is noted that the site is not truly isolated from other built form but is in an area of rural character and appearance, and that some public transport options do exist, although these are considered to be limited for the reasons set out above. Overall it is considered that the development would result in harm to the character and appearance of the countryside through development of a site that forms part of a predominantly rural landscape, and the development is not in a sustainable location. Significant weight is given to these harmful impacts. Whilst the scheme would also be for a self-build dwelling, it is considered that the poor location of the site and harm to rural character and appearance that would arise would significantly and demonstrably outweigh the benefits arising from 1 dwelling.

8.3 For the reasons set out above, it is considered that the benefits of the development are limited and significantly outweighed by the harm to the character, appearance, and intrinsic amenity value of the countryside and the unsustainable location of the site and for these reasons the development is unacceptable.

REASON FOR REFUSAL

1. The proposed development would represent an unacceptable form of residential development in an unsustainable countryside location, giving rise to a harmful impact upon the character, appearance, and intrinsic value of the countryside and to the purposes of sustainable development. The proposal is therefore contrary to policies ST1, ST3, ST5, CP2, DM6 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and to the advice of paragraphs 8 and 174 of the National Planning Policy Framework. The harm identified significantly and demonstrably outweighs the benefits of the scheme.

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

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

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

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*" The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which has been secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

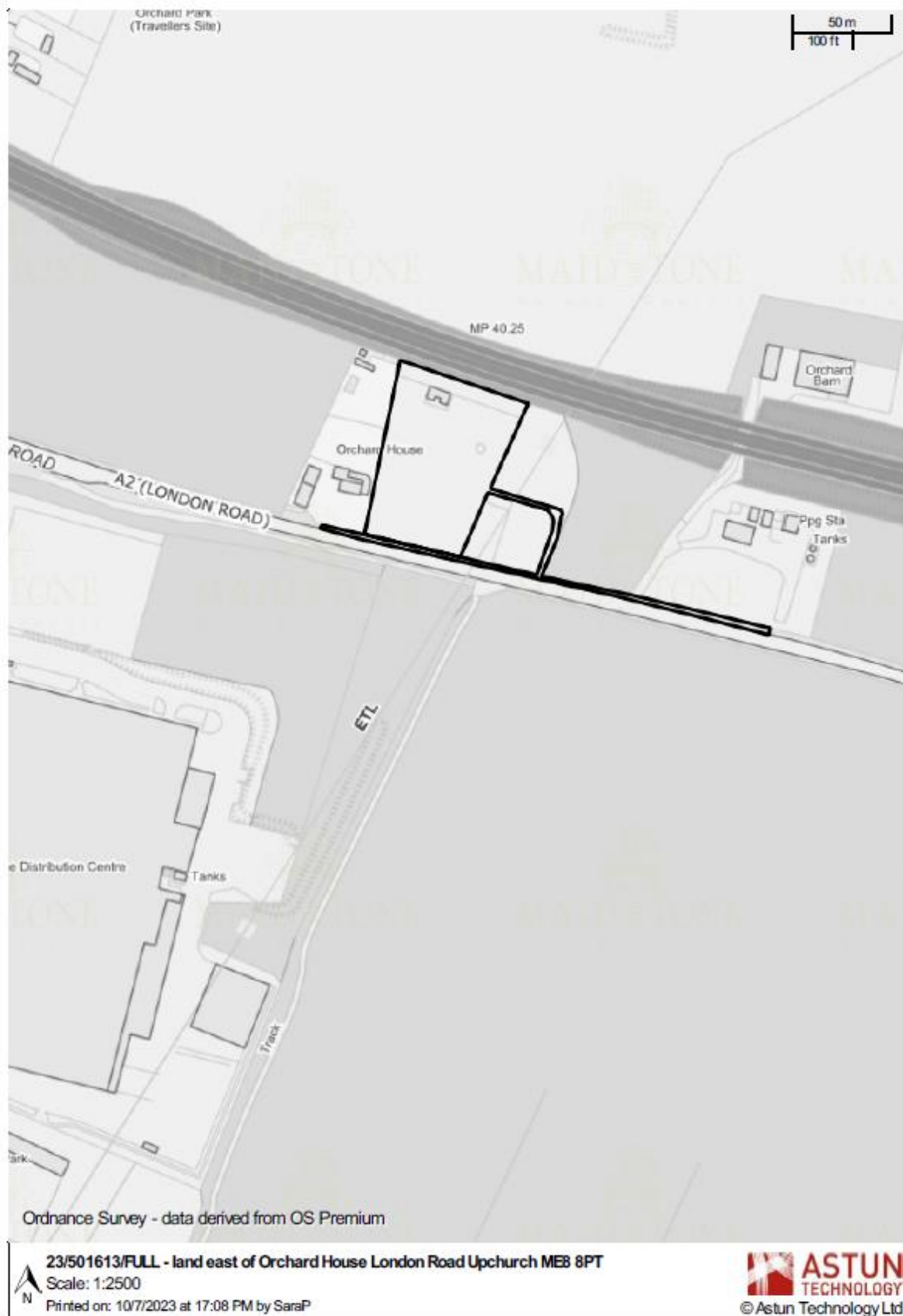
The Council's approach to the application

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

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

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

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



PLANNING COMMITTEE – 14 SEPTEMBER 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 – Copton House 8 Ashford Road, Sheldwich**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector took the view that the conversion and extension of an existing garage / car port to create a large two storey annexe would operate as ancillary accommodation which is capable of being controlled via planning conditions. The Inspector did not share the Council's view that the proposal would have a harmful impact upon the countryside and considered the development to be appropriate in this location having regard to local and national policies and the intended use and scale of the development.

- **Item 5.2 – Jalna Warden Road Eastchurch**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector supported the Council's position that the scale and massing of the extended property would be harmful to the rural character and appearance of the area. The Inspector also supported the Council's position that the development was unacceptable in absence of a Coastal Erosion Vulnerability Statement, but considered that this could be secured via a planning condition.

- **Item 5.3 – Appleyard Barn Plough Road Eastchurch**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector considered that the extension did not have an unacceptable impact on the character and appearance of this converted barn. Whilst he noted that the extension had altered the roof which was a key element of the barn, this was not harmful.

- **Item 5.4 – 43 St Helens Road Sheerness**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the proposed flat roofed first floor side extension would be harmful to the appearance of the existing dwelling and to the character and appearance of the area. It failed to maintain space between dwellings, and the appellant's suggestion that the area was "dominated" by similar extensions was not to a fair reflection of the situation in St Helens Road, and that some of the examples referred to clearly illustrated developments that the policies rightly seek to avoid.

In addition, the Inspector noted that the proposed increase from 3 bedrooms to 4 had the potential to increase the number of cars owned or used by the household, and that existing parking was substandard, and this counted further against the scheme.

- **Item 5.5 – Hill Top Farm Elverland Lane Ospringle**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the erection of stables and kennels upon this prominent, elevated site would give rise to harm to the distinctive landscape character of the Area of Outstanding Natural Beauty, where the NPPF affords great weight towards conserving landscape and scenic beauty.

Although the Inspector considered that the proposals would reduce the harm to the character of the rural lane compared to the current access arrangements, the Inspector agreed with the Council that the access arrangements gave rise to unacceptable harm to highway safety.

- **Item 5.6 – 106 - 110 Broadway Sheerness**

ENFORCEMENT APPEAL**DELEGATED REFUSAL****Observations**

Some Members may recall that planning permission was refused for roller shutters at this property by the Planning Committee in 2021, in accordance with the officer recommendation. As the development was retrospective, an enforcement notice was served to require removal of the shutters. The Inspector agreed with the Council that the shutters were harmful to the design and appearance of the terrace and the setting of the nearby listed church and upheld the notice.

- **Item 5.7 – The Cottage Ashford Road Sheldwich**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the large wrap-around extension would not be modest or in keeping with the existing traditional form of the house. As a result, the proposed extension would harm the character and appearance of the house itself, its rural setting, and the conservation area. The Inspector pointed out that the reliance on using trees to screen the frontage is not a satisfactory approach to render acceptable a development which would otherwise be unacceptable.

- **Item 5.8 – London Road, Newington**

APPEAL ALLOWED**DELEGATED REFUSAL****Observations**

The Inspector initially referred to the previous appeal decisions at the site, together with the subsequent legal challenges, first to the High Court and then to the Court of Appeal.

The Inspector then identified the main issues are:

- whether the site is an appropriate location for housing, having regard to the spatial strategy of the development plan;
- the effect of the proposal on the character and appearance of the area; and
- the effect of the proposal on best and most versatile agricultural land.

In terms of the first issue, the Inspector concluded that he attached only limited weight to the conflict with Policies ST 1, ST 3 and ST 5, because those policies seek to confine housing development to within the built-up area boundaries defined in the LP which are out-of-date. The appeal site is adjacent to a local rural service centre and is reasonably accessible to shops, services, and community facilities. Subject to consideration of the other main issues, he concluded that this is an appropriate location for the scale of housing proposed, notwithstanding that it is outside the built-up area boundary of Newington.

In terms of the second issue, he found that there would be moderate landscape impacts on the site and its surroundings and a minor impact on LCA 28 Newington Fruit Belt. These effects would reduce over time. I conclude that the proposals would minimise and mitigate landscape impacts, including through the provision of public open space in the centre of the site, at the gateway, around the former farm buildings and along the western and southern site boundaries. Hedgerows within the site, which are important to the landscape structure of the locality, would be retained as far as possible, and enhanced. Overall, the Inspector concluded that there would be some harm to the character and appearance of the area. However, this would reduce over time, and I consider that the proposals would minimise and mitigate landscape impacts, in accordance with Policy DM 24.

In terms of the third issue, the Inspector noted that in the 2017 decisions, the Inspector concluded that the loss of BMV land would represent a very small proportion of the extensive resources of such land in this part of Kent. Further, the Inspector advised that the 2017 decisions pre-dated the adoption of the LP. Policy DM 31 states 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 Council and the appellant agree that there is an overriding need for housing in Swale. It is further agreed that the proposal would not result in the remainder of Pond Farm becoming not viable. He also agreed. The Inspector then referred to the recent Swanstree Avenue appeal and advised that the Swanstree Avenue Inspector saw no reason to exclude urban land from his consideration of this matter and noted the conclusions of the Local Plan Review Site Selection (2020) in relation to the sites in question. He saw no reason to take a different view to the Swanstree Avenue Inspector on these matters. He therefore found that the proposal would conflict with Policy DM 31. I attach moderate weight to this policy conflict.

The Inspector then went on to discuss in some detail matters of highway safety and air quality. In terms of air quality, the Inspector particularly noted the outcome of the legal challenges to in 2017 and advised that those challenges were concerned with the lawfulness of the Inspector's reasoning on air quality. The reasoning in question was based on the evidence before that inquiry, which was quite different to the current situation for the reasons I have discussed. He concluded that the proposal would not have an unacceptable impact on air quality. It would comply with Policy DM 6, which (amongst other matters) seeks to ensure that proposals do not worsen air quality to an unacceptable degree, considering the cumulative impact of development schemes likely to impact on AQMAs.

Further, the Inspector commented on the Habitats Regulations, Heritage assets, Ecology, including BMV, Housing Land supply and economic, social, and environmental benefits.

The Inspector then dealt with planning conditions.

Finally, the Inspector referred to the mitigation contained within the s106 Agreement, which includes the delivery of 40% affordable housing.

- **Item 5.9 – Bells Forstal Farm Throwley Road Throwley**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

This appeal related to a proposal to change the use of an agricultural building to a mixed use under Class R of the General Permitted Development Order. The Inspector agreed with the Council that the proposal to change to a mixed use of more than one of the use classes listed in Class R would not be lawful, on the basis that Class R only allows for a change of use to a singular use falling within the list of uses set out in this Class.

- **Item 5.10 – 61 Playstool Road Newington**

APPEAL DISMISSED

ENFORCEMENT APPEAL

Observations

An enforcement notice had been served against various extensions to this property, following the refusal of retrospective planning permission and the dismissal of subsequent planning appeals. This appeal was made on the basis that the steps required in the notice were excessive. However, subject to some minor corrections to the notice, the Inspector agreed with the Council that the requirements to remove a rear extension and sloped tiled roof were appropriate, and the notice was upheld.

- **Item 5.11 – Land rear of 6 Orchard Grove Minster**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector supported the Council's position that the erection of a dwelling on this limited plot would both harm the living conditions of the existing dwelling, and failed to provide sufficient amenities for future residents.

- **Item 5.12 – 1 The Kennels Rushett Lane Norton**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

Although the Inspector recognised the content of the Council's SPG relating to the conversion of traditional farm buildings and that the guidance sets out that it is not normally appropriate to extend traditional buildings, in this case, contrary to the Council's view, the Inspector considered that the extension was a proportionate and sympathetic addition to the dwelling, which preserved the character and appearance of the site and the surrounding area. On this basis the Inspector allowed the appeal.

- **Item 5.13 – Fairview Lower Road Tonge**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector fully supported the Council's decision, taking the view that the location of the proposed 3 dwellings would be unsustainable, not allowing future residents of the

site the opportunity to access services and facilities via sustainable transport methods. In addition, the Inspector agreed with the Council that the proposed development would give rise to significant harm to the character and appearance of the countryside. Finally, the Inspector concluded that the scheme failed to demonstrate how service vehicles would be able to access and turn within the site and that separately, insufficient evidence was provided to demonstrate how vehicles could enter and exit the site without harming highway safety.

In light of the Council's lack of a 5 year supply of housing land, the tilted balance was engaged, however, the Inspector concluded that the benefits of the scheme were limited and significantly and demonstrably outweighed by the harm identified.

- **Item 5.14 – Windmill Farm Yaughar Lane Hartlip**

APPEAL ALLOWED

COMMITTEE REFUSAL

Observations

The Inspector gave weight to the lack of a 5 year supply of Gypsy and Traveller sites and absence of alternative sites. Given the presence of a Gypsy and Traveller site next door, the Inspector gave little weight to the Council's concerns that the site was unsustainable and in a remote location, and considered the benefits and need for such sites outweighed this issue.



Appeal Decision

Site visit made on 6 June 2023

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Appeal Ref: APP/V2255/D/22/3309612

Copton House, 8 Ashford Road, Sheldwich, Faversham, Kent ME13 0DL

- 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 Peter Ellis against the decision of Swale Borough Council.
 - The application Ref 22/503521/FULL, dated 18 July 2022, was refused by notice dated 15 September 2022.
 - The development proposed was originally described as "conversion of an existing garage and car port to create an annexe to a residential bungalow".
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of an existing garage and car port to create an annexe to a residential bungalow, including a side infill extension and erection of a first floor extension at Copton House, 8 Ashford Road, Sheldwich, Faversham, Kent ME13 0DL in accordance with the terms of the application, Ref 22/503521/FULL, dated 18 July 2022, 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: AR2220.A00, AR2220.A01, AR2220.A02, AR2220.A03, AR2220.A04, AR2220.A05, AR2220.A06, AR2220.A07 and AR2220.A08.
 - 3) Prior to the construction of any external wall of the development hereby approved, details/samples of the materials to be used in the construction of the external surfaces of the development hereby permitted 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/samples.
 - 4) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Copton House, 8 Ashford Road, Sheldwich and as shown on the plans hereby approved.

Preliminary Matter

2. Notwithstanding the description set out above, which is taken from the application form, it is clear from the plans and appeal form that the proposed development also includes a side infill and first floor extension. The Council dealt with the proposal on this basis and so shall I.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/D/22/3309612

Main Issue

3. The main issue is whether this is an appropriate location for the proposed development, having regard to national and Local Plan policies and its intended use and scale.

Reasons

4. The site comprises a single storey dwelling with a large curtilage in a countryside location. It lies adjacent to another house, with agricultural land to the rear. There is a detached double garage and an adjoining car port located in the south west corner of the site with a front driveway accessed from Ashford Road.
5. The proposal would create an annexe to provide additional accommodation to meet the needs of the appellant's family. There is no sufficiently compelling evidence before me to suggest that it would be occupied independently of the main bungalow. Although the Council generally only allows annexe accommodation that is linked and accessible from the main dwelling and not capable of independent occupation, I must consider the development applied for, which is ancillary accommodation without separate kitchen facilities. The proposal may not be for an extension to the host building's fabric, but it would be an extension to its use, within its curtilage and very close to the host building.
6. Even if the structure is not built or used as proposed, conditions restrict such to be carried out in accordance with the approved plans. If there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building may be at risk of enforcement action if such permission is not granted. In any case, an occupancy condition would be breached if the proposed annexe were to be occupied independently.
7. The Council refers to Policies CP4 and DM11 of the Bearing Fruits 2031 The Swale Borough Local Plan 2017 (the Local Plan) and to the Supplementary Planning Guidance 'Designing an Extension: A Guide for Householders' (the SPG). Policy CP4 requires all development proposals to be of a high quality design that is appropriate to its surroundings, including in respect of scale and conserving the landscape. Furthermore, Policy DM11 permits extensions to dwellings in rural areas where they are of an appropriate scale, amongst other things. In addition, the SPG sets out parameters for extensions to dwellings in rural areas. There is no detailed evidence to suggest that the proposal conflicts with these policies or falls outside the parameters in the SPG.
8. Policies DM14 and DM16 also require alterations and extensions to be of a scale that is appropriate to the location, building and its surroundings. Policy DM16 includes additional requirements that extensions need to reinforce local distinctiveness and preserve landscape features of interest, and the Council finds no harm in respect of this policy. The Council indicates that it would be a substantial extension to create further residential accommodation that goes well beyond what would be expected within a small self-contained annexe and cites Policy DM14 in the reason for refusal. However, there is no indication of what it is about the scale of the proposal that is unacceptable.

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/D/22/3309612

9. The site is within the open countryside in terms of the Council's Local Plan policies. The Council cites paragraph 79 of the National Planning Policy Framework (the Framework) but, as this relates to new housing in rural areas and the proposal is for an annexe to an existing house, the development would not contravene national planning policy. Given this, its accessibility to services and facilities has limited relevance.
10. Policy ST3 of the Local Plan sets out the broad approach to the location of development. This seeks to restrict development in the open countryside unless supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value and landscape setting of the countryside, amongst other things. As extensions to dwellings in the rural area are allowed under Policy DM11, the Council finds no conflict with Local Plan Policies CP4, DM11 and DM16, and the proposal complies with the Framework, the development would not conflict with Policy ST3.
11. Policy DM3 relates to rural employment uses and, as there would be no change to the residential use of the site, this policy has limited applicability.
12. Overall, there is no sufficiently compelling evidence that the scale and nature of the proposal would comprise unnecessary, undesirable or unsustainable residential development in this location. As such, the appeal site would be an appropriate location for the proposed development, having regard to national and Local Plan policies and its intended use and scale.

Conditions

13. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. To protect the character and appearance of the area, I have also imposed a condition requiring details of the external materials to be approved.
14. I have considered the Council's suggested condition to control the purpose of the appeal building, against the tests set out in the Framework. I agree that such a condition is reasonable but have amended the suggested wording to include the further parts of the address.

Conclusion

15. For the reasons given, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal should be allowed.

A Wright

INSPECTOR

This page is intentionally left blank



The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2023

Appeal Ref: APP/V2255/D/23/3316739

Jalna, Warden Road, Eastchurch, ME12 4HG

- 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 Veselin Marev against the decision of Swale Borough Council.
 - The application Ref 22/504671/FUL, dated 26 September 2022, was refused by notice dated 1 December 2022.
 - The development proposed is demolition of existing carport and conservatory and erection of a single storey rear extension with roof terrace above, two storey front extension, raising of the roof and insertion of front and rear dormer windows to provide additional first floor accommodation.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form described the development as "Proposed new front and rear two storey extension with new increased roof with loft conversion". This was changed by the council in the officer's report and used on the decision notice, and on the appeal form, to the description I have used in the heading above. I have adopted it since it more clearly describes the development proposed.

Main Issues

3. The main issues in this case are: i) the effect of the proposed development on the existing dwelling and the rural character and appearance of the area; ii) whether the additional residential accommodation, within a Coastal Change Management Area, particularly in the absence of a Coastal Erosion Vulnerability Study, would result in development with an increased risk to property or life through its planned lifetime.

Reasons

4. The appeal property consists of a detached dormer bungalow, set back from Warden Road. There is a private garden to the rear with driveway and landscaped garden to the front. There is sporadic residential development in the vicinity, including a bungalow to the east of the site, and one opposite. To the west of the site lies open land. To the east and north, the site is in close proximity to the coast. The wider area has a number of caravan parks, with the small settlement of Eastchurch being some 2.5 miles by road to the west.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/D/22/3316739

The effect of the proposed development on the existing dwelling and the rural character and appearance of the area

5. As paragraph 2 of the National Planning Policy Framework (the Framework) points out, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise [s70(2) of the Town and Country Planning Act 1990, and s38(6) of the Planning and Compulsory Purchase Act 2004].
6. The starting point is therefore the policies of the development plan, which in this case is the Swale Borough Local Plan 2017. The site lies outside of any built-up area boundary and is therefore in designated countryside. The refusal reason relating to this issue refers to policies CP4, DM11, DM14 and DM16, and to the Council's adopted Supplementary Planning Guidance (SPG), titled "Designing an Extension - A Guide for Householders". The policy status of this SPG follows from criterion 3 of policy DM14 which requires development to accord with adopted SPG.
7. Policy CP4 requires high quality of design, in keeping with the character of the area. Policy DM11 states that the Council will permit extensions (taking into account any previous additions untaken) to existing dwellings in the rural area where they are of an appropriate scale, mass and appearance in relation to the location. Policy DM16 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. Paragraph 3.3 of the SPG states that "The Council will not normally approve an extension to a dwelling in a rural area if it results in an increase of more than 60% of the property's original floorspace".
8. The council officer's report states that the proposal would bring an increase of overall floorspace of 70.5%, which clearly exceeds the policy limit. I note that there is no suggestion from the council that the proposal would have any effect on the living conditions neighbouring residential occupiers or the separation between properties. The issue simply revolves around the scale of the development and the effect on the appearance of the existing bungalow and on the character and appearance of the area. For the appellant it is said that the resulting enlarged dwelling in its design would be consistent and appropriate with the established built environment of the locality.
9. The existing dwelling has a low ridge height with a single dormer in the centre of the hipped roof. The proposed development involves a much higher ridge line with hipped gables to each side elevation. A major feature would be a central forward projecting 2 storey gabled element, alongside which would be gabled dormers on either side. Because of the steep pitch of the new roof, it and the gabled projection would be the dominant features of the extended dwelling. It would be a building of a completely different character to the existing bungalow and its neighbour, and there is nothing in the immediate area of similar scale and appearance.
10. The SPG uses the word 'normally' in reference to the approach to approving extensions of dwellings in a rural area, implying that there will be cases that attract a different outcome. However, the proposed extensions would significantly increase the height and bulk of the roof with the ridge height increasing by 2.8m and creating a steep sloping roof of a half-hip form. The

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/D/22/3316739

two-storey front gable and dormers add further visual bulk and scale, and the rear extension adds cumulatively to the size of the resultant dwelling.

11. I conclude that the proposed extensions, and the resulting much enlarged dwelling, would be contrary to the policies and the SPG referred to above. The effect of the proposed development, because of the scale of the proposal and its much changed appearance, not reflecting the scale and massing of the existing dwelling, would be harmful to the rural character and appearance of the area.

Whether the additional residential accommodation, within a Coastal Change Management Area, particularly in the absence of a Coastal Erosion Vulnerability Study, would result in development with an increased risk to property or life through its planned lifetime.

12. The appeal site lies within a Coastal Change Management Area and within Erosion Zone 1. This part of the Isle of Sheppey is subject to coastal erosion and landslip and Erosion Zone 1 identifies land at more immediate risk (within an indicative 50-year period) of erosion. I set out here the relevant parts of Policy DM23 of the Local Plan:
"Policy DM23 - Coastal change Management
Within the Coastal Change Management Area (CCMA), as defined on the Proposals Map, planning permission will be granted for development proposals subject to:
 1. *It being demonstrated that the proposal will not result in an increased risk to life, nor a significant increase in risk to property;*
 2, and 3, and 4 – not relevant here
 5. *Proposals within Erosion Zones 1 and 2, submitting a Coastal Erosion Vulnerability Assessment showing the development will be safe throughout its planned lifetime and will not increase risk to life or property elsewhere without the need for new or improved coastal defences; and"* [6 and 7 not relevant here].
13. For development to benefit from the grant of planning permission, as set out in the initial clause of the policy, a Coastal Erosion Vulnerability Assessment is required to be submitted with all applications within Erosion Zones 1 and 2. This must demonstrate that the proposal will not result in an increased risk to life, nor a significant increase in risk to property. A Coastal Erosion Vulnerability Assessment was not submitted with the appeal application, which breaches the policy and therefore there is no evidence that the development would not increase risk to life and property.
14. For the appellant, the importance of this issue, and its relevance to the appeal proposal, is fully acknowledged, and it is noted that the council's concern relates specifically to an absence of an assessment. To counter the absence of an assessment, the appellant would agree to a pre-commencement condition requiring the preparation of a Coastal Erosion Vulnerability Assessment. This would be an acceptable condition since it is considered necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable.
15. The appeal building is set high above, but in close proximity to the shoreline below. I have no information before me, but it may well be that a professionally completed Coastal Erosion Vulnerability Assessment would fail to

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decision APP/V2255/D/22/3316739

meet the very proper concerns that lay behind this policy. I recognise that a pre-condition, if not discharged satisfactorily, would ensure that a development could not be implemented. Nevertheless, since I have found that the proposal is unsatisfactory in relation to the first issue, and that the proposed development would be in breach of policy DM23, a pre-condition is not something that I need consider further.

Overall conclusions

16. I have taken account of all the other matters raised, including the paragraphs of generalised guidance in the National Planning Policy Framework that are referred to, and those in section 5 of the appeal statement relating to the conduct of the council in dealing with the application. However, for the reasons that I have set out above, I find that the proposed extensions would result in a much enlarged dwelling, contrary to the policies and the SPG referred to. The effect of the proposed development, because of the scale and its much-changed appearance, would not reflect the scale and massing of the existing dwelling and it would be harmful to the rural character and appearance of the area. In addition, the lack of a Coastal Erosion Vulnerability Assessment is a breach of policy DM23. I will therefore dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2023

Appeal Ref: APP/V2255/D/22/3314666

Appleyard Barn, Plough Road, Eastchurch, ME12 4JH

- 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 Justin Smith against the decision of Swale Borough Council.
 - The application Ref 22/504725/FULL, dated 28 September 2022, was refused by notice dated 19 December 2022.
 - The development proposed is the erection of single storey side/rear extension to existing utility room. (Retrospective).
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of single storey side/rear extension to existing utility room at Appleyard Barn, Plough Road, Eastchurch, ME12 4JH in accordance with the terms of the application, Ref 22/504725/FULL, dated 28 September 2022, and the plans submitted with it.

Preliminary matters

2. The application form described the proposed development as "Extension to existing utility room" however, the council changed this to the description that I have used in the heading above, which was also used by the appellant on the appeal form. I adopt this as it more clearly describes the development proposed.

Main Issue

3. The main issue in this case is the effect on the character and form of the existing dwelling as a former agricultural building.

Reasons

4. This appeal relates to a detached house that results from the conversion of an agricultural barn. It is located in the countryside. The conversion has been carried out sensitively, but naturally it and its curtilage clearly have taken on a domestic character. The main characteristics as a rural barn were preserved as part of the conversion, including a catslide roof to the rear. I am told that there was a small flat roof rear extension added to the building some 20 odd years ago which has been demolished as part of the development. There is a dwelling on either side of the appeal site but otherwise, in the vicinity of the site, the north side of Plough Road is devoid of development. To the south there is an enclave of residential development that takes its access from Eastchurch Road, but otherwise the area is rural with holiday parks.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/

5. The appeal development has already been carried out. It is single storey, situated at the rear of the barn, and wrapped around the north-western corner. It has a half-hip roof, the angle of the slopes set to match the pitch of the catslide roof. From the front, little can be seen; the element that comes round the corner of the building appearing as a small lean-to. From the rear, the roof of the addition intrudes somewhat on the simple form of the catslide.
6. As a former barn, the council's guidance on barn conversions, contained in the Supplementary Planning Guidance (SPG), "The Conversion of Traditional Farm Buildings" is clearly relevant to the decision. This guidance seeks any conversion of a traditional building to be achieved with the minimum number of alterations for the purpose required. The guidance makes clear that it will not normally be considered appropriate to extend the existing building to accommodate the use, and the importance of retaining agricultural character.
7. The materials, window and door details of the extension match the host building, with timber weatherboarding, reclaimed red brick plinth, slated roof, and timber window and door details. The extension has also been constructed in a traditional way, with timber eaves and soffits. The appellant points out that, in the past, there were existing structures attached to the barn, and an old photograph has been submitted in confirmation. The catslide is a major element of the original barn, since it descends from a high ridge down to within about 2.25m from the ground. The roof of the extension does intrude on the roof form of the building, but historically it is not unusual for agricultural buildings to be modified and added to in consequence of the needs of the farm. This is demonstrated by the submitted old photographs that show historical additions to this barn in past times.
8. The extension does not have the appearance of the extensions shown in the old photographs: like the barn itself in its latest manifestation, it is immaculate in its appearance. Because of the careful use of matching materials and respecting the angle of roof pitches, the extension integrates very well visually. The building remains a characterful converted building that retains a clear distinctiveness as a former agricultural barn. As the SPG referenced above points out, a major consideration is the importance of retaining agricultural character. That character is largely one of appearance; the converted barn, with its extension, maintains the appearance of that agricultural character. The prominent barn features remain in place and from public vantage points, the extension has no impact, and the barn continues to provide local distinctiveness.
9. Since I am finding in favour of granting planning permission, the personal circumstances that are raised need not be detailed. Personal circumstances rarely can be given great weight, because their nature is that such circumstances change for many reasons and often in the short term. Nevertheless I note that paragraph 62 of the National Planning Policies Framework makes reference to people with disabilities in the context of meeting the needs of different groups. An addition to a dwelling that makes it suitable for a range of people with different needs is a small planning gain.

Conclusions

10. For the reasons that I have given above, the converted barn, with its extension, maintains an agricultural character. The prominent barn features remain in place, and from public vantage points the extension has no impact,

Appeal Decision APP/

and the barn continues to provide local distinctiveness. I will therefore allow the appeal.

11. There appear to be two rooflights indicated on the rear elevation on both the existing and proposed plans. For the avoidance of doubt, the appellant has confirmed that consent is not sought for this and that it is an error in the drawing.
12. Since the development has already been carried out, the council has indicated that there are no conditions that should be applied to any planning permission granted. I agree.

Terrence Kemmann-Lane

INSPECTOR

This page is intentionally left blank



The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2023

Appeal Ref: APP/V2255/D/23/3321941

43 St Helens Road, Sheerness, ME12 2QX

- 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 Charles Lukas against the decision of Swale Borough Council.
 - The application Ref 23/500422/FULL, dated 25 January 2023, was refused by notice dated 22 March 2023.
 - The development proposed is the erection of first floor side extension.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposed development on the appearance of the existing dwelling and on the character and appearance of the area; and ii) the extent to which the development provides for car parking space and the effect on the safety and convenience of highway users.

Reasons

3. The appeal dwelling is a bay fronted semi-detached house within the built-up area of Sheerness. It has hard landscaping to the front, with access to a single attached garage. There is also amenity space to the rear of the property. The other properties in St Helens Road are almost all of similar size and design, mainly semi-detached with some detached houses. Their facing materials are fairly uniform, although there are some different treatments to the finishes of the bays at first floor level. Generally there is space between the pairs, of a garage width or so, although the detached houses tend to have one side elevation close to the curtilage boundary. The effect is a very uniform appearance and character to the road. There are a few cases where 2-storey side extension have been built.

The effect of the proposed development on the appearance of the existing dwelling and on the character and appearance of the area

4. As paragraph 2 of the National Planning Policy Framework (the Framework) points out, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise [s70(2) of the Town and Country Planning Act 1990, and s38(6) of the Planning and Compulsory Purchase Act 2004]. The development plan is the Swale Local Plan 2017, within which policy DM16 supports alterations and extensions to existing buildings where they reflect the

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/D/23/3321941

scale and massing of the existing building, preserve features of interest and reinforce local distinctiveness.

5. This is elaborated in the council's Supplementary Planning Guidance (SPG) on house extensions. In respect of side extensions, it sets out the following guidance:
"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 the 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".
6. This is a common approach in planning policy, and the reasoning is clear. In particular, the rights of other residents in a street are well recognised. In this instance, the road is characterised by dwellings with gaps between buildings which add to the character of the area and sense of space. The proposed extension would reduce the gap at first floor level to approximately 0.5m from the site boundary and would not accord with the SPG, and would result in a loss of a prevailing characteristic of the area - important space between dwellings.
7. The set back from the front of the building does not alter the basic relationship of dwellings and space between them. As the SPG also advises, setting an extension back will not normally overcome this issue and, if the neighbour were to do the same, it would result in a terracing effect. This is a road that has a high level of uniformity in house type, exterior features and spacing. Whilst precedent is not normally an important consideration in such matters, allowing individual development of this sort makes it all the more difficult for the council to control the situation in the future. This is demonstrated where precedent of examples elsewhere is used as part of the justification for this proposal. The officer's report gives some explanation about the background to the examples put forward.
8. In addition to the matter of spacing between dwelling, the proposed flat roof is entirely at odds with the design of the existing house and almost all others in the road. This amounts to poor design which both the Framework and development plan policies seek to avoid.
9. The appellant's appeal statement refers a number of paragraphs from the Framework. For the most part these refer to the general approach that local planning authorities are expected to follow, and do not address the issues in this case. What I do note is that paragraph 4.8 quotes from Framework paragraph 124 and item c) is highlighted which deals with the capacity of infrastructure and services, which is not in issue here. What is not emphasised is the following final 2 points of that paragraph that draw attention to the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places – which are to the point. I also note that in paragraph 4.10 of the statement "Good design is a key aspect of sustainable development" (Framework paragraph 126) is highlighted, and reference is made to Framework paragraph 134 (not 130 as referred to in paragraph 4.12 of the statement) that planning permission should be refused

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/D/23/3321941

(for development) where it fails to reflect local design policies ... taking into account local design guidance and supplementary planning documents.

10. Most of the supporting factors in the appeal document have been dealt with in paragraphs 6 to 8 above; but I need to comment on the statement that "the vicinity is 'dominated' by additions which are an established feature and contribute greatly to the character of the area," (statement paragraph 5.14). I find this not to be a fair reflection of the situation in St Helens Road, whilst some of the examples referred to clearly illustrate developments that the policies rightly seek to avoid.

The extent to which the development provides for car parking space and the effect on the safety and convenience of highway users

11. The appellant's response to this issue is that the current parking provision is acceptable: parking is available within the garage and within the frontage of the house, without causing the need for on-street car parking.
12. The council points out that the proposal would create an additional bedroom at the property, making it a 4 bedroomed property. The garage space is approximately 2.4 x 4.9m, which falls below the minimum dimensions as set out in the Car Parking Supplementary Planning Document (SPD), meaning it cannot be counted as a parking space. These dimensions have not been challenged. The area to the front of the garage is approx. 3.6m deep, which is again less than the minimum dimensions as set out in the SPD. The SPD sets out that in suburban areas, 2-3 spaces should be provided for 3 bed dwellings and 3+ spaces for dwellings with 4 or more bedrooms. Quite clearly the appeal property cannot meet the off-street parking requirement for a 3 bed house, and the addition of a bedroom facilitates higher occupancy which could occur in future, if not with the present household. This is an additional point that stands against the proposed development.

Overall conclusions

13. I have taken account of all other matters raised, including appeal decisions that are said to support the proposal. However, I have no knowledge of the background to these cases, and as mentioned in the appellants statement of case, each appeal must be determined on its own merits.
14. In light of the matters dealt with in paragraphs 6 to 8 above, I conclude that the proposed development would be harmful to the appearance of the existing dwelling and to the character and appearance of the area. In addition, the proposed increase from 3 bedrooms to 4 has the potential to increase the number of cars owned or used by the household, leading to further pressure on kerbside parking which could affect the safety and convenience of highway users.
15. For these reasons I will dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR

<https://www.gov.uk/planning-inspectorate>

3

This page is intentionally left blank



Appeal Decision

Site visit made on 6 June 2023

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Appeal Ref: APP/V2255/W/22/3296729

Hill Top Farm, Elverland Lane, Ospringe ME13 0SP

- 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 Ms Caroline Webb against the decision of Swale Borough Council.
 - The application Ref 21/504300/FULL, dated 3 August 2021, was refused by notice dated 11 March 2022.
 - The development proposed is described as "The erection of new stables and kennel facility on the side of the existing timber stables. The existing stables are dilapidated. The new stable block will consist of 3 horse and 3 dog stalls. The new stables will include a dedicated tack room, feed room, toilet and welfare facilities".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description above refers to existing stables. However, on my site visit, I observed that this stable building is no longer on the site and a new building has been partially constructed. I have determined the appeal on the basis of the submitted plans.
3. The appellant states that the site benefits from a lawful use to keep horses. Within the context of this appeal under section 78 of the Act, it is not my remit to formally determine whether the keeping of horses is lawful. If the appellant wishes to ascertain whether it would be lawful, an application can be made under section 191 of the Act.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area, with particular regard to the Kent Downs Area of Outstanding Natural Beauty (AONB) and a designated rural lane; and
 - highway safety.

Reasons

Character and appearance

5. The site lies in a remote rural location to the north of Elverland Lane, a narrow country lane, at an elevated position towards the top of a valley. It contains a partially constructed timber building, with a static caravan behind it as well as a smaller modern timber building and a touring caravan. There are native and

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/22/3296729

laurel hedges along most of the east and west boundaries respectively. A wide gravel driveway provides access onto Elverland Lane, with a close boarded timber fence and large metal gates separating it from the main part of the site which is largely surfaced with hardcore and gravel. Although only a snapshot in time, the site appeared to be little used at the time of my site visit.

6. The site is within the AONB where great weight should be given to conserving landscape and scenic beauty in accordance with the National Planning Policy Framework (the Framework). This part of the AONB is characterised by its dry valleys criss-crossed by sunken one-track lanes. It is largely farmed, with native hedge and tree lines along many of the field boundaries. The native hedge boundary on the site positively contributes to the landscape and scenic beauty of the AONB, but the buildings, surfacing and laurel boundary hedge are intrusive elements in the remote, downland landscape.
7. Stables and kennels are not unusual in rural areas, and the building has been designed to accommodate the needs of horses and guard dogs. However, at around 18m long, 9m wide and with a 3m high flat roof, the structure would be of a substantial size and incorporate significant amounts of glazing. Whilst the building would provide the space needed for the kennels and stables, the scale of the proposed building, its flat roof design and the amount of glazing would result in an incongruous structure in an area with relatively little built development.
8. The prominent site is located towards the top of a hill on one side of the Newnham Valley. It is visible in some long-range views from the west, albeit that these are largely of the tall evergreen laurel hedge which is not a natural feature in this landscape. I observed that the site is also visible from parts of Elverland Lane. Although the proposal would replace the existing laurel hedge with a shorter, native hedgerow and include other soft landscaping, this could be removed, become damaged or diseased and may only provide screening in the spring and summer months. In addition, the existing field access gap in the hedge would remain. As there is no certainty on adequate screening of the proposed building, and given its prominent position, the development would harm the distinctive landscape character of the AONB.
9. Policy DM26 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) seeks to resist development that would significantly harm the character of rural lanes and Elverland Lane is identified under this policy. The existing metal gates, timber fence and large gravel entrance give the site an urban appearance from the lane. As the proposal would reduce the size of the access drive and introduce new landscaping, it would not cause greater harm to the character of this rural lane. As such, it would not be contrary to Policy DM26.
10. The principle of an equestrian building is not incompatible with Policies ST3 and DM27 of the Local Plan and there is no local guidance on the construction and size of kennels. However, the development still needs to comply with other local and national policies, and I have found harm in respect of its impact on the AONB. The evidence indicates that there was previously a stable building on the site and, even if the site could be lawfully used for equestrian purposes and the proposed building would be a similar size to the previous one, this does not overcome the harm that I have found due to its flat roof design and amount of glazing.

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/22/3296729

11. Consequently, I conclude that the proposed development would harm the character and appearance of the area including the Kent Downs AONB. This would be contrary to Policies DM14 and DM24 of the Local Plan. Together, these require development to conserve and enhance the natural environment including the special qualities and distinctive character of the AONB. It would also conflict with Policies SD2, SD3 and SD9 of the Kent Downs AONB Management Plan 2021-2026 where they require development to conserve and enhance the local character and qualities of the AONB and be complementary in terms of form, siting, and scale. In addition, the proposal would be contrary to the Framework which requires great weight to be given to conserving the landscape and scenic beauty of AONBs.

Highway safety

12. The site is accessed from the single track Elverland Lane. Although there is an existing wide bellmouth site access, the narrowness and slope of the lane together with the vegetation alongside it means that there are only partial views providing limited visibility for drivers egressing the site, particularly of traffic travelling from east to west along the lane. Therefore, drivers must exit the site without being able to properly see oncoming vehicles, causing a danger to road users.

13. Inspectors dealing with previous appeals for its use as a caravan site to accommodate Gypsies found the access unsatisfactory due to insufficient visibility splays. This use was not found acceptable on a permanent basis and was only allowed for temporary periods given circumstances around the need for Gypsy and Traveller accommodation. The permissions have now expired, and, at the time of my site visit, the caravans did not appear to be in use.

14. In my view, the proposed narrower access width would reduce visibility for drivers egressing the site. There are mirrors on the opposite side of the lane which aid visibility, but these do not form part of the appeal site or scheme and therefore are not capable of being controlled in the future. As the proposed development would generate traffic movements and the access would be unsatisfactory, it would cause harm to the safety of road users. Whilst Kent Highways objected to previous proposals but did not comment on the current scheme, I have judged the proposed development based on my observations.

15. The appellant indicates that horse boxes and trailers are not unusual on country lanes and that there are no existing controls in terms of comings and goings to the site. There is a lack of certainty about existing and likely traffic movements and, whilst the site would be primarily visited and managed by three members of an extended family, the introduction of kennels would intensify its use. The Inspectors for previous appeals found the access arrangements unsatisfactory and, based on my observations, the proposed use and the alterations to the access would exacerbate the harm to road safety.

16. I note that it is not uncommon for stables and kennels in rural areas to not have ready access to services and public transport, but there is still a need to ensure that safe access is provided, and I have found harm in this regard.

17. Overall, I conclude that the proposed development would harm highway safety. This would be contrary to Policy DM6 of the Local Plan which requires accesses to provide a suitable safety standard where proposals involve an intensification of use. It would also conflict with the Framework where it requires

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decision APP/V2255/W/22/3296729

developments to provide safe and suitable access to the site and to not have an unacceptable impact on highway safety.

18. Policies DM24 and DM26 of the Local Plan relate to conserving and enhancing valued landscapes and the character of rural lanes. I do not find these policies to be directly relevant to highway safety.

Other Matters

19. Notwithstanding the appellant's comments, Local Plan Policy DM3 relates to rural based employment and is not directly applicable to this appeal.
20. There are some concerns about the potential residential occupation of the building, but this has not had any bearing on my decision which is based on the merits of the proposal before me.

Conclusion

21. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 28 June 2023

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 9th August 2023

Appeal Ref: APP/V2255/C/22/3307532

106-110 Broadway, Sheerness, Kent, ME12 1TS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Jagroup Cheema against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 23 August 2022.
- The breach of planning control as alleged in the notice is: Without the benefit of planning permission, development in the form of the addition of security roller shutters to the front of the existing buildings on the Land.
- The requirements of the notice are
 - (i) Dismantle and remove from the Land the security roller shutters from the front of the entire row of buildings.
 - (ii) Remove from the Land all resultant materials, debris and waste arising from the works undertaken in step (i) above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is corrected by deleting '108-110' in Paragraph 2 of the notice and replacing it with '106-110.'
2. Subject to the correction, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Notice

3. A retrospective planning application for roller shutters to the properties at 106-110 Broadway was refused in July 2021 and the enforcement notice was subsequently issued in August 2022. The description of the 'Land' at Paragraph 2 of the notice refers to "Land known as 108-110 Broadway Sheerness Kent ME12 1TS as shown edged red on the attached plan." The red line boundary of the enforcement plan does include Nos 106-110. The Council indicates that the reference to No 108 in the wording rather than 106 is a typographical error.
4. All relevant parties have been served with the notice as No 106 is in the same ownership as the rest of the Land. The shutters at No 106 are the same as those at No 108 and the two properties are part of a convenience store. The appellants' evidence for this appeal refers to the refusal of the planning application which did include No 106. I do therefore consider that the wording in Paragraph 2 of the Notice can be amended to match the red line plan without causing injustice to any party. I will amend the notice accordingly.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/C/22/3307532

The appeal on Ground (a) and the Deemed Planning Application

Main Issue

5. The main issue is the effect on the character and appearance of the area having particular regard to the desirability of preserving the setting of the nearby Grade II Roman Catholic Church of Saint Henry and Saint Elizabeth (the Church).

Reasons

6. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that on determining applications which affect Listed Buildings, special regard must be had to the desirability of preserving the building or its setting. The Glossary to the National Planning Policy Framework (the Framework) defines the setting of a heritage asset which includes the surroundings in which a heritage asset is experienced.
7. The Church is a Grade II listed building with a presbytery and hall located on the opposite side of Broadway to the development. The Church was first listed on 30 June 1978. The listing entry refers to a construction date of 1863-4 with a design by Edward Welby Pugin. The significance of the Church is largely derived from its aesthetic and historical value and prominent location. The appeal site is located between the Sheerness Mile Town and Marine Conservation Area on a prominent corner location. Whilst not listed, the appeal buildings are at the end of a block of largely symmetrical two storey dwellings. The windows at first floor level of the appeal buildings at No 110 and No 108 which appear to be in residential use retain some attractive original features.
8. The development consists of black roller shutters with shutter boxes to the front of the ground floor convenience store and also the adjoining unit at No 110. Whilst there is signage for a pizza establishment at No 110, the unit was closed at the time of my afternoon visit with the shutters visible. I also visited in the late evening when the convenience store was closed and all of the rollers shutters covered the whole of the shop fronts other than the signage.
9. Passers-by would view the development in the context of the setting of the Church opposite. Even where they are open, elements of the shutter arrangements are visible below the shop signage. When lowered the shutters present an austere appearance which creates an unwelcoming presence to the street scene which detracts from the setting of the Church and the character of the area which is largely residential.
10. The development fails to preserve the setting of the Church. Given the localised extent of the development, the degree of harm to the significance of the Grade II listed building as a designated heritage asset is less than substantial in terms of the Framework but nevertheless of considerable importance and weight. In accordance with Paragraph 202 of the Framework, this harm should be weighed against any public benefits of the development.
11. The appellant has referred to the cost of providing the shutters and the need for security. However, these are commercial considerations rather than public benefits and there is no indication that the businesses would close in the absence of external shutters. A public benefit should be of a nature or scale to

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/C/22/3307532

be of benefit to the public at large and not just a private benefit.¹ The appellant indicates that the shutters are beneficial as they were installed to protect the appeal properties against vandalism and that other owners in the area have done the same. However, no further details are provided. There is also no evidence to show that other security options which are referred to in the Design of Shopfronts Signs & Advertisements (the PPG) which include internal grilles have been explored. The support of the Town Council for local businesses is noted but that support and the reasons for installing the shutters are not matters that outweigh the harm that I have found even if they were considered to be public benefits.

12. The development harms the character and appearance of the area and fails to preserve the setting of the listed Church. This is in conflict with Policies DM14 and DM32 of the Swale Borough Local Plan Bearing Fruits 2031 (the Local Plan) which collectively refer to preserving and enhancing the setting of a listed building. It is also in conflict with Policy DM16 of the Local Plan which refers to alterations to buildings maintaining the character of the streetscene and Policy DM15 which states that development involving shopfronts is required to be of a design which responds positively to the character of the building and its locality, it is also contrary to Policy CP4 of the Local Plan which refers to high quality design that is appropriate to its surroundings.

Other matters

13. The appellant has produced a plan dated March 2021 which includes photographs of shutters which he considers to be comparable to the development. I have no details of which of the shutters referred to were granted consent as opposed to being immune from enforcement action. As part of my site visit, I did observe shops in the town centre with shutters. However, the majority of the shops do not have shutters and where they did exist, they were of different designs and were largely attached to single shop fronts.
14. The development extends across Nos 106 -110 and Nos 106 and 108 are double fronted buildings. I do not therefore find the examples provided to be comparable in terms of scale, design or location to the development. It remains the case that each proposal or development has to be assessed on its own merits.

Planning Balance and conclusion

15. I conclude that the roller shutters are contrary to the stated policies in the development plan and there are no material considerations to indicate that the deemed planning application should be determined other than in accordance with it.
16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

E Griffin INSPECTOR

¹ Paragraph :020 Reference ID:18a-020-20190723

This page is intentionally left blank



Appeal Decision

Site visit made on 19 July 2023

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10.08.2023

Appeal Ref: APP/V2255/D/22/3313953

The Cottage, Ashford Road, Sheldwich, Kent, ME13 0LT

- 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 Richard and Kate Lacey against the decision of Swale Borough Council.
 - The application Ref 22/503951/FULL, dated 10 August 2022, was refused by notice dated 6 October 2022.
 - The development proposed is demolition of existing shed, part ground floor/part first floor rear extension, to be replaced with the erection of a part single storey, part two storey rear and side extension, installation of log burner with flue and changes to fenestration. Erection of a new garage.
-

Decision

1. The appeal is dismissed.

Main issue

2. I consider that the main issue in this case is its effect on the character and appearance of the area.

Reasons

3. The Cottage is a two storey detached house in a large plot in a relatively isolated position in the countryside. It is at the northern edge of the Sheldwich Conservation Area, from the main part of which it is separated by fields and woodland. The house is clearly visible from the A251 Ashford Road as a result of the removal of several mature trees which previously screened the site.
4. There is a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. The National Planning Policy Framework (2021) (the Framework) states that in the consideration of development proposals great weight should be given to the conservation of heritage assets in accordance with the significance of the asset and any harm should require clear and convincing justification.
5. I consider that the policies relevant in this case include ST3, CP4, CP8, DM11, DM14, DM16, DM24 and DM33 of Bearing Fruits 2031 The Swale Borough Local Plan 2017 (the local plan). Among other things, these relate to strategic aims for settlements, including development in the countryside; the requirement for high quality design, the conservation of the historic environment and valued

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/D/22/3313953

landscapes and criteria for alterations and extensions to existing buildings. The Council's Guide for Householders *Designing an Extension* provides more detailed guidance.

6. I consider that the proposed extension would be out of keeping with the character and appearance of the existing house because of its scale, mass, and design. The house is built in a simple, cottage style of white painted brick and shallow pitched slate roof. It has a double frontage with central door facing the road and forms an L-shape with a two storey rear wing. It is identified as a non-designated heritage asset because of its age, location within the settlement and association with the settlement.
7. The proposed wrap-around single storey extension with its flat roof and timber cladding would appear poorly integrated with and in too great a contrast to the existing traditional form of the house, particularly in relation to the south and east elevations which are the most visible in views of the house from the east (front) and from some distance along the road from the south (side) and from the vehicular entrance to the site, also to the south, which is clearly the most used approach.
8. The proposed demolition of the two storey extension in the angle between the main and rear wings of the house would result in the removal of a poor quality element of no architectural merit. However, its replacement with a full two storey extension filling in the whole of the angle, together with a crown roof, would be a bulky, square form which would appear disproportionate and out of keeping with the traditional footprint and form of the original house. The proposed set back from the south and west elevations is minimal and would not significantly reduce the impact of the bulk and mass of the extension.
9. The combination of the large wrap-around single storey extension and infill at first floor level would amount to a significant increase in both footprint and volume of the existing house which would be out of proportion with the original house. It would be contrary to the Council's policies to limit extensions to dwellings in the countryside to a modest increase in size and would detract from the property and its setting. I consider that it does not respect the design and scale of the building and would be poorly integrated with the original form and character of the house. The use of weatherboarding, while characteristic of materials used in some properties in the surrounding area, including the conservation area, would not mitigate the overall impact of the proposal in its setting.
10. The site is in a relatively isolated location on the edge of the part of the conservation area where the predominant characteristic is fields and woodland. The large scale of the proposal would be a visual intrusion into the countryside and this part of the conservation area. This would amount to less than substantial harm to the significance of the conservation area, and there is limited public benefit to justify the harm.
11. The appellants have removed the substantial trees which screened the house from most viewpoints. They have expressed the intention to plant new native species trees and I saw during my site visit that some planting has taken place along a line running south in line with the front elevation of the house. However, large trees sufficient to replace the former screen would take a considerable time to grow and cannot wholly be relied on. It is not generally a

Appeal Decision APP/V2255/D/22/3313953

satisfactory approach to rely on using screening to render acceptable a development which would otherwise be unacceptable.

12. I accept that the building is in need of refurbishment and that the existing accommodation is modest. I consider that it would be capable of extension but that this is not an appropriate solution. The plot is large and capable of accommodating an extension more in keeping with the style and character of the existing house.
13. The existing shed is of traditional design and materials and of some historic interest, but in poor condition. Although it would be desirable to retain it and bring it into beneficial use, its loss would cause minimal harm to the property and its setting and would not be sufficient justification on its own to dismiss the appeal.
14. The proposed garage would be relatively modest in size, with timber cladding and located in the southeast corner of the site near the existing vehicular access. It would appear in keeping with the surroundings.
15. I conclude that the proposed extension would harm the character and appearance of the house itself, its rural setting and the conservation area, contrary to local plan policies ST3, CP4, CP8, DM11, DM14, DM16, DM24 and DM33.
16. For the reasons given above, the appeal is dismissed.

PAG Metcalfe

INSPECTOR

This page is intentionally left blank



The Planning Inspectorate

Appeal Decision

Inquiry opened on 18 July 2023

Site visit made on 1 August 2023

By David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2023

Appeal Ref: APP/V2255/W/23/3318448

London Road, Newington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Swale Borough Council.
 - The application Ref 22/500275/OUT, dated 17 January 2022, was refused by notice dated 13 February 2023.
 - The development proposed is up to 135 dwellings with the retention of existing farm buildings, public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point.
-

Decision

1. The appeal is allowed and planning permission is granted for up to 135 dwellings with the retention of existing farm buildings, public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point at London Road, Newington in accordance with the terms of the application, Ref 22/500275/OUT, dated 17 January 2022, subject to the conditions set out in the attached schedule.

Preliminary matters

2. The Inquiry sat for five days from 18 to 21 July and on 1 August 2023. By agreement with the parties, I carried out an unaccompanied visit of the site and surrounding area on 1 August 2023.
3. The application was submitted in outline. The means of access is to be determined at this stage. Appearance, landscaping, layout and scale are reserved matters. The application documents include an illustrative layout, which I have taken into account, with due regard to its illustrative status. There is also a development framework plan. The suggested conditions, which are discussed below, include a condition requiring that the reserved matters be generally in accordance with the development framework plan. I have imposed a condition to that effect and have had regard to the development framework plan on that basis.
4. Discussions between the Council and the appellant continued in the period leading up to the Inquiry. The appellant submitted further information relating to air quality and there was agreement on a package of air quality mitigation measures. This resolved the Council's concerns in relation to air quality and the second reason for refusal was not pursued. However, Newington Parish Council (NPC) and others maintained their objections on air quality grounds and this matter was examined at the Inquiry.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/23/3318448

5. There was agreement on the planning obligations which would be secured by a Section 106 Agreement (the Agreement). The final draft of the Agreement was published in advance of the Inquiry and was discussed at a round table session. Accordingly, the Council did not pursue the third reason for refusal. I allowed a short period following the close of the Inquiry for the document to be sealed.
6. The Agreement would include financial contributions relating to:
 - sports facilities;
 - primary healthcare;
 - refuse collection and waste handling;
 - community learning;
 - off-site highway works;
 - public rights of way;
 - libraries;
 - primary and secondary education;
 - social care;
 - travel plan monitoring;
 - a traffic regulation order;
 - youth services; and
 - mitigating impacts on a Special Protection Area/Ramsar site.
7. The Agreement provides for 40% of the proposed dwellings to be delivered as affordable housing, of which 75% would be affordable rent/social rent/shared ownership and 25% would be First Homes. In relation to air quality, the Agreement makes provision for an electric vehicle car club. Some elements of the air quality mitigation package would be secured by conditions, which are discussed below. The Agreement also contains obligations relating to public access to, and phasing of, open spaces within the proposed development.
8. The Council and Kent County Council provided statements setting out the justification for the various obligations, including references to relevant planning policies and the rationale for calculating the amounts of the financial contributions. There was no suggestion from any party that any of the obligations had not been properly justified. I am satisfied that the obligations would mitigate impacts of the proposed development in a fair and reasonable way. I consider that the obligations fall within the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and I have taken them into account accordingly.
9. The development plan includes Bearing Fruits 2031 – The Swale Borough Local Plan (adopted July 2017) (the LP). Although work commenced on a review of the LP, in October 2022 the Council stated that work on the Regulation 19 consultation has paused until the Levelling Up and Regeneration Bill had gained Royal Assent. The Council does not currently have a Local Development Scheme so there was no information before the Inquiry as to when that work

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/23/3318448

will resume. Very little weight can therefore be attached to the emerging local plan itself, although the evidence base for the LP review is a material consideration in this appeal.

10. In 2017 there were decisions on two appeals relating to the current appeal site (DL2017)¹. Appeal A was for a larger area, including a further orchard field to the west. Appeal B was for essentially the same site as the current appeal. Both appeals were dismissed. There was a subsequent legal challenge, first to the High Court and then to the Court of Appeal². Those challenges were also dismissed. In May 2023 there was an appeal decision relating to Land off Swanstree Avenue, Sittingbourne (*Swanstree Avenue*)³. The appeal was allowed and planning permission was granted. These decisions are discussed further below.

Main issues

11. The main issues are:

- whether the site is an appropriate location for housing, having regard to the spatial strategy of the development plan;
- the effect of the proposal on the character and appearance of the area; and
- the effect of the proposal on best and most versatile agricultural land.

Reasons

Whether the site is an appropriate location for housing

12. The appeal site is adjacent to Newington, a settlement within the A2 corridor which runs from the Medway towns (which lie to the west of Swale) to Sittingbourne and Faversham. The LP contains a settlement hierarchy, in which Sittingbourne is the “*main borough urban centre*” (tier 1) and Faversham and Sheerness are “*other borough centres*” (tier 2). Newington is designated as a “*local rural service centre*” (tier 4). Such settlements are characterised as possessing a range of services and facilities and as being accessible by reasonably frequent bus and/or train services. Policy ST 3 states that these settlements will provide the tertiary focus for growth in the Borough and the primary focus for the rural area.
13. The Council and the appellant agree that the appeal site is accessible to existing shops, services, and employment opportunities. It is within a short walking distance of Newington train station and there are bus services along the A2 corridor. On the basis that the site is adjacent to the existing settlement and is accessible by foot, bicycle, and public transport, the Council and the appellant agree that it is locationally sustainable for housing development.
14. NPC and others drew attention to some limitations of the public transport services and of local facilities, such as primary health care and the local primary school. However, I consider that the level of public transport accessibility and local services and facilities is consistent with the LP expectations for a local rural service centre. It is fair to point out that any

¹ APP/V2255/W/15/3067553 (CD13.01)

² ID13 and ID14

³ APP/V2255/W/22/3311224 (CD13.02)

Appeal Decision APP/V2255/W/23/3318448

additional school capacity is likely to be at Sittingbourne. Whilst Newington Primary School is at capacity, school catchments areas change over time and some children from the appeal site could be accommodated there in the future.

15. In any event, the Agreement makes provision for proportionate contributions to primary and secondary educational facilities and there is no objection from the Council or the County Council in terms of access to schools. The Agreement also make provision for proportionate contributions to primary healthcare facilities.
16. The Council and the appellant agree that the proposed scale of development would be consistent with the designation of Newington as a local rural service centre and that the proposal would accord with LP Policy CP 6, which seeks to ensure that development makes provision for infrastructure, including education and healthcare facilities. I share that view.
17. The appeal site lies in the countryside, outside the built-up area boundary of Newington as defined in the LP. There is no dispute that the proposal is therefore in conflict with Policy ST 3, which states that development will not be permitted in the countryside, other than in circumstances that do not apply here. For the same reason, the proposal would conflict with Policy ST 1(4), which states that proposals should accord with the settlement strategy, and with Policy ST 5(4), which states that housing should be provided within urban and village confines or on allocated sites.
18. The housing land supply position in Swale is relevant to the weight to be attached to these policy conflicts. The Council and the appellant agree that the Council cannot currently demonstrate the five-year housing land supply required by the National Planning Policy Framework (the Framework). The extent of the shortfall is disputed. However, there is no dispute that the approach to decision making set out in paragraph 11(d)(ii) of the Framework is engaged in this case. The policies that are most important for determining the application are therefore deemed to be out-of-date.
19. LP Policy ST 2 sets out a development target of 776 dwellings per annum (dpa) over the period 2014 to 2031. However, the same policy included a commitment that the LP would be reviewed by April 2022. That has not happened, so the development target is out-of-date by virtue of the terms of the LP itself, regardless of the operation of the Framework. Moreover, the Council and the appellant agree that, because the LP is more than five years old, housing need should now be calculated by the standard method. This results in a figure of 1,087dpa. It follows that the built-up area boundaries were designed to meet a housing need which was considerably lower than the current level of need.
20. NPC has drawn attention to a number of appeal decisions around Newington which were dismissed on the basis that the sites were outside the built-up area boundaries, notwithstanding that in some cases there was a housing supply shortfall at the time. Each of those decisions would have taken account of a range of site-specific factors and reached a balanced view. Moreover, my conclusions in relation to the built-up area boundary are not only related to the housing land supply position, but also to the factors set out in the previous paragraph which post-date the appeal decisions referred to by NPC.

<https://www.gov.uk/planning-inspectorate>

4

Appeal Decision APP/V2255/W/23/3318448

21. Drawing all this together, I attach only limited weight to the conflict with Policies ST 1, ST 3 and ST 5, because those policies seek to confine housing development to within the built-up area boundaries defined in the LP which are out-of-date. The appeal site is adjacent to a local rural service centre and is reasonably accessible to shops, services and community facilities. Subject to consideration of the other main issues, which are discussed below, I conclude that this is an appropriate location for the scale of housing proposed, notwithstanding that it is outside the built-up area boundary of Newington.

The effect of the proposal on the character and appearance of the area

22. The appeal site extends to 8.83 hectares, situated to the west of Newington, adjacent to the built-up area. The greater part of the land comprises two large fields, the eastern field being in arable use and the western field forming part of a larger area of commercial orchards. In the northern part of the site there are two ranges of former farm buildings, which would be retained. These have been identified as non-designated heritage assets. They form part of the setting of the Grade II listed Pond Farmhouse, which fronts London Road adjacent to the northern boundary of the appeal site.
23. The site is bounded to the east by the back gardens of houses in Playstool Road. There are some residential properties between the site and London Road to the north. The site also has direct frontages to London Road which are enclosed with tall hedges. There is a ribbon of mainly residential development on the opposite side of London Road, where there is also a car showroom. To the west of the site, there is another parcel of commercial orchard bounded by tall hedges. Further to the west, there is some ribbon development fronting the southern side of London Road and an industrial estate, although the industrial estate is not readily visible from the vicinity of the appeal site. To the south, the site is bounded by Newington Recreation Ground, which includes allotments and a playground, and a community woodland.

Landscape character, value and sensitivity

24. At a broad landscape scale, the site falls within Natural England's North Kent Plain National Character Area (NCA), which is an extensive area lying between the Thames estuary and the Kent Downs. The key characteristics of the area, which are described more fully in the evidence, include "an open, low and gently undulating landscape, characterised by high quality, fertile, loamy soils dominated by agricultural land uses" and "orchards and horticultural crops characterise central and eastern areas, and are often enclosed by poplar or alder shelterbelts and scattered small woodlands".
25. At a regional level, the Landscape Assessment of Kent (2004) places the site in the Fruit Belt Landscape Character Area (LCA), which is described as "a rural, agricultural landscape characterised by a complex landscape pattern of orchards, shelterbelts, fields of arable and pasture and horticultural crops, and divided by small blocks of woodland." The assessment notes that the A2 route corridor has a localised urbanising effect. Overall, the assessment found the LCA to be of poor condition and low sensitivity.
26. At a Borough level, the Swale Landscape Character and Biodiversity Appraisal (2011) places the site in LCA 28, Newington Fruit Belt. The key characteristics of LCA 28 include:

<https://www.gov.uk/planning-inspectorate>

5

Appeal Decision APP/V2255/W/23/3318448

- undulating landscape of rich loam soils;
- strong landscape structure formed by the network of mature hedgerows and shelter belts that surround orchards; and
- views largely enclosed.

The condition of the LCA was assessed as moderate, with low sensitivity.

27. The Swale Local Landscape Designations Review and Recommendations was prepared on behalf of the Council in 2018 to assist the local planning process. The methodology involved a desk review, including consultations with stakeholders, followed by more detailed evaluation for those sites that were taken forward. LCA 28, which was not subject to any landscape designations, was not taken forward for more detailed evaluation. The following reason was given:

"This area as a whole does not meet the criteria for LLD in the desk review, forming a moderate quality rural landscape with some locally valued elements. Note that the minor valley extending from the AONB at Hartlip will be considered as part of the stage 3 field evaluation."

28. The Swale Landscape Sensitivity Assessment (2019) was prepared as part of the evidence base for the LP review. This study focussed on 46 landscape sensitivity assessment areas, which were located around the main developed areas within the Borough. The appeal site is within area NN3, to the south west of Newington. It is assessed as having a moderate landscape sensitivity to further change from residential development.
29. I saw that the appeal site comprises mainly agricultural and horticultural land, set at a relatively low level in a gently undulating landscape. The regular field shapes are marked by tall hedges, which are no doubt maintained as such to give shelter to the fruit crops. The orchard field is typical of modern commercial orchards, with long, regular lines of fruit trees. The character of the arable field is affected by the close proximity of the adjoining modern residential estate, whilst the orchard field has a more strongly rural character.
30. The orchard field is subject to road traffic noise from the A2 London Road. Traffic and housing to the north of London Road can be glimpsed through the boundary hedge which, although tall, is not particularly thick. These effects diminish as one moves away from London Road, such that the southern part of the site, adjacent to the recreation ground, has a quieter and more secluded character. Overall, I consider that the landscape of the appeal site is characteristic of LCA 28, the Newington Fruit Belt, as well as of the broader scale character areas described above.
31. In DL2017, the Inspector concluded that the site was a "valued landscape", as that term was used in the Framework at the time. Although the Framework has since been revised, the term valued landscape is still used in the current version. Now, as then, there is no definition in the Framework. However, the approach to identifying valued landscape has been the subject of good practice guidance issued by the Landscape Institute. It has also been discussed in appeal decisions and case law. The Landscape and Visual Appraisal (LVA) submitted with the application concluded that the site is not a valued landscape.

<https://www.gov.uk/planning-inspectorate>

6

Appeal Decision APP/V2255/W/23/3318448

32. The site is not covered by any landscape designations. That is not, in itself, determinative but it is a material consideration. Moreover, in the context for this appeal, it is important to note that local landscape designations within Swale have recently been reviewed. Much of the landscape of Swale is designated in one way or another. Around 20% is in the Kent Downs Area of Outstanding Natural Beauty and other areas are designated as Areas of High Landscape Value, at either the Kent level or the Swale level. Only around 30% of the land has no landscape designation. LCA 28 Newington Fruit Belt was assessed in the 2018 review but was not taken forward for more detailed evaluation because it was not considered to meet the criteria for local landscape designation.
33. The Landscape Institute published updated guidance on assessing landscape value outside national designations in 2021⁴. Table 1 sets out a range of factors that can be considered when identifying landscape value. Having regard to those factors, I note that the site comprises, in the main, highly managed agricultural/horticultural land, the ecological importance of which has been assessed as being of no more than local importance. The Grade II listed Pond Farmhouse adjoins the site but no longer has any visual or functional link to the greater part of the site. The former farm buildings are non-designated heritage assets. Consequently, I do not consider that the site has a high level of historical or cultural interest.
34. The Swale Landscape Character and Biodiversity Appraisal (2011) assessed the condition of LCA 28 as moderate, which I consider would also apply to the site itself. With regard to distinctiveness, I note that orchards are a characteristic feature of LCA 28 and the broader scale LCAs referred to above. However, the site does not possess any rare or unusual features. A short section of public right of way (PRoW) passes through the north west corner of the site and there appears to be some informal use of the field margins close to the recreation ground for walking and dog walking. The recreational opportunities provided by the site are therefore relatively limited.
35. The site is visually attractive but it is also visually self-contained. Although parts of the site can be seen in views from the footpath which crosses Mill Hill, to the north, to my mind it does not contribute to any memorable views. Being a highly managed landscape, it has no sense of wildness or remoteness. Any sense of seclusion is limited to those parts of the site that are not close to London Road or the modern housing to the east.
36. Drawing all this together, I consider that the site is visually attractive and is of medium landscape value. I do not consider that it has features or attributes that raise it to the level of a valued landscape, in the terms of the Framework.
37. In reaching this conclusion, I am mindful that there is no evidence that the landscape itself has changed in any significant way since DL2017. However, other material considerations have changed. The Swale Local Landscape Designations Review and Recommendations was carried out in 2018. I consider that this review of how LCA 28 is valued compared with other landscapes in Swale is an important consideration that post-dates DL2017. The Swale Landscape Sensitivity Assessment (2019), which I discuss below, also post-dates DL2017.

⁴ Landscape Institute - Technical Guidance Note 02/21

Appeal Decision APP/V2255/W/23/3318448

38. DL2017 refers to Box 5.1 of the Landscape Institute's Guidelines for Landscape and Visual Impact Appraisal, 3rd edition (2013) which set out a range of factors that can help in the identification of valued landscapes. In that context, the Inspector commented that:

"The fact that landscape of this type is not rare in the local area does not lessen its potential value, in my view. On the contrary, it derives value from the fact that it is representative of the typical local landscape character."

and

"In itself, this intrinsic attractiveness would not lift the appeal sites out of the category of ordinary countryside. The more important consideration is that, as I have shown, they constitute a very good example of the small-scale orchard and horticultural landscape that is a key characteristic of the area."

39. DL2017 placed importance on the Inspector's finding that the sites were representative of local landscape character. No doubt that reflects the fact that "Representativeness" was one of the factors listed in Box 5.1. The more recent guidance from the Landscape Institute, which I have discussed above, does not include representativeness as a factor in its own right, although it is referred to as one element of the consideration of distinctiveness. That is the approach I have taken in my assessment. I agree with DL2017 that the site is representative of LCA 28. However, I also note that The Swale Local Landscape Designations Review and Recommendations assessed LCA 28 as forming a moderate quality rural landscape with some locally valued elements. The minor valley extending from the AONB at Hartlip, which was taken forward as part of the stage 3 field evaluation, is not part of the appeal site.
40. Having viewed the area around the appeal site, I do not think that the site itself has a higher landscape quality than LCA 28 as a whole. It is therefore representative of an LCA which has been assessed as not meeting the criteria for local landscape designation.
41. A further change since DL2017 is the adoption of the LP. The conclusions of DL2017, in relation to landscape impact, refer to the policies of the previous local plan and to the Framework. They do not make any finding on Policy DM 24, which would have been an emerging policy at the time. The starting point now is the LP, which is discussed below.
42. As noted above, The Swale Landscape Sensitivity Assessment (2019) placed the appeal site within area NN3, which it is assessed as having a moderate landscape sensitivity to further change. I place significant weight on this assessment because it is relatively recent, it is more fine-grained than other assessments of sensitivity referred to above, and it deals specifically with sensitivity to future change from residential development. I see no reason to think that the appeal site would be more sensitive to such change than NN3 as a whole.
43. My overall assessment is that the site has medium landscape value with moderate sensitivity to change from residential development.

Appeal Decision APP/V2255/W/23/3318448

Landscape and visual effects

44. Although the application is in outline, the development framework plan and illustrative layout show how landscape considerations have been taken into account. Open space would be retained around the former farm buildings, preserving the settings of Pond Farmhouse and the farm buildings themselves. Development near the site access would create a gateway feature, incorporating improvements to the PRoW which crosses the site at this point. An open space is proposed in the centre of the scheme, linking to a retained tree group near the farm buildings and to the southern site boundary, adjacent to the recreation ground.
45. The frontage hedgerow would be removed to facilitate access works but a new hedge would be created behind the visibility splay. There would be some loss of hedgerow within the site, to accommodate the proposed roads and footpaths, but where existing hedges are proposed to be retained this would be adjoining public open space. This would provide scope for the existing boundary planting to be reinforced. At present, the back gardens of properties in Playstool Road present a hard edge to the built-up area. The proposal would include linear open spaces with new tree planting to the west and south, creating a softer edge. Street trees are proposed along the main routes. Although the detailed proposals would be subject to approval at reserved matters stage, a condition could ensure that the reserved matters would generally accord with the development framework.
46. As noted above, LCA 28 Newington Fruit Belt was assessed as being in moderate condition. The 2019 sensitivity assessment found that the area in which the site lies has moderate sensitivity to change. The site is low lying and is visually contained by topography, vegetation and the settlement of Newington. The proposal would bring about significant change through the replacement of agriculture and horticulture with housing and green infrastructure. The removal of the existing hedge along London Road and the widening of the road to form the proposed access would have an urbanising effect.
47. The appeal site can be appreciated in its landscape setting from the PRoW which crosses Mill Hill, to the north of London Road. It is partially screened by intervening trees. Development in the eastern part of the site would be seen together with existing modern residential development on higher ground in the southern part of Newington. Development in the western part of the site would have the effect of extending the built-up area of Newington westwards into an area with a rural character. However, the proposed houses would be sited on relatively low ground, such that they would not break the treed skyline.
48. Landscape effects would be localised due to the visually contained nature of the site. I note that the Council's landscape witness assessed greater landscape effects than those reported in the Landscape and Visual Appraisal. The differences arose due to the respective assessments of landscape value and landscape sensitivity. For the reasons given above, I consider that the Council's evidence overstated landscape value and the sensitivity of the landscape to change from residential development.
49. Overall, I consider that the proposal would have a moderate impact on the landscape character of the site and its surroundings, including on the setting of Newington, and a minor impact on LCA 28 Newington Fruit Belt. These effects

<https://www.gov.uk/planning-inspectorate>

9

Appeal Decision APP/V2255/W/23/3318448

would reduce over time as landscaping within the site matures. The proposal would not have a material impact on the relevant county or national LCAs.

50. The visual receptors most affected would be the occupiers of houses to the east and north of the site, users of London Road, users of the PRow and those who use the field margins on an informal basis. There would be a significant change to the appearance of London Road. As noted above, the removal of the existing tall hedge and the widening of London Road to create a right turning lane into the site would have an urbanising effect. This effect would be partially mitigated by the retention of the farm buildings and the open space in front of them, the creation of open space at the access and the planting of a new hedge behind the visibility splay. More generally, views of agricultural and horticultural crops would be replaced by views of housing within a setting of green infrastructure.
51. The houses currently backing on to the arable field would adjoin the gardens of the proposed properties, bringing about a high degree of change for those residents. Whilst the detailed relationship would be considered at the reserved matters stage, there is no reason to think that the result would be such as to create unacceptable living conditions.
52. Only a short section of PRow crosses the appeal site. This would be incorporated into the proposed residential area, albeit with open space on one side. Users would still be able to walk a longer section of the PRow through the orchard to the west. Moreover, the provision of a footway on the southern side of London Road, together with new crossing points, would be a significant benefit to PRow users in terms of highway safety. Users of the PRow at Mill Hill would be aware of additional housing in views to the south. However, this PRow affords panoramic views over an extensive rural area, together with views of parts of Newington. I consider that the proposal would have only a minor effect on the overall experience of PRow users.
53. Those who use the field margins informally for walking and dog walking would lose the sense of seclusion that can currently be gained along the southern site boundary. On the other hand, the proposed green infrastructure would create new pedestrian routes that are likely to be attractive to walkers and dog walkers.

Conclusions

54. LP Policy DM 24 seeks to protect the Borough's landscapes. Although it is deemed to be out-of-date, due to the housing land supply position, it is consistent with the Framework which recognises the intrinsic character and beauty of the countryside. It should therefore attract significant weight.
55. Part A of Policy DM 24 deals with designated landscapes. It is, therefore, not applicable in this case, whether or not the site is regarded as a valued landscape in the terms of the Framework. Part B of the policy, which deals with non-designated landscapes, states that such landscapes will be protected and enhanced and that planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts.
56. In this case I have found that there would be moderate landscape impacts on the site and its surroundings and a minor impact on LCA 28 Newington Fruit Belt. These effects would reduce over time. I conclude that the proposals would

<https://www.gov.uk/planning-inspectorate>

10

Appeal Decision APP/V2255/W/23/3318448

minimise and mitigate landscape impacts, including through the provision of public open space in the centre of the site, at the gateway, around the former farm buildings and along the western and southern site boundaries. Hedgerows within the site, which are important to the landscape structure of the locality, would be retained as far as possible, and enhanced.

57. Full details of design, layout and landscaping would be reserved matters. However, I shall impose a condition requiring the reserved matters to be generally in accordance with the development framework, which would secure the broad disposition of open space and green infrastructure across the site as shown.
58. Part B(2) of Policy DM 24 requires a balancing exercise in circumstances where there would be significant adverse landscape impacts. However, as I have not identified significant adverse impacts, it does not apply in this case. I conclude that the proposal accords with Policy DM 24.
59. Policies ST 1, ST 3 and ST 5 are overarching policies which refer to landscape, and landscape setting, amongst other matters. To the extent that the proposal would have an adverse effect on the setting of Newington, there would be conflict with the landscape components of these policies. However, I attach limited weight to those conflicts because of the scheme's compliance with Policy DM 24. In my view Policy DM 24 is the most important policy dealing with landscape.
60. Subject to the approval of reserved matters, I see no reason why the detailed proposals should not be able to comply with Policy CP 4, which requires good design. I note that the policy refers to retaining trees, including fruit trees, "where possible". Even so, I consider that the proposal would accord with Policy CP 4 as a whole, as far as it can at this outline stage.
61. Policy DM 29 states that planning permission will be refused where there would be a loss of trees, including fruit trees, which make an important contribution to the landscape value of the site. The proposal would result in the loss of a large number of fruit trees, which are a characteristic feature of LCA 28. It would therefore conflict with this policy. However, I attach only limited weight to this conflict because the proposal would retain important tree groups, incorporate substantial green infrastructure and achieve a biodiversity net gain for hedgerows (a matter which is discussed further below).
62. Overall, there would be some harm to the character and appearance of the area. However, this would reduce over time and I consider that the proposals would minimise and mitigate landscape impacts, in accordance with Policy DM 24.

The effect of the proposal on best and most versatile agricultural land

63. The Framework states that, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. Best and most versatile (BMV) agricultural land is defined as land in Grades 1, 2 and 3a of the Agricultural Land Classification. The majority of the appeal site comprises BMV land. Approximately 1.5 ha is Grade 1 and approximately 6.3 ha is Grade 2. The remaining area comprises the former farm buildings and the grassed area in front of them, which were not surveyed.

<https://www.gov.uk/planning-inspectorate>

11

Appeal Decision APP/V2255/W/23/3318448

64. The DL2017 Inspector concluded that the loss of BMV land would represent a very small proportion of the extensive resources of such land in this part of Kent. Moreover, he commented that:

"....the appeal sites are typical of a belt of predominantly high-quality agricultural land stretching all the way from Gillingham to Faversham."

and

"....it would probably be difficult to find large developable sites of lower quality land not only around Newington but around Sittingbourne as well."

The Inspector concluded that the loss of BMV land would not be significant when assessed against national planning policy.

65. As noted above, DL2017 pre-dated the adoption of the LP. Policy DM 31 states 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 Council and the appellant agree that there is an overriding need for housing in Swale. It is further agreed that the proposal would not result in the remainder of Pond Farm becoming not viable. I also agree.

66. The Council and the appellant disagree about the second criterion of Policy DM 31, which is whether there are alternative sites for housing on land of lower grade. This matter was explored in the recent Swanstree Avenue appeal decision, where the Inspector concluded that there are suitable alternative sites for housing, within the built-up area of Sittingbourne and at Rushenden South. The same sites were relied on by the Council at this Inquiry.

67. The appellant argued against both sites, on grounds of uncertainty, development constraints and timing. However, the LP does not set any specific tests for what might constitute an alternative site for the purposes of Policy DM 31. It is a matter for the decision maker to reach a view on. Both sites have a much greater capacity than the appeal site so, even if they were only delivered in part, they could still provide an alternative, or alternatives, to the appeal site. The Swanstree Avenue Inspector saw no reason to exclude urban land from his consideration of this matter and noted the conclusions of the Local Plan Review Site Selection (2020) in relation to the sites in question.

68. I see no reason to take a different view to the Swanstree Avenue Inspector on these matters. I find that the proposal would conflict with Policy DM 31. I attach moderate weight to this policy conflict.

Other matters

Highways and transport

69. The proposed access arrangements include works to facilitate pedestrian movement in the vicinity of the site. The works would include a new footway on the south side of London Road, footway widening on the north side, a pedestrian refuge to the west of the proposed access and a signal-controlled crossing to the east. These measures would improve pedestrian safety and encourage pedestrian trips from the site to facilities in Newington, including the station and primary school, all of which would be within walking distance. With regard to public transport, the highway works would include new bus stops close to the site access and the Agreement would secure the provision of bus

Appeal Decision APP/V2255/W/23/3318448

passes and railcards (for defined periods), to encourage new residents to take up sustainable transport options.

70. The application was supported by a transport assessment and travel plan. The identification of the junctions within the scope of the assessment, trip generation and assignment, traffic growth factors and traffic modelling were agreed with Kent County Council (KCC) and National Highways. This work was based on a cumulative assessment of future traffic levels, including a permitted scheme to extract brickearth from a site to the west of the appeal site. The assessment concluded that the site access with London Road would operate within capacity. The A249/M2 junction (the Stockbury Roundabout) is currently undergoing a major upgrade. When complete, it is agreed that the performance of the junction is very unlikely to be affected by the appeal scheme.
71. Operating conditions at the A2/A249 junction (Key Street Roundabout) would deteriorate in the future, with or without the appeal scheme. Without mitigation, the appeal scheme would add to congestion at this junction. KCC has identified an improvement scheme. National Highways has advised that the scheme is progressing towards delivery through a combination of the Housing Infrastructure Fund and development contributions. The Agreement would secure a proportionate contribution to these works from the appeal scheme. National Highways is satisfied that the strategic route network would therefore be safeguarded. KCC is satisfied that the improvement scheme will increase capacity and reduce current queuing and delays as well as improving facilities for pedestrians and cyclists.
72. I conclude that the proposal has identified opportunities to promote walking and public transport use. It would provide a safe and suitable access to the site and would not result in any significant impacts on the wider transport network. It would therefore accord with the Framework in these respects. It would also accord with Policy DM 6 which seeks to manage transport demand and impact.

Air quality

73. The application was supported by an air quality assessment. As noted above, discussion continued between the Council and the appellant in the period leading up to the Inquiry, with various iterations of the modelling. Those discussions included refining the list of developments included within the cumulative assessment and taking account of the composition of the vehicle fleet within Swale, rather than basing projections on the nationally published Emissions Factor Toolkit.
74. At the Inquiry, the appellant's air quality witness stated that the final iteration of the modelling⁵ was the most accurate and realistic of the projections provided. The assessment sets out projections of annual average concentrations of NO₂ at 21 receptor points, most of which were located in Air Quality Management Areas (AQMA) at Rainham, Newington and Keycol Hill. The appeal site is immediately to the west of the Newington AQMA, such that any traffic leaving the site in an easterly direction would pass through the AQMA. The Keycol Hill AQMA is on the approach to the Key Street Roundabout, where it is likely that air quality is currently affected by traffic congestion in the vicinity of the junction.

⁵ Wardell Armstrong - Swale Fleet Mix Sensitivity Analysis assessment (v2.0) – 24 May 2023

Appeal Decision APP/V2255/W/23/3318448

75. In the “without development” scenario for 2025, the projections for 20 of the 21 receptor points indicated concentration levels below, mostly well below, the limit value of $40\mu\text{g}/\text{m}^3$. At these locations, the effect of development would raise the concentration level by less than 0.5% of the limit value, resulting in a negligible impact. At ESR 13, which is within the Keycol Hill AQMA, the concentration is projected to be $43.40\mu\text{g}/\text{m}^3$ without development and $43.63\mu\text{g}/\text{m}^3$ with development. Although the increase is relatively small, it is regarded as a moderate impact because the baseline is above the limit value.
76. By 2028, the concentrations of NO_2 with and without development are predicted to be significantly lower, such that there would be a negligible impact at ESR 13 as well as at all other receptor points. All receptor points would be below the limit value, in most case by a significant amount. Based on these results, the assessment concludes that the proposal would not have a significant effect on human receptors. In my view that is a reasonable conclusion. The assessment takes 2019 as the base year for air quality. This is likely to be a robust approach because the evidence is that roadside pollution has not in fact returned to pre-pandemic levels. Consequently, the predicted increase at ESR 13 in 2025 may not happen and, if it did, it would be for a relatively short time.
77. The Council agrees with these results and did not pursue its air quality objection. NPC maintained its air quality objection, although it did not raise any technical objections to the final iteration of the modelling⁶. Good practice guidance requires mitigation of air quality impacts, including in situations such as this where there would not be significant or enduring breaches of limit values. However, it is important to note that the air quality projections described above do not assume any improvements as a result of the air quality mitigation package as a whole or the committed improvements to the Key Street Roundabout, which are likely to benefit air quality in the Keycol Hill AQMA.
78. The mitigation package includes the pedestrian facilities, bus stops, travel incentives, travel plan and the contribution to junction improvements at the Key Street Roundabout described in the previous section. In addition, the Agreement would secure the provision of an electric vehicle car club. I agree that these measures would be beneficial and would contribute to the mitigation of air quality impacts. It is fair to point out that the effects of the measures cannot be precisely modelled because they would depend on behavioural change. However, in this case it is not necessary to identify a specific or quantifiable improvement in order to reach the conclusion that the proposal would not lead to a significant adverse effect on human receptors.
79. In DL2017 air quality was one of the considerations that led to the appeals being dismissed. The Inspector concluded that it was:

“...more probable than not that both appeal proposals would have at least a moderately adverse impact on air quality in the Newington and Rainham AQMAs, and thus a significant effect on human health.”

Moreover, the Inspector found that there was no clear evidence to demonstrate the effectiveness of mitigation measures. The evidence before this Inquiry is quite different, in large part because roadside air quality has been improving as

⁶ ID7 – email from Dr Ashley Mills dated 18 July 2023

Appeal Decision APP/V2255/W/23/3318448

a result of the use of cleaner vehicles. Moreover, there is now a package of mitigation measures that is agreed between the Council and the appellant.

80. Whilst I have noted the outcome of the legal challenges to DL2017, those challenges were concerned with the lawfulness of the Inspector's reasoning on air quality. The reasoning in question was based on the evidence before that inquiry, which was quite different to the current situation for the reasons I have discussed.
81. I conclude that the proposal would not have an unacceptable impact on air quality. It would comply with Policy DM 6, which (amongst other matters) seeks to ensure that proposals do not worsen air quality to an unacceptable degree, taking into account the cumulative impact of development schemes likely to impact on AQMAs.

Habitats regulations

82. The coastline of North Kent encompasses three Special Protection Areas (SPA), the Thames Estuary and Marshes SPA, the Medway Estuary and Marshes SPA and the Swale SPA. They are classified in accordance with the European Birds Directive. Such sites are important for bird species which are rare and/or vulnerable in a European context and also include sites that form a critically important network for birds on migration. The SPAs are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). Research has found that additional housing is likely to result in disturbance to protected bird species through additional recreational activity. Such disturbance can act against the conservation objectives of the European sites.
83. The appeal site, which would provide up to 135 additional dwellings, falls within the zone of influence for the SPA. Consequently, in the absence of avoidance and/or mitigation measures, it cannot be concluded that there would not be a significant adverse effect. Accordingly, as the competent authority under the Conservation of Habitats and Species Regulations, it is necessary for me to carry out an appropriate assessment.
84. The appeal proposal has the potential to cause disturbance to bird species that would be harmful to the conservation objectives for the European sites through additional recreational pressure. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds within the European sites. Elements of the strategy include rangers to provide visitor engagement, a North Kent Coast dog project to promote responsible dog ownership, codes of conduct with local groups and clubs, interpretation and signage and new or enhanced infrastructure.
85. These mitigation measures are being delivered through the Bird Wise project, which is a partnership of local authorities and conservation organisations. A tariff approach has been adopted, whereby each new dwelling is required to make a proportionate contribution to the cost of delivering the mitigation measures in perpetuity. In this case the Agreement makes provision for the appropriate payment to be made. I note that Natural England (NE) has worked with the relevant planning authorities in preparing the SAMMS measures. NE has been consulted on this appeal and has advised that the measures will be reliable and effective in preventing adverse effects on the integrity of the relevant European sites from the recreational impacts associated with this residential development.

<https://www.gov.uk/planning-inspectorate>

15

Appeal Decision APP/V2255/W/23/3318448

86. Having regard to the fact that appropriate mitigation has been secured through the Agreement, I conclude that the proposal would not have a significant adverse effect on the SPAs or Ramsar site, either alone or in combination with other plans and projects.

Heritage assets

87. The Grade II listed Pond Farmhouse adjoins the northern boundary of the site and is the only designated heritage asset in the vicinity. The former farm buildings, which are within the appeal site, have been identified as non-designated heritage assets. I saw that they are in a poor condition and agree with the DL2017 Inspector that they have limited historical significance in their own right. However, they form part of the setting of the listed farmhouse.

88. Pond Farmhouse is described as an early 19th century farmhouse. The DL2017 Inspector noted that the symmetrical façade, which faces London Road, is typical of the late 18th and early 19th centuries and stands out from its neighbours due to its age, size and fine proportions. These features contribute to the historic and architectural interest of the listed building. DL2017 considered the contribution made by the setting to the significance of Pond Farmhouse. The fields of the appeal sites were not found to be a significant element in that setting. I agree with that conclusion because of the limited intervisibility between the fields and the listed building. I also agree that Pond Farmhouse, the former farm buildings and the open space in front of them form an ensemble which is important to the setting and significance of the listed building.

89. The proposal would include the retention of the former farm buildings and the open spaces around them. No specific proposals have been made for their re-use. Any new uses are likely to require planning permission or prior approval. Nevertheless, the suggested conditions include the approval of a management plan, which would ensure that the buildings are protected from damage during the construction phase and until such time as a permanent scheme of re-use has come forward.

90. On that basis, the proposal would not result in any harm to the setting of Pond Farmhouse. The setting of the listed building would be preserved. There would also be no harm to the non-designated farm buildings themselves. The proposal would accord with the policies of the Framework relating to designated heritage assets and the historic environment.

Ecology

91. An ecological appraisal was submitted with the application, which assesses the species and habitats present within the site and makes recommendations regarding mitigation measures. Prior to the Inquiry, there were further discussions between the appellant and KCC's biodiversity officer. Both the Council and KCC are now satisfied that the submitted surveys provide a good understanding of the ecology of the site and that the enhanced hedgerows would provide a continuous habitat for dormouse. It is also agreed that the scheme could achieve a biodiversity net gain (BNG) of 14% for habitats and 36% for hedgerows.

92. The suggested conditions include submission of further bat surveys, an updated ecological survey and mitigation plan, a landscape and ecological management

<https://www.gov.uk/planning-inspectorate>

16

Appeal Decision APP/V2255/W/23/3318448

plan and a biodiversity net gain plan. Subject to these conditions, I conclude that the proposal would accord with Policy DM 28, which seeks to conserve and enhance biodiversity, and with Policy CP 7 which seeks to provide for green infrastructure and achieve BNG. Given that Policy CP 7 only seeks an unspecified BNG where possible, the proposed level of BNG would represent an environmental benefit to which I attach moderate weight.

Housing land supply

93. Following discussion at the Inquiry session on housing land supply, the Council and the appellant submitted an updated statement of common ground⁷. Both parties agree that the Council cannot demonstrate the five-year supply of housing land required by the Framework. The Council considers that it can demonstrate a supply of 4.79 years whereas the appellant considers that the supply figure equates to 3.42 years. I have carried out the balancing exercise required by the Framework on the basis of the Council's figure. If I were to adopt the appellant's figure, it would make no difference to the outcome of the appeal. Consequently, it is not necessary for me to comment further on the differences between the parties on housing land supply.

Economic, social and environmental benefits

94. The proposal would deliver up to 135 dwellings, of which 40% would be affordable housing. This would accord with Policy DM 8. Moreover, having regard to the housing land supply position in Swale, the pressing need for affordable housing in Swale and the general imperative to boost the supply of housing set out in the Framework, I attach substantial weight to the delivery of housing, including affordable housing.

95. The proposal would bring economic benefits through spending and employment during construction and greater spending by new residents once the new dwellings are occupied. Mindful that some of these benefits would be temporary because they relate to the construction phase, I attach moderate weight to the economic benefits.

96. The proposed open space and green infrastructure would accord with Policy DM 17. The Agreement provides that the open spaces and recreational routes would be available to the wider public. Attractive walking routes would be created between London Road and the recreation ground and there would be safer pedestrian access from London Road to the existing PRoW. I attach moderate weight to these benefits.

97. The appellant submitted that the electric vehicle car club and the provision of sustainable drainage should be counted as benefits. However, to my mind these items are required to mitigate impacts of the development on air quality and flood risk. There is no reason to think that the former farm buildings would be removed in the absence of the appeal scheme, so I regard the proposed management plan for those buildings as mitigation rather than as a wider benefit. Consequently, I have not counted these matters as benefits in my overall planning balance.

⁷ ID8

Appeal Decision APP/V2255/W/23/3318448

Interested parties

98. NPC, local Councillors and residents spoke against the appeal at the Inquiry and a number of interested parties made written objections to the planning application and in response to consultation on the appeal. The various planning issues raised in these representations have been discussed above.

Conditions

99. The Council and the appellant submitted a schedule of suggested planning conditions. I have considered the suggested conditions in the light of Planning Practice Guidance. The suggested conditions were largely agreed. The conditions that I have imposed reflect the final version of the schedule that was discussed at a round table session during the Inquiry. Some conditions require matters to be approved before development commences. This is necessary either to control impacts that would arise during construction or because the details to be approved could affect the design in a way that would need to be resolved at an early stage. The appellant agreed to the pre-commencement conditions. I have commented below where there were suggested conditions that I have not imposed.

100. Condition 4 requires development to be carried out in accordance with the approved plans in the interests of clarity and certainty. Condition 5 requires that the reserved matters be generally in accordance with the development framework plan and condition 6 limits the total number of dwellings to 135. These conditions are necessary to ensure that the scheme remains within the parameters that have been assessed. Condition 7 requires details of levels, in the interests of the character and appearance of the area. Condition 8 requires details of how Secured by Design is to be achieved, in the interests of community safety.

101. Condition 9 requires submission of a contextual study and information on building heights to inform the reserved matters submissions. This is necessary in the interests of maintaining local distinctiveness and protecting the character and appearance of the area. Conditions 10, 11, 12, 13 and 14 require submission of a lighting design plan, a further bat survey, an updated ecological survey, a landscape and ecological management plan and a biodiversity net gain plan. These conditions are necessary in the interests of protecting and enhancing biodiversity.

102. Condition 15 requires submission of an arboricultural method statement and condition 16 requires an updated landscape strategy, in the interests of protecting the character and appearance of the area. Condition 17 requires submission of a retention and management plan for the former farm buildings which are to be retained. This is necessary in the interests of protecting the setting of Pond Farmhouse, which is a Grade II listed building. Condition 18 requires the implementation of a programme of archaeological work, in the interests of protecting the archaeological potential of the site.

103. Conditions 19 and 20 limit the hours at which construction work, including piling, could take place in the interests of protecting the living conditions of nearby residents. Condition 21 requires approval of a piling method statement in the interests of protecting groundwater sources. Condition 22 requires submission of measures to assess and remediate any contamination in the interests of managing risks of pollution. Condition 23 requires submission of a

Appeal Decision APP/V2255/W/23/3318448

Construction Management Plan and Condition 24 requires submission of a Construction Method Statement. These conditions are needed in the interests of highway safety and protecting the living conditions of nearby residents.

104. Condition 25 requires submission of an Acoustic Design Statement in the interests of ensuring satisfactory living conditions for future occupiers. Conditions 26, 27, 28 and 29 require submission of details of surface water drainage, protection of foul sewers, disposal of foul drainage and protection of gas mains. They are needed to manage risks of flooding and pollution and in the interests of community safety. Condition 30 requires the provision of parking spaces for vehicles and cycles to ensure that adequate provision is made for the vehicles of future occupiers and in the interests of sustainable transport.
105. Condition 31 requires that suitable access be available to any dwelling at the time that it is first occupied in the interests of highway safety. Condition 32 requires the provision of high quality digital connections to all dwellings in the interests of economic development and social wellbeing. Condition 33 requires submission of a travel plan, to include measures to ensure that it is implemented. This is necessary in the interests of promoting sustainable transport. Condition 34 requires approval of a phasing plan. This is necessary to ensure that roads, infrastructure and open space are provided at appropriate stages of the development.
106. I have not imposed suggested conditions requiring details of highway works, submission of an energy strategy or removal of permitted development rights. Access is not a reserved matter and details of the proposed access are shown on the approved plans. This information is sufficient for planning purposes so the suggested condition is not necessary. There would be further controls on works within the public highway under other legislation. The suggested energy strategy would set out how the requirements of the Building Regulations would be met. I consider that this would be an unnecessary duplication of controls under the Building Regulations. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. I do not consider that a clear justification has been provided in this case.

Conclusion

107. I have concluded that the proposal would conflict with Policies ST 1, ST 3 and ST 5, which seek to confine housing development to within the built-up area boundaries, with Policy DM 29, which seeks to protect trees, and with Policy DM 31 which seeks to protect agricultural land.
108. On the other hand, it would accord with Policy DM 6, which seeks to manage traffic demand and impact (including in relation to air quality), with Policy DM 24, which seeks to protect landscape, with Policy CP 4, which promotes good design, with Policy CP 6, which seeks to ensure that the infrastructure required to serve development is provided and with Policies CP 7 and DM 28 which seek to avoid harm to SPAs and to secure BNG where possible. It would also accord with Policies DM 8 and DM 17 which relate to the provision of affordable housing and open space.

Appeal Decision APP/V2255/W/23/3318448

109. Even so, given the conflict with policies relating to the development strategy of the LP, I conclude that the proposal is in conflict with the development plan as a whole.
110. It is therefore necessary to see if there are other considerations that indicate a decision other than in accordance with the development plan. In this case the approach to decision making set out in paragraph 11(d)(ii) of the Framework is engaged. There is no conflict with policies of the Framework that protect areas or assets of particular importance. It follows that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
111. I consider that the proposal would accord with the policies of the Framework relating to boosting the supply of housing, transport, the natural environment (including in relation to landscape, biodiversity, habitats and air quality), and the historic environment. The proposal would therefore accord with the policies of the Framework taken as a whole.
112. For the reasons given above, I attach moderate weight to the conflict with Policy DM 31 (agricultural land). However, I attach only limited weight to the conflicts with Policy DM 29 (trees) and Policies ST 1, ST 3 and ST 5 (built-up area boundaries).
113. On the other hand, I attach substantial weight to the delivery of housing, including affordable housing, moderate weight to the economic benefits and moderate weight to the provision of open space and enhanced recreational routes.
114. My overall assessment is that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. This finding outweighs the conflict with the development plan. The appeal should therefore be allowed and planning permission granted.

David Prentis

Inspector

Appeal Decision APP/V2255/W/23/3318448

APPEARANCES

FOR THE APPELLANT:	
Guy Williams	King's Counsel, instructed by John Mackenzie of Gladman Developments Limited
Ben Pycroft DipTP MRTPI	Director, Emery Planning
Gary Holliday BA(Hons) M Phil FLI	Senior Director, FPCR
Malcolm Watson BSc MCIEH AMIOA	Technical Director, Wardell Armstrong
Simon Helme BEng (Hons) MSc MCIHT	Director, Ashley Helme Associates
John Mackenzie BSc DipTP MRTPI	Planning Director, Gladman Developments Limited
FOR THE LOCAL PLANNING AUTHORITY:	
Mark Westmoreland Smith	of Counsel, instructed by Cheryl Parks, Mid Kent Legal Services, Swale Borough Council
Stuart Watson BA MA MRTPI	Principal Planning Policy Officer, Swale Brough Council
Peter Radmall MA BPhil CMLI	Landscape Architect
William Allwood BA(Hons) PGDip MRTPI	Major Applications Team Leader, Swale Brough Council
INTERESTED PARTIES:	
Cllr Stephen Harvey	Newington Parish Council
Cllr Richard Palmer	Swale Borough Council
Cllr Christine Palmer	Swale Brough Council
Richard Harrington	Local resident
Joseph Doherty	Local resident
Robert Lee	Local resident
Carole Buttle	Local resident
Mr Buttle	Local resident

Appeal Decision APP/V2255/W/23/3318448

DOCUMENTS SUBMITTED AT THE INQUIRY

ID1	Statement by the Centre for Health Services Studies
ID2	Proposed access arrangements – Drawing 1466/01 Rev C
ID3	Pond Farm ownership plan
ID4	List of appearances for the appellant
ID5	Opening submissions for the appellant
ID6	Opening submissions for the Council
ID7	Email from Dr Ashley Mills dated 18 July 2023
ID8	Updated Statement of Common Ground on housing land supply
ID9	Speaking notes for Cllr Harvey
ID10	Speaking notes for Cllr Richard Palmer
ID11	Speaking notes for Cllr Christine Palmer
ID12	Speaking notes for Carole Buttle
ID13	<i>Gladman Developments Limited v Secretary of State</i> [2017] EWHC 2768 (Admin)
ID14	<i>Gladman Developments Limited v Secretary of State</i> [2019] EWCA Civ 1543
ID15	Closing submissions for the Council
ID16	Closing submissions for the appellant
	<i>Submitted after the Inquiry:</i>
	Section 106 Agreement dated 3 August 2023

Appeal Decision APP/V2255/W/23/3318448

CONDITIONS

- 1) Details relating to the landscaping, layout, scale, and appearance of the proposed dwellings (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters referred to in Condition (1) must be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of outline planning permission.
- 3) The development to which this permission relates must commence within two years of the date of approval of the final reserved matter to be approved.
- 4) The development hereby approved shall be carried out in accordance with the following approved drawings:
 - 06363-FPCR-XX-XX-DR-L-0006 Rev 02 (site location plan)
 - 1466/01 Rev C (proposed access arrangements)
- 5) The details submitted pursuant to Condition 1 (the reserved matters) shall be in general accordance with the development framework plan (6363-L-04 Rev M).
- 6) The number of residential units to be constructed within the development hereby approved shall be limited to a maximum of 135 units.
- 7) The details submitted pursuant to condition (1) (the reserved matters) shall include plans and sections indicating finished floor levels of buildings, levels and gradients of roads and footways and levels of green infrastructure and drainage features, all shown in relation to existing site levels.
- 8) The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of Secure by Design.
- 9) The details submitted pursuant to condition (1) (the reserved matters) shall include:
 - a) A contextual study looking at the physical, social and economic context of the site. The detailed layout shall provide a reflection of urban forms, block patterns, development to space relationships, open space typologies, local landscape character, local habitat creation and patterns of vegetation, boundary treatments and architectural vernacular details that are characteristic of the locality.
 - b) Evidence that the maximum height and extent of proposed dwellings does not result in an extension of the visual envelope of the development as identified in Figure 6 of the Landscape and Visual Assessment Rev C (January 2022).

<https://www.gov.uk/planning-inspectorate>

23

Appeal Decision APP/V2255/W/23/3318448

- 10) The details submitted pursuant to condition (1) (the reserved matters) shall include a lighting design plan for biodiversity. The plan shall show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and shall be permanently retained as such thereafter.
- 11) Prior to felling of trees or demolition of buildings in any phase within the phasing plan approved pursuant to Condition 34, a further bat survey shall be undertaken for that phase and submitted to and approved in writing by the Local Planning Authority. The survey shall identify any actions required to mitigate against harm to bats. Thereafter the development shall be undertaken in accordance with the approved survey.
- 12) The details submitted pursuant to condition (1) (the reserved matters) shall include an updated ecological survey and mitigation strategy. The mitigation strategy shall include details of:
- a) plans and details showing the location of the retained, enhanced and created hedgerows and such information as necessary to demonstrate how the open spaces indicated in the development framework plan will be created;
 - b) how retained / enhanced hedgerows and associated features will be protected during the construction phase;
 - c) filling of any gaps in existing hedgerows to be retained;
 - d) protection of new planting during early growth stages; and
 - e) bird and bat boxes.

The development shall be carried out in accordance with the approved updated ecological survey and mitigation strategy and shall be permanently retained as such thereafter.

- 13) The details submitted pursuant to condition (1) (the reserved matters) shall include a Landscape and Ecological Management Plan (LEMP). The content of the LEMP shall include the following:
- a) description and evaluation of features to be managed (including a planting schedule and faunal enhancements recommended in the Ecological Appraisal Rev A dated 15/06/2022 and Letter from FPCR dated 10 May 2023 ref: 6363/LM);
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management;
 - d) appropriate management options for achieving aims and objectives;

Appeal Decision APP/V2255/W/23/3318448

- e) details of the body or organisation responsible for implementation of the plan; and
- f) ongoing monitoring and remedial measures.

The development shall be implemented in accordance with the approved LEMP and shall be permanently retained as such thereafter.

- 14) The details submitted pursuant to condition (1) (the reserved matters) shall include details of how the development will achieve a biodiversity net gain. This will include a native species-only landscape scheme, integrated bird bricks and details of the degree of biodiversity net gain. The development shall be implemented in accordance with the approved details and shall be permanently retained as such thereafter.
- 15) Prior to the commencement of the development hereby approved an arboriculture method statement and tree protection plan in accordance with BS5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The approved arboriculture method statement and tree protection plan shall be adhered to throughout the construction phase of the development.
- 16) The details submitted pursuant to condition (1) (the reserved matters) shall include an updated Landscape Strategy. The landscaping shall comprise native species only. The strategy shall include a programme for implementation. The development shall be implemented in accordance with the approved Landscape Strategy and shall be permanently retained as such thereafter.
- 17) Prior to the commencement of development hereby approved, a retention and management plan for the retained farm buildings identified in the Pegasus Ltd Archaeology and Built Heritage Statement (P20-0179 December 2021) shall be submitted to and approved in writing by the Local Planning Authority. The retention and management plan shall set out how the retained farm buildings will be protected during the constructional and operational phases of the development. The development shall be implemented in accordance with the approved retention and management plan and shall thereafter be retained as such until a scheme for the re-use of the buildings has been lawfully implemented.
- 18) No development shall take place prior to the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.
- 19) No construction work in connection with the development hereby approved (excluding impact pile driving dealt with by Condition 20) 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

<https://www.gov.uk/planning-inspectorate>

25

Appeal Decision APP/V2255/W/23/3318448

unless in association with an emergency.

- 20) No impact pile driving in connection with the construction of the development hereby approved 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

- 21) No piling or any other foundation designs using penetrative methods shall be undertaken until a Piling Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Piling Method Statement shall demonstrate that there would be no unacceptable risk to groundwater. The development shall be carried out in accordance with the approved Piling Method Statement.
- 22) No development hereby approved shall commence until a strategy to deal with any potential risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved strategy. This strategy shall include the following components:
- a) A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways, and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation scheme, based on (a), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (b). This shall give full details of the remediation measures required and how they are to be undertaken. The RMS shall also include a verification plan to detail the data that will be collected 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 shall require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.
 - d) 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 shall 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.

Appeal Decision APP/V2255/W/23/3318448

- 23) Prior to the commencement of the development hereby approved, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following information:
- 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; and
 - e) temporary traffic management / signage.

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

- 24) Prior to the commencement of the development hereby approved, 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 construction of the development shall then be carried out in accordance with the approved Construction Method Statement.
- 25) Prior to the commencement of the development hereby approved, an Acoustic Design Statement (ADS) shall be submitted to and approved in writing by the Local Planning Authority. The ADS shall include details of mitigation measures to protect gardens and dwellings within 40m of London Road from traffic noise. The ADS shall demonstrate how a maximum internal noise level of 35dB_(A) (Fast) with windows closed and a maximum noise level for outdoor amenity areas of 55dB_(A) shall be achieved. The development shall be carried out in accordance with the approved ADS and thereafter shall be permanently retained as such.
- 26) Development shall not begin in any phase within the phasing plan approved pursuant to Condition 34 until a sustainable surface water drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall demonstrate that the surface water generated by that phase of 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.
- 27) Prior to the commencement of the development hereby approved, a detailed strategy for identification and protection of foul sewers within the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

<https://www.gov.uk/planning-inspectorate>

27

Appeal Decision APP/V2255/W/23/3318448

- a) a clearance of 3 metres on either side of the 150mm gravity foul sewer to protect it from construction works and to allow for future access for maintenance;
- b) no soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features shall be located within 5 metres of the public or adoptable apparatus;
- c) proposals for investigations of any sewer found during construction works to ascertain its ownership;
- d) information detailing how the developer intends to divert the asset or align the development, so as to prevent the potential for damage to sewer infrastructure; and
- e) how access to the sewer will be maintained for the maintenance and repair of the asset during and after the construction works.

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

- 28) Prior to the commencement of the development hereby approved, details of the proposed means of foul sewage disposal 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 and shall thereafter be permanently retained as such.

- 29) Prior to commencement of the development hereby approved, a detailed strategy for identification and protection of gas mains within the vicinity of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall ensure that no mechanical excavations take place above or within 0.5m of the low pressure system, 0.5m of the medium pressure system and 3m of the intermediate pressure system.

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

- 30) The details submitted pursuant to condition (1) above (the reserved matters) shall provide:

- a) residential vehicle parking and turning space in accordance with the Swale Borough Council Parking Standards (May 2020); and
- b) one secure and sheltered bicycle store for each dwelling within the site.

The development shall be carried out in accordance with the approved details and permanently retained as such thereafter.

- 31) Before the first occupation of each dwelling hereby permitted the following works between that dwelling and the adopted highway shall be completed:

<https://www.gov.uk/planning-inspectorate>

28

Appeal Decision APP/V2255/W/23/3318448

- a) footways and/or footpaths, with the exception of the wearing course; and
 - b) carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures.
- 32) The development hereby approved shall not commence until details of fixed telecommunication infrastructure and High-Speed Fibre Optic connections to all residential buildings have been submitted to and approved in writing by the Local Planning Authority. The infrastructure for any dwelling shall be installed in accordance with the approved details prior to the occupation of that dwelling and maintained thereafter.
- 33) Prior to the first occupation of the development hereby approved, a Full Travel Plan based on the principles set out in the Travel Plan (January 2022 Report Reference 1466/8/C) shall be submitted to and approved in writing by the Local Planning Authority. The Full Travel Plan shall include:
- a) measures for promoting sustainable modes of travel to residents of the development:
 - making available a National Railcard for each completed dwelling, providing one-third off rail fares in London and the south-east, for a five year period from occupation; and
 - making available a bus pass for each completed dwelling, covering bus service route numbers 326 / 327 between Chatham and Sittingbourne, for a twelve month period from occupation;
 - b) arrangements for monitoring and reviewing the Travel Plan's objectives;
 - c) appointment of a Travel Plan Co-Ordinator;
 - d) Travel Information Packs for the first occupiers of each completed dwelling; and
 - e) measures for disseminating updated sustainable travel information and Travel Plan updates to residents for the duration of the Travel Plan's lifetime.

The Full Travel Plan shall be implemented in accordance with the approved details and the development shall be carried out and operated in accordance with the agreed Travel Plan thereafter.

- 34) No development shall commence until a site-wide phasing plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the provisions of the approved phasing plan.

End of schedule of conditions

This page is intentionally left blank



Appeal Decision

Site visit made on 27 June 2023

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th August 2023

Appeal Ref: APP/V2255/W/22/3303164

Bells Forstal Farm, Throwley Road, Throwley ME13 0JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr & Mrs R Scutt against the decision of Swale Borough Council.
 - The application Ref 21/506896/PNR, dated 20 December 2021, was refused by notice dated 7 March 2022.
 - The development proposed is Change of use of 1no. Building and land within its curtilage from a use as agricultural to a flexible use falling within a Mixed Class B8 (Storage) and B1 (Light Industrial).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Use Class B1 (Light Industrial), as stated in the appellants' description of development was amongst the use classes removed by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No.757). Class B1 (Light Industrial) is now effectively Class E(g)(i) within the Town and Country Planning (Use Classes) Order 1987 (as amended). I have determined the appeal on this basis, and I am satisfied that doing so would not prejudice the interests of any party.
3. In having regard to the judgement in *Dunoon Developments Ltd v SSE & Poole BC* [1993] 65 P&CR (page 101), the Council has withdrawn its first reason for refusal in respect of the proposed change of use being contrary to condition 2 of the planning permission (ref. 20/503357/FULL) granted for the agricultural building the subject of this appeal. Based on the evidence before me, I have no reason to disagree with the Council's conclusion on this matter.

Main Issues

4. The main issues are:
 - Whether or not the proposed development would constitute permitted development in respect of Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), and;
 - If the proposal is permitted development, whether prior approval is required as to: (i) transport and highways impacts of the development;

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/22/3303164

(ii) noise impacts of the development; (iii) contamination risks on the site; and (iv) flooding risks on the site.

Reasons

Whether the proposal would be permitted development

5. Schedule 2, Part 3, Paragraph W(3) of the GPDO, enables a local planning authority to refuse an application for prior approval where the proposal does not comply with any conditions, limitations or restrictions specific in this Part and being applicable to the development in question.
6. Schedule 2, Part 3, Class R of the GPDO grants planning permission for the change of use of a building and any land within its curtilage from an agricultural use to a flexible use falling within one (my emphasis) of the Use Classes listed.
7. The use of the word 'or' between the list of Use Classes in Schedule 2, Part 3, Class R of the GPDO, emphasises that the grant of planning permission permits the change of use of an agricultural building to one of those uses in the list.
8. Furthermore, Paragraph R.4. of Schedule 2, Part 3, Class R of the GPDO, which aids interpretation, states that a flexible use means use of any building or land for a use (singular) falling with the list of uses set out in Class R.
9. It follows that the appeal proposal, which proposes to change the use of the same area of floor space within the building from an agricultural use to a mixed use of more than one of the Use Classes listed in Schedule 2, Part 3, Class R of the GPDO, would not be development permitted by the GPDO.
10. I note the appellants' desire for flexibility to allow for either a storage or light industrial use of the building to come forwards. Schedule 2, Part 3, Class R of the GPDO, allows a change of use between any use in the list of flexible uses subject to specific conditions, limitations and restrictions. However, Schedule 2, Part 3, Class R of the GPDO does not permit a mixed use of the same floor space within a building.

Whether prior approval is required

11. Having found that the proposal would not be permitted development, it is not necessary for me to consider the prior approval matters within paragraph R.3 (1)(b) of Schedule 2, Part 3, Class R of the GPDO, as it would not alter the outcome of the appeal.

Conclusion

12. For the reasons given and based upon the evidence before me, I conclude that it has not been demonstrated that the proposal is permitted development under Article 3(1) and Schedule 2, Part 3, Class R of the GPDO. The appeal is therefore dismissed.

G Sylvester

INSPECTOR

<https://www.gov.uk/planning-inspectorate>

2



Appeal Decision

Site visit made on 28 June 2023

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 15th August 2023

Appeal Ref: APP/V2255/C/21/3287191

61 Playstool Road, Newington, Sittingbourne, ME9 7NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Rosaria Rodrigues against an enforcement notice issued by Swale Borough Council.
 - The notice was issued on 3 November 2021.
 - The breach of planning control as alleged in the notice is Without planning permission the following development has taken place:
A first floor rear extension not built in accordance with approved plans under application 16/503414/FULL.
A sloped tile roof above the existing rear ground floor extension extending up to the original eaves height of the existing dwelling.
A 'lean to' roof to the front and side elevations of the dwelling which is not in accordance with the plans approved under application 16/503414/FULL.
A single storey extension to the rear of the dwelling which projects 3 metres from the rear wall and across the full width of the dwelling.
The requirements of the notice are
 - (i) Dismantle and remove the first floor rear extension.
 - (ii) Dismantle and remove the sloped tile roof located above the existing rear ground floor extension.
 - (iii) Dismantle and remove the lean to roof from the front and side elevations of the dwelling.
 - (iv) Dismantle remove the single storey rear extension.
 - (v) Remove all materials rubble and debris caused in complying with steps (i) to (iv) above from the Land.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - i) Deleting the allegation in full and replacing it with "Erection of a first floor rear extension and a sloped tile roof above the existing rear ground floor extension extending up to the original eaves height of the existing dwelling."
 - ii) Deleting requirements (iii) and (iv) of the notice in full and replacing the wording "steps (i) and (iv)" with "steps (i) and (ii) in the last requirement."
2. Subject to the correction and variations, the appeal is dismissed and the enforcement notice is upheld.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/C/21/3287191

Preliminary Matters

3. The appeal is made under ground (f) only. In the absence of an appeal under ground (a), the planning considerations of the development are not matters that are before me for determination.

The Notice

4. Irrespective of the grounds of appeal, the Inspector has a duty to put the notice in order. There are four elements to the allegation. However, the reasons for the notice do not include the lean to roof, the single storey rear extension or the sloped tile roof. The Council has subsequently indicated that the lean to roof and the single storey rear extension are not harmful to visual or residential amenity.
5. This view accords with the Council's delegated report for '*Retrospective application for the erection of a single storey rear extension, first floor rear extension, loft extension and lean to roof at front and side of dwelling (resubmission of 18/502531/FULL)*'. I will therefore remove the lean to roof and the single storey rear extension from the allegation and the requirements. As the appellant considers the sloped tile roof to be part of the first floor extension and the reasons for that extension are the same as for the sloped tile roof, no further amendments are necessary. I do not consider that the amendments cause injustice to any party and will amend the notice accordingly.

The appeal under ground (f)

6. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. As the notice as amended requires the removal of the first floor extension and the sloped tile roof, the purpose of the notice is to remedy the breach.
7. With regard to the requirement to remove the extension, the appellant proposes 'modifying the existing roof to a hipped end which would be no higher than the existing roof and that should be in compliance with planning regulations.' However, the appellant's proposal includes an assessment of planning merits of an alternative scheme which I am unable to assess under ground (f).
8. The appellant also proposes dismantling the sloped tile roof in accordance with the requirement and installing a sloped roof in accordance with the approved plan. Planning permission was granted on the 1 July 2016 for "erection of a first floor extension, roof alterations to extend the existing loft conversion and lean to roof to the front and side of dwelling." There is a new smaller section of roof shown on the single approved plan of the previous planning permission but the Council states that the planning permission lapsed in July 2019.
9. However, the Council also refers to the enforcement notice being issued as the appellant would not revert back to the previous planning permission. Reverting to the previous planning permission was also referred to as an option after the

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/C/21/3287191

issue of the appeal decision for the appeal site in February 2020. The position with regard to the previous planning permission is further complicated by the appellant only wishing to rely upon the approved plan for the sloped tile roof and not for the extension itself. Any alternative needs to address what is proposed for the whole of the roof not just part of it and involves consideration of planning merits which are outside the remit of this appeal.

10. The requirements of the notice in requiring removal of the extension and the sloped tile roof are not excessive when the purpose of the notice is to remedy the breach. The appeal under ground (f) therefore fails.

Other matters

11. There are objections from nearby residents which relate largely to planning matters. Whilst some objectors assume that the appellant will be reverting to the previously approved scheme, the requirements of the notice are limited to the removal of the development within the compliance period.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall correct and vary the notice prior to upholding it.

E Griffin

INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 2 August 2023

by **John Felgate BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 17th August 2023

Appeal Ref: APP/V2255/W/22/3307802

Land to rear of No 6 Orchard Grove, Minster-on-sea, Kent ME12 3PD

- 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 Adrian Sherrad against the decision of Swale Borough Council.
 - The application Ref 22/503616/FULL, dated 23 July 2022, was refused by notice dated 26 September 2022.
 - The development proposed is a 2-bedroom bungalow and associated landscaping.
-

Decision

1. The appeal is dismissed.

Main issues

2. From the submissions before me, the main issues in the appeal are:
 - the effects of the proposed development on living conditions at the adjoining property No 6 Orchard Grove, due to visual impact;
 - and the effects on the future occupiers of the proposed development itself, with regard to overlooking and privacy.

Reasons for decision

Visual impact on No 6 Orchard Grove

3. Orchard Grove is a cul-de-sac of mainly 2-storey houses with some bungalows, mostly on reasonably generous plots. The appeal site comprises a small area of garden land, said to have been originally attached to No 6 Orchard Grove, but subsequently transferred to No 5. As a result, No 6's remaining garden is shorter than most others in the street. At the rear, the appeal site has a frontage to Whybornes Chase, a residential street with mainly bungalows.
4. The land slopes down markedly, from Whybornes Chase towards Orchard Grove, so that the level within the appeal site is significantly higher than the ground on which the existing property No 6 is built. As a result, there would be the potential for any new building on the site to appear overbearing and over-dominant, when seen from No 6's ground floor windows, or from the lower part of its relatively short rear garden.
5. In the present proposal, the proposed new dwelling would have only a single storey, and its roof would have quite a shallow pitch and hipped ends. It would

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/22/3307802

also be positioned end-on, so that the elevation facing No 6 would be one of its shorter sides. These features would help to reduce the potential impact on No 6, to some degree. But nevertheless, the fact remains that the levels are unfavourable, and this presents a significant obstacle to designing a scheme in which the impact on the adjoining property would be acceptable.

6. From the information submitted, it is not clear to what extent it would be possible to sink the new building into the ground, nor to what degree that would relieve the potential impact. Furthermore it seems likely that the scope for such mitigation may also be affected by technical considerations such as the access gradient, and the need for satisfactory drainage, on which no clear information is before me. In the absence of any further evidence, it seems to me that the bungalow now proposed would be likely to have an unacceptably dominant and oppressive effect on the occupiers of No 6 Orchard Grove.
7. This impact would adversely affect living conditions at the affected property. As such, the scheme would be contrary to Policy DM14 of the Swale Borough Local Plan (the SBLP), adopted in July 2017, which seeks amongst other things to ensure that developments avoid harm to amenity.

Overlooking and privacy at the new dwelling

8. In addition, the whole of the outdoor garden area of the new dwelling would be overlooked at fairly close range from No 6's first floor windows. Some screening is provided by existing trees, vegetation and structures within No 6's garden, but there is no certainty that these will always remain. Boundary fencing of up to 6 feet in height would also appear to provide only limited protection, especially given the difference in levels. No evidence is before me to suggest that this likely adverse effect on the privacy of the occupants of the new property could be satisfactorily overcome.
9. The development would therefore fail to provide acceptable living conditions for the new bungalow's future occupiers, due to the lack of privacy within the external garden space. This shortcoming adds further to the conflict already identified with SBLP Policy DM14.

Other matters

Potential effects on Special Protection Area

10. The appeal site lies less than 6km from the Swale Special Protection Area (SPA), which is designated at international level because of its special ecological importance for rare and vulnerable bird species. Within this distance around the SPA, the Council is concerned, on the advice of Natural England, that any new residential development is likely to add to the existing pressures and disturbance experienced by the SPA, in terms of recreational use, dog walking and predation by domestic pets. Under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), planning permission may not be granted for development likely to have a significant adverse effect on the SPA, either alone or in combination with others.
11. The Council, together with neighbouring authorities and Natural England, has developed a scheme of Strategic Access Management and Monitoring (SAMMs), which enables the potential impacts of individual developments to be mitigated by means of a financial contribution, secured by a Section 106 obligation. In the present case however, the need for such a contribution is disputed.

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/22/3307802

12. The SAMMs method of mitigating possible impacts is well established, not just in this part of Kent, but in many other areas of the country, and I am well aware that in the majority of cases, the justification for seeking such contributions is not contested. But nevertheless, wherever a planning obligation is sought, it must be capable of being shown to meet the tests set out in paragraph 57 of the National Planning Policy Framework (the NPPF).
13. In the present case, the information before me is limited. The appeal site is not within the SPA itself, and therefore the reason for anticipating any potential adverse effect rests on its inclusion within the 6km buffer zone around that area. However, the buffer zone itself is not part of the designated SPA, nor does it appear to be the subject of any specific policy or designation in the development plan. SBLP Policy DM28 supports the general approach of protecting internationally designated sites, but makes no mention of any buffer zone, or of any requirements applying outside of the designated areas themselves.
14. Clearly, none of this necessarily means that the Council's approach cannot be justified. However, in terms of the information which has been put before me, the evidence is somewhat lacking. The arguments made by the appellant on this matter are also very limited, but that does not relieve the Council of the need to demonstrate that the requested contribution has some basis, either in the relevant legislation or in development plan policy.
15. Based on the evidence before me therefore, I find that the case for the requested mitigation is inconclusive. In this case however, in view of my conclusions on the main issues discussed earlier in this decision, this does not affect the outcome of the appeal.

Other considerations

16. In Whybornes Chase, the two bungalows known as Woodpeckers and Little Acorns were built on another parcel of former garden land that, like the appeal site, was at one time attached to 6 Orchard Grove. The present appeal site has a similar relationship to Whybornes Chase, and similar levels, and the development now proposed would be similar in scale to these two dwellings. But neither Woodpeckers nor Little Acorns has another dwelling directly behind, and the issues arising are therefore not comparable.
17. To the south of these two dwellings, there are no buildings fronting the west side of Whybornes Chase, and as a result, this part of the road has a more open character. However, the view of the rear fences along this section is not especially attractive, and therefore in general terms I agree with the appellant that some form of development on the appeal site need not harm the street's character or appearance. However, the scheme now proposed is particularly bland and uninteresting in terms of its design. The failure to take advantage of the opportunity to improve the area's visual quality, through better design, adds some further weight against the proposal.
18. I note the comments of the occupier of No 6 Orchard Grove with regard to surface water drainage, and the impacts said to have been experienced at that property as a result of other developments. The documents submitted in support of the present application and appeal appear to contain no information on this matter. Nevertheless, there seems no reason to doubt that a technical solution could be devised. Although no draft condition has been suggested by

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decision APP/V2255/W/22/3307802

the Council, there seems no reason why a condition could not have been devised to deal fully with this issue. In any event, in the light of my conclusions elsewhere in this decision, I do not need to consider the matter further.

19. I fully accept that new-build bungalows are relatively rare. I have no reason to doubt that there is a high demand for such properties in the area, particularly for the elderly or disabled, and that the appeal proposal would help to fill this gap in the market. I have taken this into account, but it does not outweigh the harm that I have identified.

Conclusion

20. The proposed development would cause harm to the living conditions of the occupiers of No 6 Orchard Grove, due to its overbearing visual impact, and would fail to provide good living conditions for its own future occupiers, due to the overlooking that they would suffer. In these respects the scheme would conflict with SBLP Policy DM14. The development would also cause moderate harm to the area's character and appearance due to its poor design.
21. This harm, and resultant conflict with the development plan, is not outweighed by the benefit of providing a single-storey dwelling. None of the other matters raised adds any weight, either for or against the development. Consequently, the balance as a whole weighs against granting permission.
22. The appeal is therefore dismissed

J Felgate

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 7 August 2023

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **21 August 2023**

Appeal Ref: APP/V2255/D/23/3315698

1 The Kennels, Rushett Lane, Norton, Kent ME13 0SG

- 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 Neil Blythe against the decision of Swale Borough Council.
 - The application Ref 22/504138/FULL, dated 22 August 2022, was refused by notice dated 11 November 2022.
 - The development proposed is a single-storey rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a single-storey rear extension at 1 The Kennels, Rushett Lane, Norton, Kent ME13 0SG in accordance with the terms of the application, Ref 22/504138/FULL, dated 22 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan, Block Plan and Existing and Proposed Elevations and Floor Plans (Drawing Number PL001 Revision 5).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The bond of brickwork used in the construction of the development hereby permitted shall match that used in the existing building.

Procedural Matter

2. An amended plan was submitted during the course of the application. The Council made its decision against this plan and I shall determine the appeal on the same basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the host building and the surrounding area.

Reasons

4. The appeal site comprises part of a 19th Century former kennels building, which has been converted into six dwellings. No 1 The Kennels is located in one of two single-storey wings linked by a two-storey element, with an attractive courtyard to the centre. The building is detached from Rushett Lane, to the rear of existing dwellings and beyond several mature trees.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/D/23/3315698

5. The development proposes a single-storey rear extension. The extension would be positioned adjacent to an existing lean-to element, which is part of the neighbouring property. The proposed extension would be small in scale with a lower ridge height than the host dwelling. The scale and orientation of the extension would represent a sensitive addition that would preserve the linear form of the host dwelling. Furthermore, the use of matching external facing and roofing materials would ensure that the extension blends well with the host building. The development would therefore conserve the character and appearance of the former kennels building, particularly the pleasant courtyard on the opposing side of the host dwelling.
6. I acknowledge the content of the Supplementary Guidance, 'The Conservation of Traditional Farm Buildings', in particular paragraph 5.10 relating to extensions. This states that it is not normally considered appropriate to extend traditional buildings. However, the guidance does not specifically prohibit the extension of such buildings and, as the proposed development would be a sympathetic addition and would preserve the character of the building, the proposal would accord with this guidance.
7. I conclude that the proposed extension would comprise a sympathetic and proportionate addition to the host dwelling and preserves the character and appearance of the site and the surrounding area. On this basis, the proposed development accords with Policies DM 11, DM 14 and DM 16 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017, which seek to ensure that extensions are of an appropriate scale, mass and appearance, respond positively to the style and character of the building being extended and preserve architectural and historic features of interest.

Conditions

8. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. In order to protect the character and appearance of the area, I have also imposed conditions requiring the external materials and the bond of brickwork used in the construction of the extension to match those of the existing building.

Conclusion

9. The proposal would accord with the development plan as a whole and there are no other considerations, which would indicate that a decision should be made otherwise. Therefore, for the reasons given, I conclude that the appeal should be allowed.

J Pearce

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 15 August 2023

by **A Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **22 August 2023**

Appeal Ref: APP/V2255/W/22/3301524

Fairview, Lower Road, Tonge ME9 9BT

- 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 Attree against the decision of Swale Borough Council.
 - The application Ref 22/500680, dated 9 February 2022, was refused by notice dated 19 May 2022.
 - The development proposed is the erection of three x 4 bed detached dwellings with associated parking and amenity space; with new vehicular highway access.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the site is a suitable location for housing, having particular regard to the accessibility of services and facilities;
 - the effect of the proposed development on the character and appearance of the countryside; and
 - the effect of the proposed development on highway safety.

Reasons

Appropriateness of location

3. The appeal site forms a parcel of land positioned adjacent to the established residential property known as Fairview. In that context the site cannot reasonably be described as 'isolated' within the terms of National Planning Policy Framework (the Framework) paragraph 80. Nevertheless, the appeal site undisputedly falls outside of any defined settlement boundaries and therefore within the open countryside.
4. The nearest settlement is Teynham, which provides some services including local shops, public houses and a community hall. Bapchild and Sittingbourne lie further afield, providing a greater number of services and facilities.
5. I accept that the distance between the appeal site and Teynham is similar to that of Fairview, at approximately 500m away from the site, although many of the services within the village would be further away than this. To reach services in Teynham, individuals would need to proceed along Lower Road by foot or bicycle, which is narrow, does not have a dedicated footway, substantial verge or street lighting. This would be particularly undesirable in winter

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/22/3301524

months, after dusk or during inclement weather conditions. I also acknowledge that there are public rights of way in the area, including next to 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. Moreover, the nearest bus stop and railway station are located some distance away from the site, accessed along those same unsatisfactory routes.

6. Paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the occupants of the proposed dwellings would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of satisfactory cycling and walking routes and a lack of public transport facilities within a reasonable distance of the site.
7. My attention is drawn to an approved barn conversion at nearby Frogmal Farm. However, I have only very limited information before me in this regard, including the site's planning history or context. Nevertheless, as an existing building, that site's context and circumstances are not directly comparable with those before me. Accordingly, I have considered this appeal on its own individual circumstances. Similarly, I noted during my site visit the existence of several recent housing developments and construction sites within the surrounding area. By reason of their location, these are not subject to the same site circumstances as the scheme before me, and have not led me to an alternative conclusion on this main issue.
8. For the above reasons, I conclude that the appeal site forms an inappropriate location for the development, contrary to the relevant provisions of Policies ST1, ST3, CP3, DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Local Plan (LP, adopted 2017). These policies, when taken as a whole, seek to deliver sustainable development in appropriate places and to minimise the need to travel, as well as to facilitate sustainable transport. This is in a similar vein to the objectives of the Framework insofar as sustainable transport is concerned.

Character and appearance

9. Despite some scattered buildings, the area that immediately surrounds the appeal site is verdant and rural in character, made up of open fields and mature landscaping. The appeal site, predominantly formed of a mature orchard, is highly visible from Lower Road and contributes to this rural and verdant character. Lower Road itself retains the appearance of a rural lane, narrow and lined by mature hedgerows.
10. I accept that the appeal site is fairly self-contained, accessed from Lower Road and separated from surrounding fields by mature boundary landscaping. Nevertheless, and irrespective of the site's current association with Fairview, its features do not in my view give it a domestic or traditional garden character.
11. Although positioned to the rear of Fairview, the proposed development would be visible, at least in part, from Lower Road and from within the surrounding countryside. The scheme would introduce three domestic buildings in a clearly countryside location, eroding the rural character of the site and surrounding area. Even if landscaping were to be retained or enhanced on the site and some areas left over for garden space, the site's currently open appearance

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/22/3301524

would be lost to development, including the inevitable hard surfacing and paraphernalia typical of domestic properties. Moreover, landscaping cannot be relied upon in perpetuity to provide the same level of screening as at present. The proposed development would have a harmful urbanising effect on the countryside and on the rural lane character of Lower Road.

12. I note the appellant's reference to the site forming previously developed land. The Framework sets out, in its glossary, a definition of previously developed land. This includes land which is or was last occupied by a permanent structure, including the curtilage of the developed land. Even were I to accept that the site could reasonably be defined as previously developed land, the Framework is clear that it should not be assumed that the whole of the curtilage should be developed. Moreover, the relevant provisions of the development plan, including in respect of design, do not fall away in the case of previously developed land and must still be taken into consideration.
13. For the reasons above, I conclude that the proposed development would cause significant harm to the character and appearance of the countryside, contrary to the relevant provisions of LP Policies ST1, ST3, CP3, DM14, DM24, DM26 and DM29. These policies, in summary, seek to direct development towards existing settlements, protect the intrinsic character and beauty of the countryside and ensure that new development is of a high quality. This is in a similar vein to the objectives of the Framework insofar as good design and the protection of landscape is concerned.

Highway safety

14. Vehicular access to the proposed development would be provided off Lower Road, leading to a shared driveway serving the three new properties. Parking spaces are indicated in front of the dwellings.
15. The Council sets out concerns in respect of the ability for service vehicles to access and turn within the site. Although the appellant sets out that service vehicles could manoeuvre within the site, no clear evidence, such a swept path analysis, has been provided to allow me to conclude on this matter.
16. The Council also sets out concerns relating to visibility splays at the newly proposed site access. Such details do not form part of the appellant's submission. Lower Road is a narrow but relatively fast (60MPH) road with two-way traffic. High hedges exist on both sides near the proposed site entrance and the road curves slightly in this location, limiting visibility. There would undoubtedly be an increase in comings and goings in this part of Lower Road as a result of the proposed development. There is insufficient evidence before me to demonstrate that vehicles entering and exiting the proposed development could do so without harming highway safety.
17. Consequently, I conclude that there is insufficient evidence before me to demonstrate that the proposal would have an acceptable effect on highway safety, contrary to the relevant provisions of LP Policy DM6. This policy, in summary, seeks to ensure that development proposals avoid negative impacts on highway and pedestrian safety.

Other Matters

18. The submitted evidence indicates that the Council cannot demonstrate a five-year housing land supply. As such, and noting the Government's objective of

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decision APP/V2255/W/22/3301524

significantly boosting the supply of homes, the provisions of Framework paragraph 11.d are engaged. This sets out that where the policies which are most important for determining the application are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

19. Following assessment, there are no policies in the Framework relevant to the site which protect areas or assets of particular importance, and which provide a clear reason for refusal. As such, it is necessary to apply Framework paragraph 11.d(ii).
20. The proposed development would represent a contribution of three extra dwellings to housing supply in an area with an acknowledged lack of future provision. There, too, would be some other social and economic benefits of the proposed development, including in supporting employment during construction and the bringing about of trade to nearby services and facilities. However, these benefits would inevitably be limited given the scale and nature of the development proposed. Accordingly, and given the significant harm I have identified above, the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
21. The appellant has made reference to a future Teynham Area of Opportunity, which forms part of the emerging local plan. They set out that the appeal site would fall outside this area, and would become isolated within an area safeguarded for agriculture. However, I have no evidence before me of that emerging opportunity area or the status of the emerging policy more generally. In any event, it is not for me to review, or question, that emerging policy in the context of this scheme. Ultimately this matter has not led me to an alternative conclusion on the main issues.
22. I note the position of the site near to Grade II¹ and Grade II*² listed buildings. Froggnal Farmhouse forms a 16th Century, part timber framed, property. The barn is a large red brick building which originates from 1548 with 19th Century alterations. The significance of both buildings lies in their traditional form and historic value, best experienced from Lower Road.
23. There is no dispute between the Council and appellant that either the significance or setting of the listed buildings would be harmed by the proposed development. In exercising my duty to have special regard to the desirability of preserving that heritage asset, I have no reason to disagree with those findings. The listed buildings are perceived as a relatively discrete entities, separate and functionally and visually removed from the appeal site.
24. Although there would be some change to the relationship between the appeal site and the listed buildings through the site's redevelopment, the mitigating factors of the scheme, including the separation distance between the sites, intervening fields and mature landscaping, means that this change would be limited. For this reason, I find that the proposal would have a neutral effect on,

¹ List Entry Number: 1121138

² List Entry Number: 1069261

Appeal Decision APP/V2255/W/22/3301524

and would therefore preserve, the special historic interest and setting of the listed buildings. In the absence of any harm to these designated heritage assets, I conclude that the appeal proposal does not conflict with the development plan or the Framework's heritage policies in this regard.

25. I note the appellant's comments in respect of the scheme making an efficient use of the site, the standard of accommodation proposed, parking provision and the lack of alleged harm to neighbours' living conditions. Nevertheless, these matters are not in dispute between the Council and appellant and do not change my conclusion on the main issue.

Conclusion

26. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR

This page is intentionally left blank



The Planning Inspectorate

Appeal Decision

Hearing held on 27 September 2022

Site visit made on 27 September 2022

by **Timothy C King BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/V2255/W/19/3240859

Windmill Farm, Yaugher Lane, Hartlip, Kent ME9 7XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Shane Ince and Jade Williams against the decision of Swale Borough Council.
 - The application Ref 18/503627/FULL, dated 8 July 2018, was refused by notice dated 9 May 2019.
 - The development proposed is the renewal of temporary planning permission Ref 14/503384/FULL "Change of use of land to a residential caravan site, for one gypsy traveller family".
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a residential caravan site, for one gypsy traveller family at Windmill Farm, Yaugher Lane, Hartlip, Kent ME9 7XE, in accordance with the terms of the application Ref 18/503627/FULL, dated 8 July 2017, subject to the conditions in the attached Schedule.

Background

2. This small site, adjacent to Oak Barn Cottages, lies just north of a bridge over the M2 motorway. It sits just off a splayed driveway, and was effectively part of, but now is in different ownership to, a larger site which runs some distance back from Yaugher Lane. This adjoining land, narrow in shape, is also in use as a gypsy and travellers site, and enjoys planning permission for the siting of two mobile homes and associated utility blocks. This site had also been subject to a time limitation condition, but this restriction was lifted in 2018 following a successful appeal.
3. The piece of land, the subject of the current appeal, has been occupied by a gypsy and traveller family since 2015 and, in July of that year, a temporary planning permission was granted for its use by way of the siting of a single mobile home. The permission expired in July 2018, and an application for its renewal was then refused by the Council. This decision letter relates to an appeal lodged against the Council's decision to refuse planning permission.
4. The site is connected to the electricity and water mains and also benefits from a septic tank.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/19/3240859

Main Issues

5. These are whether the proposal represents an acceptable form of development having regard to the following matters:
 - national policy, and the objectives of the development plan in respect of gypsy and traveller accommodation; and
 - whether the occupiers of the site have satisfactory access to services and facilities.

Reasons

Policy matters

6. National policy is contained in the government's Planning Policy for Traveller Sites, 2015 (PPTS) which states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development. In addition, Councils should very strictly limit new traveller site developments in the open countryside that is away from existing settlements.
7. Policy H of the PPTS says that Councils should, amongst other things, consider the level of need for additional gypsy and traveller accommodation and the availability of alternative accommodation.
8. The Swale Borough Local Plan (LP), adopted in 2017, seeks the provision of a minimum of 61 gypsy and traveller pitches over the plan period. The LP does not allocate any pitches but instead relies on a windfall-based approach using the criteria in LP policy DM 10. This is explained in the explanatory text to LP policy ST3 'Swale Settlement Strategy' where paragraph 4.3.32 says that the Council does not need to make specific allocations for new pitches as most of the requirement for pitches during the plan period have already been met by planning permissions granted, with the remainder required being small.
9. However, it is accepted by the Council that this approach was based on the need evidence from the Council's Gypsy and Traveller Accommodation Assessment (GTAA), undertaken in 2013, and used at the time of the LP's examination in public. An updated GTAA was published in 2018, and was based on fieldwork carried out earlier that year. This confirmed an immediate need for at least 30 pitches in Swale within the first five years.
10. At the Hearing, the Council's Supplementary Statement (SS), dated June 2022, for the current appeal, which is concerned with the need and supply of gypsy and traveller sites, was examined in detail and its figures updated. In setting out the number of relevant planning permissions granted between March 2018 and March 2022, the SS calculated that the Council could not demonstrate a five year supply of such sites, with the figures showing only a supply of 3.5 years. A further update from its compilation, extending up to the date of the Hearing, showed this had now changed to suggest a supply of 4.3 years.
11. A previous appeal within Swale borough, regarding a gypsy and traveller site at St Thomas Yard, Holywell Lane, Upchurch (*APP/V2225/W/19/3220060*), also determined by a Hearing held in March 2022, had similarly revealed, at that time, a 3.5 years supply of sites. Given the updated analysis, I accept the revised findings.

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/19/3240859

12. An absence of a five year supply and unmet need forms the tenet of the appellants' case.
13. LP Policy DM10 indicates that for land in the open countryside, outside the built-up area boundaries, the Council will grant planning permission for gypsy & traveller sites where, amongst other things, it is demonstrated that there are exceptional mitigating and/or personal circumstances where it has been demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality, or the proposal is for an extension to, or stationing of, additional caravans at an existing site. A further requirement is that the development should be of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singularly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area or its landscape.
14. In July 2021, in response to the current appeal, the Council's initial representations mentioned that 24 permanent pitches had been granted planning permission between 2018 and 2021 and made the point that should the current rate of annual permissions continue, some 160 pitches will have been approved by 2037/38 (the end of the plan period). On this basis the Council indicates that the supply of sites is still running above what might notionally be needed via the Council's windfall approach.
15. Reference is made as to the Brotherhood Woodyard site within the borough, mentioned by both main parties, where controversy exists as to whether or not it is suitable for gypsies/travellers and, consequently, whether it should contribute to the supply. This could potentially provide 40 additional pitches. In this connection the Council cites previous appeal decision letters, all from 2018, and relating to different sites within the borough, where the respective Inspectors have commented on this matter; one saying that there is not now significant doubt as to the deliverability of the pitches on the Brotherhood Woodyard site. Nonetheless, the Council's SS refers to 'considerable debate' as to whether the site should be included. Several years after the said appeal decisions, the Council's comments are still not unequivocal on this matter.
16. Further, in the above regard the appellants make the point that the Brotherhood Woodyard site is owned by Irish gypsies. Notwithstanding that the appellants are Romani, which amounts to a clear distinction, it was put in evidence that the site is actually used to accommodate migrants.
17. The SS also indicates that, excluding the Brotherhood Woodyard site, over 37% of pitches needed for the entire GTAA period have been granted planning permission in 20% of the time. Accordingly, the figures have been amended since July 2021 and the Council now indicates that, should the rate of approval continue, approximately 115 pitches would have been granted by 2037/38 as against a need of 51.
18. As mentioned, the 2018 GTAA update calculated an immediate need of 30 pitches up to the end of 2023. However, although the many statistics provided by the Council suggest that 'need' will be subsequently met and significantly exceeded, the Council's expectation between July 2021 and September 2022 dropped from 160 pitches being approved by 2037/38 to a lower figure of 115. With a reliance based wholly on windfall sites there are no clear guarantees as to land becoming available. The appellants strongly take issue with the level of

Appeal Decision APP/V2255/W/19/3240859

need assessed by the 2018 updated GTAA, and consider that the methods employed to arrive at this did would not have produced an accurate figure.

19. Given the absence of a five year land supply and an indication from the Council's witness at the Hearing that need may also be met by the intensification of existing sites, I find the assertion in paragraph 4.3.32 of the Local Plan that suitable windfall sites can comfortably provide for need any up to the end of the plan period is, I would suggest from the evidence adduced, somewhat optimistic.
20. I understand that a new GTAA is in progress but, for the time being, the uncertainty as to actual need, the absence of a five year supply and the continuing reliance on windfall sites are matters to which I ascribe considerable weight.

Location

21. The site lies outside any settlement boundaries and, by way of the Council's spatial policy, it is located within the open countryside. In contrast with the appellants concentrating on the local need factor the Council's case is based around the consideration that this represents an unsuitable and unsustainable location for residential use. It is considered remote from services and facilities, and the Council describes the site as being located in a remote countryside location with no footpaths or lighting.
22. LP policy ST3 says that, at locations in the open countryside, development will not be permitted, unless supported by national planning policy and being able to demonstrate that it would contribute to protecting, amongst other things, landscape setting and the vitality of rural communities. In this instance given the very small scale nature of the use, and its proximity to the adjoining small gypsy site, the character of the countryside has not been impacted upon to any significant degree. Indeed, the Council has not raised objections in this respect.
23. In this context I am satisfied that the development accords with the advice in paragraph 14 of the PPTS.
24. The site is located some 4km from Rainham town centre and also the settlement of Newington (described by the Council as a local rural service centre). It is also some 1.9km from Hartlip village school. Given these distances there will inevitably be a large reliance on the private motor vehicle, but doubtless this is also the case for the scattering of rural dwellings in the wider locality. However, due to the small scale of the development the incidence in this particular case is clearly limited and I am also mindful that occupation first took place in 2015. Accordingly, the use is well established and, further, it is adjacent to the two neighbouring mobile homes approved in 2018.

Other considerations

Personal circumstances

25. The appellants are Romani gypsies. The family comprises two adults (the appellants) and three small children, two of which attend local schools. Evidence was produced to show that one child attends 'Meadowfield', a school for special educational needs.

<https://www.gov.uk/planning-inspectorate>

4

Appeal Decision APP/V2255/W/19/3240859

26. A settled base would clearly be in the best interests of the children, securing access to medical facilities and education which are difficult to achieve by the roadside without a fixed address. The best interests of the children, that is the need to safeguard and promote their welfare, are a primary consideration, particularly as their education would be likely to be interrupted if the family were forced to move from the site. Further, the accessibility to health care that a settled base secures is a benefit to the family as a whole.
27. Given the absence of available gypsy sites in the borough it is hardly surprising that no viable alternative accommodation has been suggested that might be suitable. Indeed, I have received no details as to the existence of any such accommodation. In this connection it was held in the judgement of *South Cambridgeshire DC v SSCLG & Brown* [2008] EWCA Civ 1010 that in seeking to determine the availability of alternative sites for residential Gypsy use, there is no requirement in planning policy, or case law, for an applicant to prove that no other sites are available or that particular needs could not be met from another site.
28. The lack of alternative sites is therefore a consideration that weighs in favour of the appellants. Accommodation by way of a settled base, rather than a roadside existence, can only be beneficial, and I consider that the development provides suitable accommodation consistent with this.
29. Should the family be made homeless Article 8 of the Human Rights Act would be engaged. Clearly, in this regard, and the consequent upheaval, the best interests of the child must be afforded substantial weight.

Other representations

30. At the application stage the proposal gave rise to 97 letters of support. Although most of these were from persons outside the borough, the general point made by the supporters was that there is a shortage of gypsy and traveller sites within Swale, and also nationally. Hartlip Parish Council objected to the development, on the basis that the site is not within a sustainable location, and this objection was reiterated during the appeal process.

Planning Balance

31. The proposal would make a small contribution to meeting the likely local need for gypsy and traveller accommodation. The appellants have also demonstrated that their families' personal circumstances are such that a settled base would be in the best interests of the children present and beneficial to the family as a whole. The appeal site is their home and there is no alternative accommodation available. These are matters to which I afford significant weight.
32. Although paragraph 25 of the PPTS says that Councils should very strictly limit new traveller sites in open countryside that is away from existing settlements I am mindful of the establishment of the neighbouring site which enjoys planning permission. Further paragraph 24 of the PPTS, advises that, apart from taking into account the existing local level of provision and the need for sites, the availability of alternative sites, or lack of such, along with personal circumstances, are also relevant considerations.
33. The Council indicates that the family could be accommodated in a more sustainable location but, given the circumstances and the apparent absence of

<https://www.gov.uk/planning-inspectorate>

5

Appeal Decision APP/V2255/W/19/3240859

alternative accommodation, this assertion is somewhat sweeping and unsubstantiated. Indeed, it leads to the question as to what would actually be achieved by refusing planning permission in this particular instance, especially as the site has been occupied since 2015.

34. Taken together, both sites are modest and the mobile homes sit discreetly within, particularly the appeal site which lies screened to the side of the driveway.
35. The Council does not raise objections as to the use having harmed local character, and I note that the reason for imposing the time limitation condition back in 2015 was so that the planning position may be reviewed at the expiry of the three year period. Save for the location, there are no other grounds for objection raised and I consider it would be inequitable to dismiss this appeal and refuse planning permission for the continuation of use given the approved neighbouring site. This is particularly the case given the use's very limited scope due to the small size of the site. Taking both sites together, and their constraints due to the narrow width constraint I am satisfied that there is little, if any, realistic room for expansion and any further intensification of use.
36. In the successful appeal from 2018 relating to the neighbouring site, although, the Inspector acknowledged that it was remote to local services and facilities, she concluded that the appellant's personal circumstances and the need for additional pitches within Swale borough, along with the absence of alternative pitches, outweighed the spatial issue.
37. In terms of LP policy DM10 I am satisfied that the development is of a scale appropriate to meet the accommodation need identified, and its location would not, either singularly or cumulatively, cause significant harm to the character of the area or its landscape. This is consistent with the advice in PPTS paragraphs 14 and 25.
38. I find that the development is in accordance with the national PPTS and, in the circumstances, there is no material conflict with Policies DM 10 or ST3. Neither is it in conflict with the relevant objectives of the National Planning Policy Framework.

Conclusion and Conditions

39. For the above reasons I conclude that the appeal should be allowed and planning permission granted.
40. In terms of conditions I have had regard to those agreed by both main parties and also advice within the planning practice guidance. Given the site's history, and the circumstances I have described, I am satisfied that the planning permission should not be personal to the appellants. Indeed, the Council's witness at the Hearing did not suggest that such a condition be imposed. However, I shall impose a condition limiting occupation to gypsies and travellers.
41. In addition to this, in order to safeguard the character and appearance of the area, the number and type of caravans should be specified. For the same reason any external lighting proposed should be submitted for approval, and no commercial activities or parking of vehicles over 3.5 tonnes should take place on the land.

<https://www.gov.uk/planning-inspectorate>

6

Appeal Decision APP/V2255/W/19/3240859

42. The site is already screened with vegetation and a landscaping condition is not necessary. However, a condition is imposed to ensure that space remains set aside for car parking purposes.

43. All these conditions are reasonable and necessary given the circumstances.

Timothy C King

INSPECTOR

Appeal Decision APP/V2255/W/19/3240859

SCHEDULE OF CONDITIONS

- 1) The site shall not be occupied by any persons other than gypsies and travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons as defined in Planning Policy for Traveller Sites , August 2015 (or any subsequent definition that supersedes that document).
- 2) No more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended) shall be stationed on the site at any one time., of which only one caravan shall be a static caravan.
- 3) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the local planning authority.
- 6) A minimum of two car parking spaces shall be kept available within the site for such use at all times.
- 7) The development hereby permitted shall be carried out in accordance with the drawing ref BP-01.

Appeal Decision APP/V2255/W/19/3240859

APPEARANCES

For the Appellant

Joseph G Jones Agent for the Appellant

Shane Ince and Jade Williams Appellants

Joseph P Jones Gypsy Council

For the Council

Andrew Byrne Area Planning Officer, Swale Borough Council

Aaron Wilkinson Planning Policy Officer

Documents produced at the Hearing

1. Council's notification letters of appeal and the Hearing event.
2. Statement of Common Ground

This page is intentionally left blank