

Agenda

Planning Committee Meeting

Date: Thursday, 5 December 2024

Time 7.00 pm

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

Membership:

Councillors Mike Baldock (Chair), Andy Booth, Hayden Brawn, Simon Clark, Kieran Golding, James Hunt, Elliott Jayes (Vice-Chair), Peter Marchington, Claire Martin, Ben J Martin, Richard Palmer, Julien Speed, Paul Stephen, Terry Thompson, Karen Watson and Tony Winckless and one vacancy.

Quorum = 6

Pages

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1. Emergency Evacuation Procedure

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

- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
- (b) Exit routes from the chamber are located on each side of the room, one directly to a fire escape, the other to the stairs opposite the lifts.
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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 7 November 2024 (Minute Nos. 372 - 378) and the Extraordinary Meeting held on 26 November 2024 (Minute Nos. to-follow) as correct records.

4. Declarations of Interest

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

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

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

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

Part B reports for the Planning Committee to decide

5 - 8

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 4 December 2024.

5. Deferred Item 1 - 22/502692/FULL - Land North of Perry Leigh, Grove Road, Selling, Kent, ME13 9RN 9 - 34

To approve the [Minutes](#) of the Meeting held on 31 October 2024 (Minute Nos. 370 - 371).

6. 2.1 - 20/505877/OUT Brogdale Farm, Brogdale Road, Ospringe, ME13 8XU 35 - 88

7. 2.2 - 23/505678/FULL Land west of Warden Road, Eastchurch, Kent, ME12 4EJ 89 - 134

8.	2.3 - 22/504274/FULL Land at Sittingbourne Mill, Mill Way, Sittingbourne, Kent, ME10 2GZ	135 - 180
9.	2.4 - 24/501182/FULL Bell Grove Stud Farm, Halstow Lane, Upchurch, Kent, ME9 7AB	181 - 194
10.	2.5 - 22/505076/OUT Land at Pheasants Farm Iwade	195 - 248
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	Decisions by County Council and Secretary of State, reported for information.	

Issued on Wednesday, 27 November 2024

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 democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

5th December 2024

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 5th December 2024

- Minutes of last Planning Committee Meeting
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DEFERRED ITEM

DEF ITEM 1 22/502692/FULL SELLING Land North of Perry Leigh

PART 2

2.1 20/505877/OUT OSPRINGE Brogdale Farm, Brogdale Road

2.2 23/505678/FULL EASTCHURCH Land West of Warden Road

2.3 22/504274/FULL SITTINGBOURNE Land at Sittingbourne Mill

2.4 24/501182/FULL UPCHURCH Bell Grove Stud Farm

2.5 22/505076/OUT IWADE Land at Pheasants Farm

PART 5

5.1 22/505870/FULL BORDEN Land adjacent to Pebble Court Farm

5.2 23/502123/FULL SITTINGBOURNE Land to southeast of Beavoir Drive

5.3 24/501118/FULL BREDGAR Fairmeadow, The Street

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PLANNING COMMITTEE – 5th December 2024

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEFERRED ITEM 1 REFERENCE NO - 22/502692/FULL		
PROPOSAL Section 73 - Application for minor material amendment to approved plans condition 2 (to allow an increase in size and relocation of the building within the site) pursuant to 19/500224/FULL for - Erection of a single storey storage building.		
SITE LOCATION Land North of Perry Leigh Grove Road Selling Kent ME13 9RN		
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 Large Major Other		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
Case Officer Paul Gregory		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Selling	APPLICANT Mr Brian Macey AGENT VLH Associates
DATE REGISTERED 22.07.2022		TARGET DATE 17.10.2022
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted Kent Downs National Landscape Unit comments, received 29.10.2024 KCC Highways comments, received 07.11.2024 The full suite of documents submitted pursuant to the above application are available via the link below: - INCLUDE WEB LINK https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RCHWS0TYL4B00		

1. INTRODUCTION

1.1 This application was initially reported to Planning Committee on 10 October 2024, with a recommendation that permission be granted. The original Committee report is attached at Appendix A.

1.2 The Planning Committee resolved to defer the determination of the application. The draft minutes from the 10 October 2024 Committee meeting are attached at Appendix B of this report. The application was deferred for the following reasons:

“Resolved: That application 22/502692/FULL be deferred to allow the Planning Working Group to meet on site visit. That the Kent Downs National Landscape Unit be consulted and for biodiversity enhancements on the building to be explored.”

1.3 The site visit took place on 31 October 2024. The Minutes from that Planning Working Group site visit are attached at Appendix C.

2. RESPONSE TO REASONS FOR DEFERRAL

2.1 In respect of the matters included in the resolution from 10 October 2024 Committee meeting, the Kent Downs National Landscape Unit have been consulted on the application. Their comments are set out on the application file in full. In summary, they have concluded that the proposed amended design creates a building which is more industrial in design than the previously approved building. However, they recognise that the amendment may assist in achieving the overall aim of screening the existing storage containers on the site. The Kent Downs National Landscape Unit also state that they agree with Officers that the previously approved earth bund would be incongruous and out of character in this sensitive location, as this man-made engineered feature would contrast strongly with the generally flat topography of the site. They therefore consider that the proposal to remove the bund and replace it with landscaping (as per the recommendation as set out in the Committee Report provided at Appendix A) would be beneficial and assist in ensuring an enhancement over the existing approved scheme. The Kent Downs National Landscape Unit have recommended that to be in keeping with existing landscape character, this landscaping would be most beneficial provided along the western and southern boundaries of the applicant's landholding, to provide visual containment enhancements to this part of the Kent Downs, and also provide ecological enhancement within the site. Alternatively, they recommend that a hedge be provided immediately west of the proposed access track and hard standing, to the front of the proposed building and existing stable. In order to maximise biodiversity benefits it has been suggested that this landscaping should continue to link in with existing trees along the site's northern boundary. Appropriate species have been suggested as hawthorn, hazel, field maple, pedunculate oak and beech.

2.2 In respect of the above comments related to the precise location of landscaping, as the storage building is proposed to be used in connection with the wider use of the site, the second landscaping option would create a barrier between the building and the remainder of the site. As a result, it is considered that the first option is the most appropriate. On this basis it is therefore recommended that condition 7 (soft landscaping) as set out in the 10 October 2024 Committee report be supplemented with additional wording to require landscaping in accordance with the above comments.

- 2.3 The comments from the Kent Downs National Landscape Unit also refer to the proposed materials in terms of staining the walls black and for the roof to be a dark colour. The matter of staining the walls was included as a condition as recommended in the 10 October 2024 Committee report (condition 5), however, this condition has also been expanded in order to also refer to the colour of the roof to ensure that this is appropriate.
- 2.4 Having taken into account the comments from the Kent Downs National Landscape Unit it is considered that the proposal remains in accordance with policies DM14 and DM24 of the Local Plan and the NPPF.
- 2.5 The deferral also required biodiversity enhancements upon the building to be explored. In respect of this, it is considered that a further condition can adequately deal with this matter and would meet the relevant tests on the basis that policy DM28 and the NPPF both refer to biodiversity enhancements.
- 2.6 At the site visit, there was also a request from the Chair of the Planning Committee that the comments of KCC Highways be obtained. These views have been received and KCC Highways have commented *“that there are no highway implications associated with the proposals.”* In respect of this, it is important to note that the proposal seeks consent for an enlargement to a previously approved building. As such, the scheme solely relates to whether the amendments are appropriate. The building itself is proposed to be used for storage related to existing activities on the land and to allow the containers to be stored in the building (with a condition requiring the remainder of the containers to be removed from the site). Turning to the original proposal (19/500224/FULL) of which this application seeks an amendment to, the application form states that the proposed development does not require the employment of any staff. In addition, the Committee report presented to the 10 October 2024 Committee meeting deals with the matter raised by third parties in respect of the building comprising a commercial storage facility. As set out above, this is not the terms on which the application has been submitted and assessed, and the matter as to what can be stored by the building is controlled by condition. On the basis of the above, there is not considered to be any highway related reason to refuse this application.
- 2.7 The matter of the need / reasoning for the extension to the approved storage building was also raised at the site visit. The agent has set out that it is for practical reasons, and to allow easier access arrangements to the containers in the building. In respect of this matter, on the basis that the building is intended to store a number of the containers, this is considered to be reasonable. In addition, and importantly, is that the matter of need is not specifically set out as a requirement in any of the relevant policies. The key consideration is the impact of the proposed amendments and it is considered that this would remain acceptable.

3. CONCLUSION

- 3.1 The matters raised via the deferral and the site visit have been considered by virtue of the discussion above. The proposal remains recommended for approval. Due to the matters related to the wording of conditions and an additional condition being recommended, the updated list has been set out below.

CONDITIONS

- (1) The development hereby approved shall not be carried out otherwise than in complete accordance with drawings PL0052.18.02.C and PL0052.18.03.B.

Reason: In the interests of visual amenity.

- (2) The building hereby permitted shall be used only for the storage of machinery and materials associated with the paddocks and pallet business.

Reason: In the interests of residential and visual amenity.

- (3) Any containers positioned within the building hereby permitted shall be so positioned that no part of it is visible from outside the building.

Reason: In the interests of visual amenity.

- (4) Any container within the application site that is not re-positioned within the building hereby permitted shall be removed from the site within one calendar month of the substantial completion of the building.

Reason: In the interests of visual amenity.

- (5) All external boarding in the development hereby permitted shall be black stained featheredged timber weatherboarding and the roof shall be coloured black.

Reason: In the interests of visual amenity.

- (6) The timber up and over doors to be used on the development hereby permitted shall be stained black.

Reason: In the interests of visual amenity.

- (7) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works – which shall be provided along the western and southern boundaries of the site - 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 comprised of hawthorn / hazel / field maple / pedunculate oak / beech), 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.

- (8) 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 first use of the building 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.

- (9) 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.

- (10) No development beyond the construction of foundations shall take place until a scheme of biodiversity enhancements to be provided on the building hereby approved have been submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancements shall be installed on the building within 3 months of its practical completion.

Reason: In the interests of encouraging wildlife and biodiversity.



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2.2 REFERENCE NO - 22/502692/FULL		
PROPOSAL Section 73 - Application for minor material amendment to approved plans condition 2 (to allow an increase in size and relocation of the building within the site) pursuant to 19/500224/FULL for - Erection of a single storey storage building.		
SITE LOCATION Land North of Perry Leigh Grove Road Selling Kent ME13 9RN		
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 Large Major Other		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
Case Officer Alice Reeves		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Selling	APPLICANT Mr Brian Macey AGENT VLH Associates
DATE REGISTERED 22.07.2022	TARGET DATE 17.10.2022	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted All representations received The full suite of documents submitted pursuant to the above application are available via the link below: - INCLUDE WEB LINK https://pa.midkent.gov.uk/online-applications/simpleSearchResults.do?action=firstPage		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site is a large field within the Kent Downs Area of Outstanding Natural Beauty (AONB), which is now known as the Kent Downs National Landscape, although references in local and national policy continue to refer to AONB. The field has been

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divided into smaller enclosures for the keeping and grazing of horses. Within the field are a total of 17 steel containers and an established small timber stable building.

- 1.2 There are wooden pallets stacked on the site close to the site entrance, a Lawful Development Certificate for the use of a small part of the land for storage of these pallets was granted under reference 16/502524/LDCEX.

2. PLANNING HISTORY

- 2.1 23/504318/LDCEX - Lawful Development Certificate (Existing) to establish lawful commencement of planning permission of 19/500224/FULL for erection of a single storey storage building. Appeal against non-determination allowed on 9.05.2024 and a certificate of lawfulness, confirming that works undertaken on the site have led to the implementation of planning permission Ref. 19/500224/FULL, was issued.
- 2.2 21/500428/CHANGE - Appeal against Enforcement Notice: *Without planning permission the material change of use of the Land from the keeping and grazing of horses to a mixed use of the Land for the keeping and grazing of horses and the stationing of storage containers.* The Enforcement Notice was quashed on 09.05.2024.
- 2.3 19/500224/FULL – Planning permission granted on 30.04.2019 for *Erection of a single storey storage building.*
- 2.4 19/503507/LDCEX - Lawful Development Certificate (Existing) refused on 07.05.2021 for a *mixed-use comprising of storage and equestrian, including use of existing building for stabling and storage, and outside storage of containers.*
- 2.5 17/504527/FULL - Retrospective planning application refused on 16.11.2017 for the *use of land for storing 15 storage containers.* An appeal was lodged against this decision and dismissed on 12.12.2018.
- 2.6 16/502524/LDCEX - Lawful Development Certificate (Existing) approved on 09.03.2017 for *use of land for storage of pallets.*
- 2.7 As set out above the site has a fairly complex planning history attached to it. It is considered useful for Members to have further knowledge of the above, which is set out as follows:

In 2017, a retrospective planning application for the use of land for storing 15 storage containers was refused by the Council (ref. 17/504527/FULL) and dismissed at appeal. The decision notice issued by the Council was accompanied by the following informatives;

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- (1) *The applicant is encouraged to explore the possibility of replacing the containers with a small, well-designed agricultural building, and to seek pre-application advice regarding same from the Local Planning Authority.*
- (2) *The Council's decision means that the containers continue to represent unauthorised development and the applicant is urged to remove the containers from the site without delay. The Council will not hesitate to take formal enforcement action if the containers are still in place after the end of December 2017.*

- 2.8 In dismissing the appeal the Inspector found the containers incongruous within the AONB, and he saw no reason why the contents could not be housed in a building of more sympathetic design.
- 2.9 Following the above, a planning application for a storage building (ref. 19/500224/FULL) which would house a number of storage containers in the north east corner of the site was submitted to the Council shortly after the appeal and was approved with conditions that no storage containers which are not housed inside the building should remain on site once the building was completed. Whilst excavations for the concrete pad have taken place, no other works have been undertaken to erect the storage building. When assessing the current application, the foundations that had been dug were unable to be located on an unaccompanied site visit. The applicant then submitted an application seeking a lawful development certificate (ref. 23/504318/LDCEX) to confirm that the application approved under ref. 19/500224/FULL had been implemented by virtue of the works described above. The applicant appealed against the non-determination of 23/504318/LDCEX shortly after the site visit.
- 2.10 An enforcement notice was served requiring the removal of the containers and an appeal was lodged with the Planning Inspectorate. The Inspectorate determined that the appeal should be dealt with by means of a Public Inquiry and this took place on 12th March 2024. The appeal relating to the application under 23/504318/LDCEX was assessed by the same Inspector and the site visits for both appeals were carried out at the same time. The Inspector allowed the existing Lawful Development Certificate appeal stating that the foundation dug on the site was in a location consistent with the previously approved application within the relevant time period and the approval had therefore been lawfully commenced. As a result, a Lawful Development Certificate was issued. Separately, the Inspector quashed the Enforcement Notice related to the use of the land and removal of the storage containers. The Inspector did set out that it is open to the Council to serve a further notice which clearly sets out the nature of the breach and the requirements, should it consider it expedient to do so, subject to the provisions of s171B(4) of the Act.

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3. PROPOSED DEVELOPMENT

3.1 This application seeks planning permission to vary condition 2 (approved drawings) pursuant to approved application 19/500224/FULL. These changes include the following:

- Increase the approved building by 4m in length; 1m in depth and 1.1m in height;
- Increase number of doors from 4 to 10 to allow easier siting and access of the storage containers within the building;
- Removal of approved earth banking around proposed building.

3.2 The initial drawings also sought a change in wall covering from timber weatherboarding to metal sheet cladding and metal up and over doors, however, Officers requested this was amended back to timber weatherboarding and timber up and over doors and revised drawings were received on this basis. The roofing material would remain as approved which is metal sheeting.

3.3 The storage containers are proposed to be sited within the building to add to the security of the site.

4. CONSULTATION

4.1 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.

4.2 Three letters of objection from separate addresses were received in relation to the first consultation. Concerns/comments were raised in relation to the following matters: -

Comment	Report reference
The original barn design and location was inconspicuous with traditional materials and colours – timber doors and cladding were to be screened with banks of earth which would provide screening from the footpath;	See paragraph 7.5 – 7.12
Do not consider this a minor amendment;	See paragraph 7.15
The development has not been implemented;	See paragraph 2.10 and 7.4

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The design resembles an industrial unit out of keeping with the AONB;	See paragraph 7.5 – 7.12
Ten shipping containers are in excess of even generous agricultural requirements;	See paragraph 7.14
The materials should be amended to reflect a traditional Kent agricultural barn;	See paragraph 7.9
The applicant wishes to operate a commercial storage facility;	See paragraph 7.14
This would not be an improvement to the view of the shipping containers.	See paragraph 7.5 – 7.12
The storage of fuel would be a safety hazard.	See paragraph 7.13

4.3 Selling Parish Council objected to the application on the following grounds: -

Comment	Report reference
Almost no work has taken place and as such a new application should be submitted;	See paragraph 2.10 and 7.4
No justification for allowing an increase in size of the building;	See paragraph 7.14
The previous permissions should be revoked as the applicant has not shown any special circumstances, the building does not serve a public interest and should not be built on agricultural land;	See paragraph 2.10 and 7.4
All previous conditions should continue to apply;	See paragraph 7.14 and 7.16
Applicant has shown scant regard to planning rules and hasn't responded positively to assistance given by Swale Borough Council to help mitigate the impact of the storage containers;	See paragraph 2.7 - 2.10
Strongly oppose removal of landscaping as great emphasis was made in 2019 permission on the importance of visual amenity due to location on the edge of the AONB;	See paragraph 7.11
Concerned regarding the storage of fuel;	See paragraph 7.13
Whatever permissions are given for this application it is asked that officers ensure the work is completed within the timescales given and that all conditions are adhered to.	See paragraph 7.14

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- 4.4 Amended drawings were submitted leading to the second round of consultation. Selling Parish Council responded setting out that they continued to object to the application. No further comments were made in addition to those already set out above.
- 4.5 In response to the second consultation two letters of representation were received from two separate addresses (both of whom had previously commented on the application as set out above). They continued to raise an objection and the following additional concerns/comments were raised in relation to the following matters: -

Comment	Report reference
The amendment is a marginal improvement visually but there will still be an unscreened view of a commercial storage facility;	See paragraph 7.5 – 7.12
Further commercial traffic is undesired and would be detrimental to the safe and desired use of Grove Road which will see the completion of a number of houses nearby which is already increasing vehicle numbers.	See paragraph 7.14

5. REPRESENTATIONS

- 5.1 **SBC Heritage:** - No objection
- 5.2 **Mid Kent Environmental Health:** - No objection
- 5.3 **Natural England:** - No comment

6. DEVELOPMENT PLAN POLICIES

- 6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 –**
ST3 Swale Settlement Strategy
ST7 The Faversham area and Kent Downs strategy
CP4 Requiring good design
DM3 The rural economy
DM14 General development criteria
DM24 Conserving and enhancing valued landscapes

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7. ASSESSMENT

7.1 This application is reported to the Committee because Selling 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

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 This application seeks a variation to condition 2 of the planning permission granted under ref. 19/500224/FULL. The relevant section of the Act (Section 73) that this application has been submitted under is very clear in that "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted". As a result, the only consideration as part of this application is whether the variations, as set out in the proposal section above are acceptable. As also set out above, via an appeal decision, a lawful development certificate has been issued which confirms that the development approved under ref. 19/500224/FULL has been lawfully implemented. Therefore, the principal of siting a storage building on the site has been accepted and is not able to be further considered.

Character and Appearance

7.5 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.

7.6 The site is located within the Kent Downs AONB. Policy DM24 of the Local Plan states that planning permission for development within the AONB will only granted subject to

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it preserving and enhancing the special qualities and distinctive character of the AONB in accordance with national policy; further the delivery of the AONB management plan; minimising the impact of individual proposals and their cumulative effect on the AONB and its setting, mitigating any detrimental effects, including where appropriate, improving any damaged landscapes relating to the proposal; and being appropriate to the economic, social and environmental wellbeing of the area or being desirable for the understanding and enjoyment of the area. In national policy terms, the NPPF at paragraph 182 states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which has the highest status of protection in relation to these issues.

- 7.7 Section 85 of the Countryside and Rights of Way Act sets out that: *“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England (...) must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”*. It is noted that this element of the Act has been varied since the determination of the previous application where the legislative requirement read *“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”*
- 7.8 As set out above, the starting point in this case is the implemented planning permission for the storage building approved under ref. 19/500224/FULL and the assessment centres on whether the proposals as now submitted still meet the requirements of the relevant policies.
- 7.9 The initial submission under this current application sought both an amendment to the size and position of the building but also to the approved materials, seeking permission for metal sheet wall covering and metal up and over doors. Given the sensitive location, it was requested that the agent amended the materials to timber weatherboarding and timber up and over doors and an amendment was received on this basis. It is acknowledged that there are more doors proposed on this building than was previously approved, to better access the storage containers sited within, however, a condition will be included to ensure these are painted black along with the featheredge weatherboarding to the walls, so they do not stand out.
- 7.10 Whilst it is proposed to increase the footprint and height of the building, this is by a limited amount and not to a degree that would give rise to unacceptable additional harm in comparison to the previously approved scheme. Given the location in the north-east corner of the site, the development will not lead to unacceptable visual amenity concerns subject to compliance with the conditions below. Accordingly, the development would comply with policies CP4, DM3, DM14 and DM24 of the Local Plan.

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- 7.11 The Parish Council and local residents comments are acknowledged with regards to landscaping and note that the proposed earth bund that was proposed to surround the previously approved building has been removed from these plans. The concerns with regards to a lack of landscaping in this sensitive area within the AONB are shared by Officers and it is considered that landscaping is required to soften the impact of the building. It is also taken into account that earth bunds are not representative of this part of the AONB and as such it is considered that soft landscaping, carefully chosen to reflect the surrounding landscape, would provide the opportunity to integrate this development into the area in a more natural way compared to an earth bund. Furthermore, it would also provide the opportunity for greater biodiversity benefits compared to an earth bund. As a result a condition is recommended requesting details of proposed landscaping to be submitted to and agreed by the Council to ensure that sufficient screening of the building is undertaken.
- 7.12 Overall, it is considered that the amended development remains in accordance with policies DM14 and DM24 of the Local Plan and the NPPF. Moreover, through providing improved soft landscaping rather than a bund, it is considered that a net gain would be achieved in visual terms which would further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty relative to the fallback position.

Living Conditions*Existing residents*

- 7.13 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Given the separation distances to the nearest residential properties it is not considered that there would be any loss of privacy, overshadowing or loss of light to neighbouring residents. The comments in relation to the storage of fuel are noted, however, this is not a planning matter and it is not unusual for agricultural storage buildings to store fuel for tractors and associated machinery.

Other matters

- 7.14 Comments have been received that the building will be used as a commercial storage building however, the planning system does not allow decisions to be made on the basis of what uses could or could not take place in the future. In terms of what can be stored in the building, the condition imposed on the planning permission issued under ref. 19/500224/FULL restricted this to storage of machinery, equipment, materials and items related to the use of the application site for agriculture and/or for the keeping of horses. However, as part of the Public Inquiry which was held for the appeal lodged against the Enforcement Notice related to the containers on the site, the Council took the view that the containers were being used for the storage of machinery and materials associated with the paddocks and also the pallet business. As a result, it is recommended that the relevant condition is amended to reflect this. Therefore, if the

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building was used for other purposes, in breach of this condition, the Council would have the option to consider enforcement action.

- 7.15 Comments have been received that the amendments are not minor. Although there is no definition of 'minor material amendments', it is clear in this case that the proposal is not so substantially different that it could not be considered under a S.73 application. The current application is subject to the same publicity requirements as a new planning application and therefore it is not considered that any interested party has been prejudiced.
- 7.16 With regards to conditions, as the previous permission has been implemented there is no requirement to include the standard time limit for implementation. The condition regarding the items stored in the building has been amended for the reasons set out above. The approved drawing condition has been amended to reflect the amended details and all other previous conditions have been included as well as additional conditions regarding landscaping for the reasons outlined previously in the report.

Conclusion

- 7.17 Overall, the proposed building whilst of a slightly larger footprint and overall height, would provide a building in which to store 10 of the existing storage containers which are currently an incongruous addition to the site within the AONB. A condition requiring the removal of the remaining storage containers will ensure that all containers on the site would be held within a black stained timber featheredge boarded building which would be an improvement to the landscape and something the Council has been trying to work towards for a number of years. Now the materials have been amended to those suitable for buildings within the AONB it is considered that planning permission should be granted.

CONDITIONS

- (1) The development hereby approved shall not be carried out otherwise than in complete accordance with drawings PL0052.18.02.C and PL0052.18.03.B.

Reason: In the interests of visual amenity.

- (2) The building hereby permitted shall be used only for the storage of machinery and materials associated with the paddocks and pallet business.

Reason: In the interests of residential and visual amenity.

- (3) Any containers positioned within the building hereby permitted shall be so

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positioned that no part of it is visible from outside the building.

Reason: In the interests of visual amenity.

- (4) Any container within the application site that is not re-positioned within the building hereby permitted shall be removed from the site within one calendar month of the substantial completion of the building.

Reason: In the interests of visual amenity.

- (5) All external boarding in the development hereby permitted shall be black stained featheredged timber weatherboarding.

Reason: In the interests of visual amenity.

- (6) The timber up and over doors to be used on the development hereby permitted shall be stained black.

Reason: In the interests of visual amenity.

- (7) 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.

- (8) 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 first use of the building 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.

- (9) 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

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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

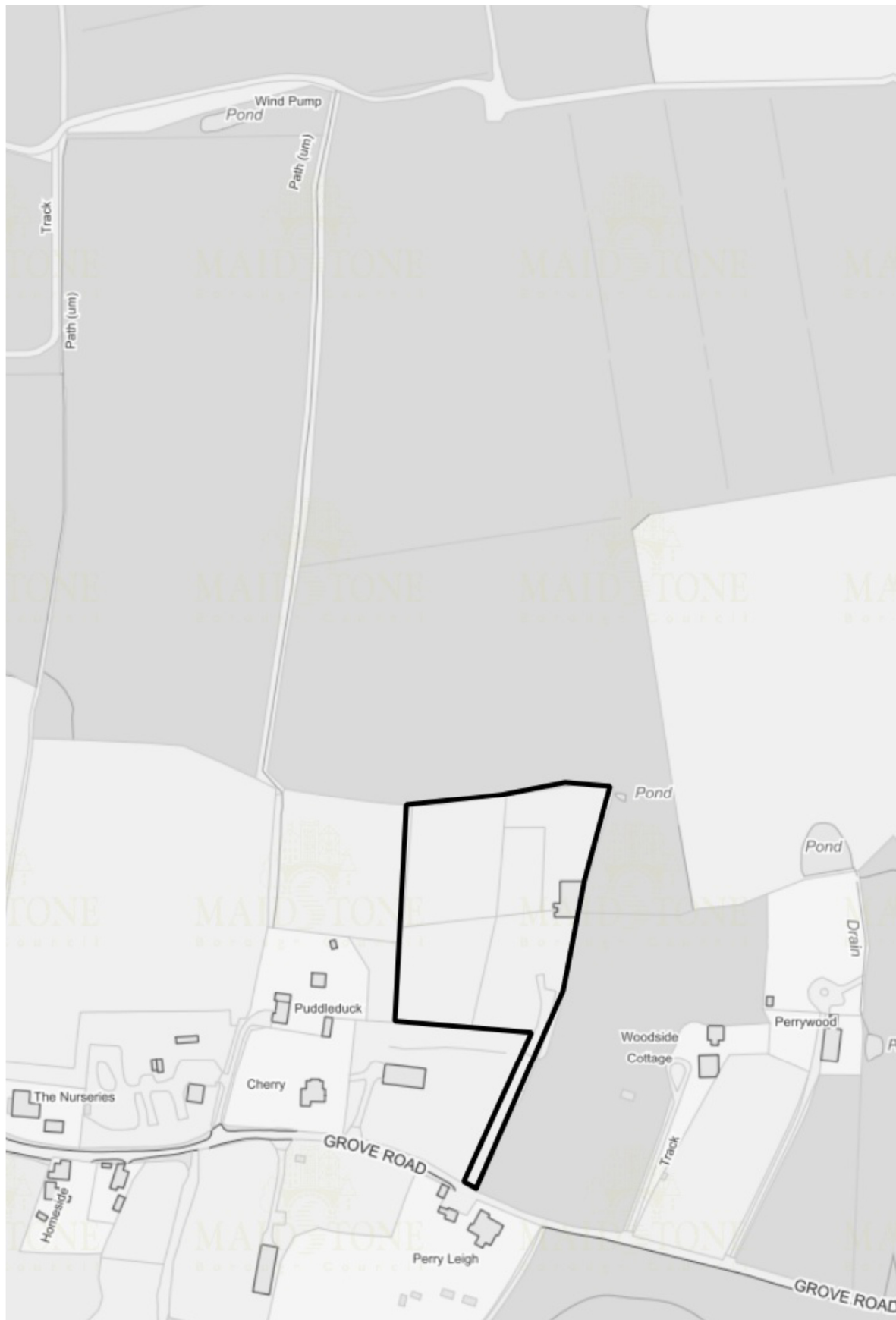
In accordance with paragraph 38 of the National Planning Policy Framework (2023), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

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APPENDIX B

Planning Committee

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT on Thursday, 10 October 2024 from 7.00 pm - 10.27 pm.

PRESENT: Councillors Mike Baldock (Chair), Shelley Cheesman (Substitute for Councillor Hayden Brawn), Simon Clark, Angela Harrison (Substitute for Councillor Kieran Golding), James Hunt, Elliott Jayes (Vice-Chair), Peter Marchington, Ben J Martin, Richard Palmer, Julien Speed, Paul Stephen, Terry Thompson, Angie Valls, Karen Watson and Tony Winckless.

PRESENT (VIRTUALLY): Councillor Hayden Brawn.

OFFICERS PRESENT: Billy Attaway, Joanna Dymowska, Simon Greenwood, Paul Gregory, Ian Harrison, Joanne Johnson, Larissa Reed, Carly Stoddart and Ceri Williams.

ALSO IN ATTENDANCE: Councillors Tom Nundy and Chris Palmer.

ALSO IN ATTENDANCE (VIRTUALLY): Councillor Dolley Wooster.

APOLOGIES: Councillors Andy Booth, Kieran Golding and Claire Martin.

329 Emergency Evacuation Procedure

The Chair outlined the emergency evacuation procedure.

330 Minutes

The Minutes of the Meeting held on 12 September 2024 (Minute Nos.234 - 242) were taken as read, approved and signed by the Chair as a correct record.

331 Declarations of Interest

No interests were declared.

APPENDIX B

Planning Committee

Thursday, 10 October 2024

335 2.2 - 22/502692/FULL Land North of Perry Leigh, Grove Road, Selling

2.2 REFERENCE NO – 22/502692/FULL		
PROPOSAL Section 73 – Application for minor material amendment to approved plans condition 2 (to allow an increase in size and relocation of the building within the site) pursuant to 19/500224/FULL for – Erection of a single storey storage building.		
SITE LOCATION Land North of Perry Leigh Grove Road Selling Kent ME13 9RN		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Selling	APPLICANT Mr Brian Macey AGENT VLH Associates

The Team Leader (Planning Applications) introduced the application as set out in the report.

Councillor Sue Henderson, representing Selling Parish Council, spoke against the application.

Robin Gardiner, an objector, spoke against the application.

The Chair moved the officer recommendation to grant planning permission as per the recommendation in the report, and this was seconded by the Vice-Chair.

The Chair invited Members to make comments, and these included:

- What was the number of containers that the original permission in 2019 allowed for?;
- the proposal was not much bigger than what had already been approved;
- what was the purpose of the containers?;
- what was the Area of Natural Outstanding Bodies (AONB) position on the proposal?;
- concerned that if Members were to approve this, they would be rewarding bad behaviour;
- the 2019 condition did not include the storage of pallets on the site, what was the position of the pallets?;
- what was the increase in the height and length of the site?; and
- thought that this was not a suitable location for the storage of containers or pallets.

The Team Leader (Planning Applications) responded to points raised and said that there was no specific number of containers which the relevant condition on the 2019 planning permission allowed, rather it was the dimensions of the building that allowed an assessment of this to be made. He added that the storage of pallets was a matter that the Planning Investigations team were currently dealing with.

The Team Leader (Planning Applications) said that the additional height of this proposal was 1.1 metres, giving it a total height of 4.9 metres and the building would be 32 metres in length. He added that the Kent Downs AONB Unit (now Kent Downs National Landscape) was not consulted on for this application as they were not a statutory consultee and because the site had an extant planning permission.

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APPENDIX B

Planning Committee

Thursday, 10 October 2024

The Chair proposed that the application be deferred for a site visit, that the Kent Downs National Landscape Unit be consulted and the possibility of biodiversity enhancements on the building be explored. This was seconded by Councillor Tony Winckless and on being put to the vote, agreed.

Resolved: That application 22/502692/FULL be deferred to allow the Planning Working Group to meet on site visit. That the Kent Downs National Landscape Unit be consulted and for biodiversity enhancements on the building to be explored.

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APPENDIX C

Planning Working Group

MINUTES of the Meeting held at the site listed below on Thursday, 31 October 2024 from 10.12 am - 10.46 am.

PRESENT: Councillors Mike Baldock (Chair), Peter Marchington (present for part of the meeting), Terry Thompson and Tony Winckless.

OFFICERS PRESENT: Philippa Davies, Paul Gregory and Ian Harrison.

APOLOGIES: Councillors Hayden Brawn, Simon Clark, Kieran Golding, Elliott Jayes, Richard Palmer, Julien Speed, Paul Stephen and Karen Watson.

370 **Declarations of Interest**

No interests were declared.

371 **22/502692/FULL, Land North of Perry Leigh, Grove Road, Selling, ME13 9RN**

The Chair welcomed representatives from Selling Parish Council, members of the public and members of the Planning Committee to the meeting.

The Team Leader (Planning Applications) introduced the application as set out in the report which was reported to the Planning Committee on 10 October 2024. The application was for a variation to condition (2) of application 19/500224/FULL, to increase the approved building by four metres in length, one metre in depth and 1.1 metres in height; increase the number of doors from four to 10; and the removal of bunding around the proposed building.

Local residents and representatives from Selling Parish Council raised the following points:

- The applicant had ignored Enforcement Notices, not told the truth and had wasted officers time;
- the amendment would result in the building being doubled in size to that permitted in the original application;
- there were too many wooden pallets on the site and this presented a potential fire risk;
- enforcement measures were needed;
- considered this was not a 'minor' amendment, but a major change and it would look like a commercial development;
- had the Kent Downs Area of Outstanding Natural Beauty unit (AONB), now Kent Downs National Landscape, been consulted on the application?;
- there appeared to be no correlation between the use of the site and the 'need' for more development on it;
- had a reason been given as to why the size of the building had increased?;
- considered the containers on the site would fit into the smaller original barn, could not understand why it now needed to be larger;
- the applicant appeared to be 'playing' the system;
- considered the applicant would ignore the conditions on the application; and
- the larger unit meant more could be stored and this could potentially increase traffic on the country lanes.

APPENDIX CPlanning Working GroupThursday, 31 October 2024

In response, the Team Leader explained that the AONB Unit had been consulted and a response from them had recently been received. They had acknowledged that the building would be bigger, but with the inclusion of conditions and landscaping, they had raised no objection to the application. A copy of their response was available on the Council's Planning Portal. The Team Leader explained that no reasons were needed as to why the dimensions of the application were now larger than the original application.

Everyone then walked along the road and along a public footpath to view the site from an adjoining field and Members were shown the position of the proposed building in relation to what was there on the site and the overall landscape.

Further comments included:

- The applicant had extended outside the area permitted for storage of pallets;
- there were various permissions on the site which had not been implemented by the applicant;
- residents had complained for years about the site which had grown in size over the years;
- considered more enforcement measures were needed;
- the site was an eyesore, and this fact had been ignored; and
- not confident that the applicant would construct the building and put the pallets inside it.

In response to some comments, the Team Leader said the building would not be doubled in size; it was for the use of the land, not for commercial use, so would not impact traffic in the area; and that there were conditions attached to the application. He added that Members needed to consider whether the amendments were acceptable or not, and look at the original permission as a baseline. The Team Leader said that enforcement action had been taken on the land, but this had been quashed by the Planning Inspectorate.

Members then toured the site with officers.

Chair

Copies of this document are available on the Council website <http://www.swale.gov.uk/dso/>. If you would like hard copies or alternative versions (i.e. large print, audio, different language) we will do our best to accommodate your request please contact Swale Borough Council at Swale House, East Street, Sittingbourne, Kent, ME10 3HT or telephone the Customer Service Centre 01795 417850.

All minutes are draft until agreed at the next meeting of the Committee/Panel

PLANNING COMMITTEE – PART 2

Report of the Head of Planning

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

2.1 REFERENCE NO - 20/505877/OUT		
PROPOSAL Outline planning application for mixed-use development comprising up to 360sqm nursery school (use Class Ef), up to five holiday lets and up to 1,710sqm of flexible workshop, industrial & research and development floorspace (use Class Eg (ii, iii), with all matters reserved except access from Brogdale Road.		
SITE LOCATION Brogdale Farm, Brogdale Road, Ospringe, ME13 8XU		
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 / 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 - Outline Planning Permission		
REASON FOR REFERRAL TO COMMITTEE Ospringe Parish Council have submitted objections to the application that are contrary to the officer recommendation.		
Case Officer Ben Oates		
WARD East Downs	PARISH/TOWN COUNCIL Ospringe	APPLICANT Brogdale Farm Ltd AGENT Hume Planning Consultancy Ltd
DATE REGISTERED 19/03/2021	TARGET DATE 01/12/2023	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted All representations received Design and Access Statement (uploaded 09 Dec 2020)		

Design and Access Statement Addendum (uploaded 04 Aug 2021)
Heritage Advice Note (uploaded 13 July 2021)
Transport Statement (uploaded 04 Aug 2021)
Transport Statement Addendum (uploaded 16 Nov 2021)
Planning Statement Addendum (uploaded 30 Jul 2024)
Landscape and Visual Appraisal (uploaded 10 Jul 2024)
Letter to Economic Development Officer (uploaded 03 Oct 2023)
Ecological Impact Assessment (uploaded 10 Nov 2023)
Arboricultural Assessment (uploaded 04 Aug 2021)

INCLUDE WEB LINK

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QL2Y7FTYMH700>

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site forms part of Brogdale Farm, which is located to the east of Brogdale Road and south of the M2 motorway and is approximately 1.5km south-west of Faversham Railway Station. Brogdale Farm covers an area of circa. 160 acres, however, the site boundary only encompasses the far northern part of the property.
- 1.2. The site is located within an Area of High Landscape Value (Kent level) and is part of the Natural Character Area - North Kent Plain. The site is also identified as Agricultural Land Classification Grade 2. The site adjoins a Grade II listed building – Brogdale Farm House, but does not contain any listed buildings and is not within or adjoining a Conservation Area. The site is also not located within a built-up area boundary or an important countryside gap.
- 1.3. The site boundary contains the complex of farm buildings and agricultural land, a disused reservoir, demonstration garden area, glasshouses and polytunnel structures, existing central farmstead hub and the main access to the property. Access to the orchards is through the main farm complex.
- 1.4. Whilst the site is located outside of the built-up area boundary, Brogdale Farm contains an established hub of commercial activity related to the National Fruit Collection's agricultural activity and tourism facilities, as well as the small businesses, shops, café and community and commercial functions currently operating at the farm.

2. PLANNING HISTORY

2.1. Application Site

SW/95/0740: Change of use of part of site for exhibition and recreational fishing

Approved Decision Date: 08.11.1995

2.2. Wider Brogdale Farm

SW/06/0601: Alterations to 2 barns to form craft/retail units, conversion of old dairy to B1 use, part cladding of main office West elevation, replacement of open canopy. Erection of plant centre building incorporating cafe with terrace and links to glasshouses, laying out of plant display, car parking, landscaping and ancillary works.
Approved Decision Date: 21.07.2006

SW/07/0189: Change of use and alterations to part of existing coldstore to form offices and labs (B1).

Approved Decision Date: 05.04.2007

SW/10/0036: Change of use, conversion and extension of existing Cold Store to provide B1 business use.

Approved Decision Date: 05.03.2010

SW/11/1560: Change of use, extension and alterations to part of former cold store building to ground floor class B2 use for meat preparation and first floor class B1 business use.

Approved Decision Date: 03.02.2012

SW/12/1012: Change of use of existing B8 storage building to B2 use as a micro-brewery.

Approved Decision Date: 14.09.2012

SW/13/0660: Change of use as demonstration gardens with incidental buildings and associated parking.

Approved Decision Date: 27.09.2013

15/502851/FULL: Retrospective - Erection of polytunnels for fruit production trials.

Approved Decision Date: 13.08.2015

19/506013/OUT: Outline Application with scale matters sought for proposed visitor information and learning centre to replace existing accommodation at Brogdale Farm.

Approved Decision Date: 26.02.2021

3. PROPOSED DEVELOPMENT

- 3.1. Outline planning permission is sought for a mixed-use development comprising of up to 360sqm of nursery school floorspace (use Class Ef), up to five holiday lets and up

to 1,710sqm of flexible workshop, industrial & research and development floorspace (use Class Eg (ii, iii). All matters are reserved with the exception of the proposed new access from Brogdale Road.

- 3.2. The proposal would clear and level the site, which would involve the removal of the demonstration garden and disused greenhouses and the filling of the disused reservoir. The existing 2-storey white cottage building and all other structures to its south would be retained. The proposal would not remove any existing orchards or land currently in operational use for agricultural purposes.
- 3.3. The proposal includes (indicatively) 18 workshop / business units creating a total of circa. 1,710sqm of flexible workshop / business space targeted at small local businesses looking to expand. The proposed units range in size from approximately 85sqm to 125sqm and are spread across 6 separate 2-storey buildings of varying size and layout. The details indicate the buildings could be designed with regular plan forms containing large, pitched roofs with gable ends to reflect the traditional built form of Kentish barns. Indicative materials include dark timber cladding with textured cement rainscreens below.
- 3.4. The proposed nursery would be circa. 360sqm catering for babies, pre-nursery and nursery ages, including separate rooms and play areas for each age group. Externally there would be circa. 465sqm of outdoor play space in total including a covered play area. The indicative details suggest that the proposed nursery would be contained within a single storey building which could be of modern design, with an asymmetric pitched roof and redwood timber cladding to the elevations.
- 3.5. The proposal also includes 5 x 2-bedroom holiday let units, which were introduced during the application following discussions with the Council's Tourism Officer. The indicative details show that each proposed holiday let would comprise of circa. 58sqm of internal space and outdoor patio space. The units have been shown to be split across two separate single storey buildings, indicatively shown with simple layout design and containing pitched roofs with gable ends.
- 3.6. A new access from Brogdale Road would serve the proposed development, which would be located close to the northern boundary of the site. The access would run through the site to connect to the existing vehicular access adjoining the existing 2-storey white cottage, commercial units and agricultural buildings. Vehicle parking is provided alongside the access route and in front of the proposed workshop units. Pedestrian access is also provided separate from the vehicular access, which also runs through the site and connects to the existing established parts of the farm to the south.
- 3.7. The areas not covered by buildings and hardstanding are proposed to be treated with soft landscaping to maximise green space and tree planting. Existing trees are being retained where possible with larger tree removal only at the new vehicle entrance. The tree belt separating the existing orchards and demonstration garden are also being retained.

Amendments

3.8. The proposal has been amended during the application with revised documents and drawings provided in August 2021 including the following changes:

- Reduction in the scale of the development, including removal of all development originally (indicatively) proposed beyond the existing tree line adjoining the orchards to the east of the site. The indicative layout of the development was also consolidated, reducing the floorspace from a maximum of 2,375sqm to 1,710sqm, which also resulted in the indicative number of workshop units being reduced from 25 to 18.
- Re-siting and re-design of the proposed development (as indicatively detailed for Outline permission purposes) to exhibit a less formal layout, design and scale to be more in keeping with the site's semi-rural context and traditional barn style vernacular of the existing buildings at Brogdale Farm.
- Refinement of the proposed use of the workshop/business units, with at least 50% of the proposed floorspace solely restricted to agricultural and rural based uses/industries, with the remainder of the floorspace occupied by small scale rural offices, research and development and low intensity industrial processes. However, this offer did not proceed further as it would conflict with the proposed use classes.
- Inclusion of holiday let accommodation to complement the existing farm hub and surrounding uses in response to feedback from the Council's Tourism Manager.
- Further supporting information provided including an Arboricultural Assessment, Transport Assessment, Design and Heritage Assessment, Ecological Assessment, and support letters from Brogdale Farm letting agents. A letter of support was also provided from Lorenden School, who were interested in operating the nursery; however they later withdrew their commitment to this in order to pursue a different venture.

3.9. Further revisions and additional information were provided in November 2021 in relation to transport and land contamination. Further information was also submitted between June and November 2023 in relation to ecology, heritage, and deliverability.

3.10. Further information was again provided in July and August 2024 to clarify matters raised by officers in regard to the proposed use and its compliance with the Development Plan, parking, and landscape effects.

4. CONSULTATION

4.1. Four 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.

4.2. Letters of representation were received from 28 separate addresses in relation to the consultation, including letters of objection from 22 separate addresses. Concerns / comments were raised in relation to the following matters: -

Comment	Report reference / response
Outside the built-up-area boundary for Faversham.	The principle of development is discussed in section 7.3 of this report.
It is greenbelt land which is preferred to be protected and development targeting brownfield is better.	For the avoidance of doubt, the rural areas of the Swale Borough are not defined as Green Belt. The principle of development is discussed in section 7.3 of this report.
Concerns of the adverse impact on the surrounding countryside of Faversham representing urbanisation.	The principle of development and Swale's settlement strategy are discussed in section 7.3 of this report.
Inappropriate development in a rural environment.	The principle of development and Swale's settlement strategy are discussed in section 7.3 of this report.
Already unused units and space on Brogdale Farm currently.	The demand for employment space is discussed in section 7.3 of this report.
Previous supervision of tenants and lettings are poor on site.	The demand for employment space is discussed in section 7.3 of this report.
Concerns of this being part of a wider long-term plan to change the nature of the land use.	The application can only be assessed on its merits based on the proposal submitted.
Proposal does not compliment the National Fruit Collection.	The proposal's effect on the National Fruit Collection is discussed in section 7.3 of this report.
No need for another community hall when a new one has just been built in the village and is an ideal site for the proposed nursery school.	The application does not propose a new community hall.
Need for a nursery on site is not strongly supported.	The principle of the proposed nursery is discussed in section 7.3 of this report.
Nursery School will not be pursued by Lorenden Prep.	The principle of the proposed nursery is discussed in section 7.3 of this report.
No confirmed use of the site.	The proposed land use was clarified during the application and is discussed in section 7.3 of this report.
Risk of holiday let to be sold for permanent residencies.	The proposed holiday lets will be controlled by a condition to prevent their use as permanent residencies.
Refurbishment of existing buildings would be preferred.	Duly noted.
Proposal not in keeping with existing buildings.	The character and appearance of the proposed development is discussed in section 7.7 of this report.

Trees offer little screening on the NE boundary.	Landscape and visual impacts are discussed in section 7.4 of this report.
Impact on setting of neighbouring Grade 2 listed Farmhouse.	Heritage impacts are discussed in section 7.5 of this report.
Overall road safety due to location of access road and no footpath or street lights along Brogdale Road.	Transport and highways safety is discussed in section 7.10 of this report.
Consider the transport surveys not accurate representation.	The transport surveys have been scrutinised by KCC Highways and revisions made to resolve concerns raised.
Extra traffic and large vehicles impacting rural lanes.	Transport and highways safety is discussed in section 7.10 of this report.
Holiday lets will increase traffic.	Highways matters are discussed in section 7.10 of this report.
The A2/A251 junction is oversubscribed at peak and traffic lights at A251 junction may not be enough for the traffic volumes.	Highways matters are discussed in section 7.10 of this report.
Unsafe parking on Brogdale Road.	Highways matters are discussed in section 7.10 of this report.
Flooding of existing residential driveway.	Flooding and drainage matters are discussed in section 7.12 of this report.
Impact on reservoir.	The reservoir is disused and no longer serves any function at the site.
Cost to the local community and environment.	The overall balance of the application
Disruption to wildlife.	Ecology impacts are discussed in section 7.9 of this report.
Bat survey considered to be wrong.	The bat survey has undergone review by KCC Ecology and is discussed in section 7.9 of this report.
Noise currently using site in middle of night, outside of hours of operation.	The Noise Assessment indicates that monitoring was undertaken during daytime hours and was reviewed by the Council's environmental health advisor, who raised no objections.
On site noise and pollution with vans and lorry movements are inevitable.	Noise impacts are discussed in section 7.14 of this report.
Concerns of amenity impacts, including overlooking, of the neighbouring residential property.	Neighbouring amenity impacts are discussed in section 7.14 of this report.

Local resident not informed of planning application.	The application has undergone consultation in accordance with standard planning requirements.
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4.3. Three letters of support have been received during the course of the application, raising the following points:

Comment
Brogdale Farm represents a suitable location for the extended nursery school.
The nursery supports long term objectives for Lorenden Prep.
Current business on site employs 4 people for a small company with a vibrant location.
Ideal strategic location regarding facilities and accessibility do not want to relocate business.
Regular interest from local businesses are looking to establish and expand at Brogdale Farm.
Offers prospects for job creation and nursery provision.

4.4. **Ospringle Parish Council** objected to the application in each of the four rounds of public consultation. A summary of the grounds for objections are as follows:

Comment	Report reference / response
Reference to Faversham Creek Neighbourhood Plan has no relevance. The site is within the area covered by the Ospringle Parish Design Statement, which is not referenced.	The character and appearance of the proposed development is discussed in section 7.7 of this report.
Concerned at the continuing absence of a development masterplan for Brogdale Farm	The proposals effect on the layout of the wider Brogdale Farm development is discussed alongside the character and appearance of the proposed development in section 7.7 of this report.
The application site lies in a semi-rural area outside the built-up boundary.	The principle of development and Swale's settlement strategy are discussed in section 7.3 of this report.
The site is unsuitable for development for the proposed uses, including industrial processes, light or otherwise, wholesale activities, storage and distribution.	To clarify, the proposed development does not include storage or distribution uses. The principle of development is discussed in section 7.3 of this report.
Concerns about the appropriateness of the site for a nursery school, noting the withdrawal of interest from Lorenden Preparatory School	The principle of the proposed nursery is discussed in section 7.3 of this report.

The potential for traffic generation from the proposal is of great concern to the council.	Transport and highways safety is discussed in section 7.10 of this report.
Concerns about the siting of the new access into the site, just south of the M2 motorway bridge as visibility is compromised at this point by the crest of the bridge.	Transport and highways safety is discussed in section 7.10 of this report.
The potential to have a significant adverse effect on the Grade 2 listed Brogdale Farmhouse.	Heritage impacts are discussed in section 7.5 of this report.
Suggest change in the description of the application	The description of development has been updated during the application and subject to public consultation.
We would regard a business park/industrial estate as an unsuitable setting for holiday accommodation.	The success of the co-location of business use and holiday lets will rely on design and site management, which is assessed below as far as appropriate but would be considered further at Reserved Matters stage.
Concerns of the proposal's impact on nearby AONB.	Landscape and visual impacts are discussed in section 7.4.
Endorses Faversham Society objections, particularly concern of prospect of this evolving into a residential project.	The proposed holiday lets will be controlled by a condition to prevent their use as permanent residencies.
Concerned that the traffic data is out of date and does not account for recent developments.	Transport and highways matters are discussed in section 7.10 of this report.
Concerns of amenity impacts, including noise and disturbance, to adjoining farmhouse due to lack of screening along boundary.	Noise impacts are discussed in section 7.14 of this report.
If the application is to be granted, request that days/hours of use are restricted, and use of the industrial units controlled to prevent change of use and to reduce the impact on nearby residents.	Conditions are recommended to control these matters.

4.5. **The Faversham Society** objected to the application on the following additional grounds:

Comment	Report reference / response
Fear that the proposal will result in demolition of existing visitor centre, which is included within the red line boundary although no proposals for this area have been submitted. Insufficient information has been provided on this matter.	The application does not propose changes to the existing visitor centre.
Concerns raised at the land ownership details.	Land ownership is not a material consideration in this application.
The site is not allocated for redevelopment.	The principle of development is discussed in section 7.3 of this report.
Concerns that the site is located outside the Faversham built-up area boundary and is an unsustainable location.	The principle of development and Swale's settlement strategy are discussed in section 7.3 of this report.
The scheme is car-dependent and should be refused on sustainability grounds.	The site is within walking and cycling distance of Faversham town centre and the railway station, and parking is provided in line with policy.
Concerns that there is a lack of demand for the proposed uses.	The demand for employment space is discussed in section 7.3 of this report.
Concern that the proposed Class E use could be converted to residential.	The proposed Class E space will be controlled by a condition preventing their conversion through permitted development rights.
Suggest permitted development rights should be excluded by condition for proposed commercial and nursery uses.	The proposed uses will be controlled by a condition preventing their conversion through permitted development rights.
Concern that the proposed nursery is not viable.	The principle of the proposed nursery is discussed in section 7.3 of this report.
Concerns at insufficient parking.	Highways matters are discussed in section 7.10 of this report.
Concern that the proposal represents an overdevelopment of the site.	The character and appearance of the proposed development is discussed in section 7.7 of this report.

5. REPRESENTATIONS

Environment Agency: Initial response raised concerns that the application did not demonstrate that the risks of pollution to controlled waters are acceptable, or can be appropriately managed. The previous use of the development site as a farm presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the site is located within source protection zone 1 and 2, upon a principal aquifer.

Following the provision of further information, the EA advised that the previous issues raised were resolved and have no objections subject to suitable conditions. The reports submitted in support of this planning application provides the confidence that it will be possible to suitably manage the risk posed to controlled waters by the proposed development. Further detailed information will however be required before built development is undertaken and this has been secured by conditions accordingly.

Natural England: Initially raised no objection, however the introduction of holiday lets in the proposal led to Natural England advising that this could result in impacts to the coastal Special Protection Areas (SPAs) and Ramsar Sites from increased recreational disturbance. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the sites.

National Highways: No objections subject to securing a financial contribution towards improvement works to the M2 Junction 7. The sum requested is based on the modelled number of trips generated by the development using the M2, multiplied by a rate equivalent to that used for the nearby Perry Court outline permission (ref: 15/504264/OUT), which also secured contributions towards the improvement of Junction 7. The rate requested is £695 per trip and index linked to July 2015, which is when the Perry Court contribution was calculated.

National Highways responses during the course of the application have noted changes in the number of trips expected to be routed across M2 junction 7 during the application, the latest figures being 25 trips. The case officer has confirmed with National Highways of a contribution amount of £17,375 (25 trips x £695), which shall be indexed-link to July 2015.

Southern Water: No objections – standard advice and informatives recommended.

UK Power Networks: No objections raised. Informatives are recommended to be included to advise the developer of their responsibility to protect underground assets.

Swale Economic Development: No objections.

The Economic Development officer reviewed the details submitted and confirms that there is an established demand for flexible space that can be adapted and used by a broad range of business types. Potential occupiers are seeking an attractive environment, for instance where the business offers not only products but also experiences. This is something that Brogdale is able to offer over existing employment sites in the town, and most likely the allocated sites (if delivered) would be unlikely to service this segment of the market.

The officer initially queried the proposed rent levels, however marketing details provided have indicated a rental at or around £20 per square foot and with no properties currently 'live' on the register (and therefore are not available) this would concur with the statements made in the originally submitted additional letter around meeting a demand for space.

SBC Heritage: There is no objection to the principle of some form of further limited development at the site, however considers that the amount of development proposed

at the site would be harmful to the setting of the adjoining listed farmhouse, which is already heavily impacted from previous piecemeal development. He also raised concern that the indicative form of the proposal is not contextually sensitive enough to prevent further harm arising to the setting of the listed farmhouse. The Conservation Officer therefore concludes that there would be a moderate degree of less than substantial harm to the setting of the listed farmhouse. Furthermore, the additional information provided by the applicant's heritage consultant was not convincing to reduce the amount of harm being caused.

It was advised that if officers consider recommending the application for approval then it will be necessary to consider whether the identified NPPF-framed 'less than substantial harm' impact is outweighed by the public benefits of the scheme. Heritage benefits, such as information boards of the history of Brogdale Farm and its connection with the listed Farmhouse, should be considered and detail could be secured at the reserved matters stage.

SBC Urban Design:

The development will clearly increase built form across this rural site and significantly intensify its use. It is likely that the commercial buildings, intensified use, and high levels of parking would be visible from Brogdale Road, given the new access and loss of tree/hedgerow along this edge.

The reduction in floorspace and a move away from stridently commercial sheds to the current iteration which proposes a more (contemporary) agricultural aesthetic is an improvement over the initial submitted scheme, although this needs considerable refinement to become more contextually responsive.

Whilst there is variety in scale and built form across the different uses, the commercial units, in particular, appear relatively uniform. There is scope to explore a wider range of agriculturally inspired forms, scales and materials to arrive at a sequence of varied building typologies which together have architectural coherence.

The proposal should more positively respond to the historic form and layout of Brogdale farm as a multi-yard farmstead, which typically includes a complex series of grouped buildings; attached and detached from each other and formed around a series of yards.

Landscaping: the development could be visually contained further by augmenting existing planting with new native species of plants and trees along the edges of the development and drawing this into the site to respond to rural character. Planting should also be used to soften built form at the edges of the site and particularly in views from Brogdale Road. Also, parking areas and workshop courtyards could benefit from additional screening and softening. We would expect the landscaping strategy to be fully explained with proposed species in any reserved matters application.

Overall, the site will be intensified by the development both in terms of built form, use and comings and goings. We are encouraged by the direction of travel in terms of design, however the layout and built form of development needs further refinement to demonstrate it is fully responsive to this context. However, accepting that the design

is indicative at this outline application stage this could be secured at the reserved matters stage, although it will be crucial that this enhancement process is undertaken to ensure that development, in the quantum proposed, can sit comfortably at this location.

Mid Kent Environmental Health:

Noise

- Acceptable in principle subject to conditions.

AQ

- Concern with air quality impacts generated by increased vehicle movements.
- Recommends an air quality assessment be secured by planning obligation, including a damage cost calculation / emission mitigation assessment.

Lighting

- Recommend condition to secure details of lighting.

Construction

- Recommends dust mitigation condition.

KCC Highways: Initially requested revisions to the proposed site access to improve visibility splays, revisions to the pedestrian access location and its connection to the existing footway and clarifications regarding trip generation. Additional information was provided and confirmed to resolve the concerns raised regarding the access, however further clarification was requested regarding trip generation and traffic impacts. This was later clarified and confirmed by KCC Highways to be acceptable on the basis of the number of vehicle movements likely to pass through each of the identified junctions and highway links. Conditions are recommended to mitigate the residual transport and highways impacts. The recommended conditions secure the following:

- Construction Management Plan
- Vehicle loading/unloading and turning facilities
- Completion and maintenance of the access
- Provision and maintenance of the visibility splays
- Measures to prevent the discharge of surface water onto the highway
- Details of vehicle parking spaces
- Details of Electric Vehicle chargers
- Details of cycle parking facilities

SBC Trees: No objections to the principle of the scheme subject to conditions to secure the tree protection measures and a scheme of landscaping.

KCC Ecology: Initially requested further information on how the reptile population will be retained on site through identification of a suitable receptor site on site and details of ecological enhancements to be incorporated into the site. Further information was provided and confirmed by KCC Ecology to resolve the issues raised, and recommended conditions regarding reptiles, ecological enhancements, CMP and

ecological management plan. Further updates to the Ecology Report were provided during the application due to the length of time from the initial surveys, which were also reviewed by KCC Ecology and found acceptable. Conditions are recommended to mitigate the proposal's potential impact on ecological values, including an updated ecological impact assessment prior to the commencement of development.

KCC LLFA: No objection to the proposed drainage strategy subject to conditions to secure a detailed sustainable surface water drainage scheme.

Kent Police: Initial response raised concerns regarding the layout of the proposal, with standard designing-out-crime advice provided for the design to prevent opportunities for crime. However, no updated responses were received in response to the revisions and following subsequent rounds of consultation. Officers acknowledge that this matter would be better picked up at the reserved matters stage and have included a condition to secure this accordingly.

6. DEVELOPMENT PLAN POLICIES

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

- Policy ST 1 Delivering sustainable development in Swale
- Policy ST 2 Development targets for jobs and homes 2014-2031
- Policy ST 3 The Swale settlement strategy
- Policy ST 7 The Faversham area and Kent Downs strategy
- Policy CP 1 Building a strong, competitive economy
- Policy CP 2 Promoting sustainable transport
- Policy CP 4 Requiring good design
- Policy CP 5 Health and wellbeing
- Policy CP 6 Community facilities and services to meet local needs
- Policy CP 7 Conserving and enhancing the natural environment - providing for green infrastructure
- Policy CP 8 Conserving and enhancing the historic environment
- Policy DM 3 The rural economy
- Policy DM 6 Managing transport demand and impact
- Policy DM 7 Vehicle parking
- Policy DM 14 General development criteria
- Policy DM 15 New shopfronts, signs and advertisements
- Policy DM 19 Sustainable design and construction
- Policy DM 20 Renewable and low carbon energy
- Policy DM 21 Water, flooding and drainage
- Policy DM 24 Conserving and enhancing valued landscapes
- Policy DM 26 Rural lanes
- Policy DM 28 Biodiversity and geological conservation
- Policy DM 29 Woodlands, trees and hedges
- Policy DM 31 Agricultural land
- Policy DM 32 Development involving listed buildings
- Policy IMP 1 Implementation and Delivery Plan

Neighbourhood Plans - None applicable.

Supplementary Planning Guidance/Documents:

- Air Quality and Planning Technical Guidance
- Developer Contributions SPD
- Ospringe Parish Design Statement
- Parking Standards SPD
- Swale Landscape Character and Biodiversity Appraisal SPD
- Strategic Access Management and Monitoring Strategy (SAMMS)

7. ASSESSMENT

7.1. This application is reported to the Committee because a Parish Council has objected to the proposal.

7.2. 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

7.3. Principle

7.3.1. 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.

7.3.2. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration 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.

- 7.3.3. Paragraph 10 of the NPPF states that at the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social, and environmental and to achieve sustainable gains these should be sought jointly and simultaneously through the planning system.
- 7.3.4. The mechanism for applying the presumption in favour of sustainable development is also relevant and set out in paragraph 11 of the NPPF and states that for decision-taking this means:
- “c) approving development proposals that accord with the Development Plan without delay; or,*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

Protection of agricultural land

- 7.3.5. Policy DM31 of the Swale Borough Local Plan seeks to protect agricultural land and prevent the development of the best and most versatile (BMV) agricultural land (specifically Agricultural Land Classification Grades 1, 2 and 3a) unless the site is allocated for development by the Local Plan; or the following criteria are met:
- There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and
 - The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.
- 7.3.6. The application site is identified as Grade 2 land on the Agricultural Land Classification maps and therefore comprises BMV agricultural land. It is not allocated by the Local Plan and therefore its development would need to address the above criteria to comply with the policy.
- 7.3.7. The applicant contends that despite its classification, the site itself lies outside of the adjoining farmland and no longer functions as agricultural or horticultural land. The site comprises of an old reservoir and a disused garden area and glasshouses associated with a plant centre that formerly occupied the site. There is planning history dating back to 1995 for the use the reservoir for recreational fishing purposes, however it is currently disused and does not appear to have been in use

for a significant amount of time. It therefore raises the question of whether the proposal would result in the loss of agricultural land.

- 7.3.8. This issue was recently grappled with in the appeal decision issued on 31 October 2024 for Orchard View, Eastling Road (Appeal Ref: APP/V2255/W/24/3341877). The Inspector notes in their decision that despite being used as a paddock as part of a residential property (and therefore not in agricultural use), the parties agreed that the site was located on BMV agricultural land. As such, taking a similar approach in this application would lead to the same conclusion that the site at Brogdale Farm is BMV agricultural land.
- 7.3.9. The applicant has not put forward any evidence to demonstrate that there are no alternative sites of lower grade and therefore the application fails to meet this criterion.
- 7.3.10. The applicant contends that the site is small in size compared to the wider landholding at Brogdale Farm so will not result in the remainder of the agricultural holding becoming unviable or lead to a significant loss of high-quality agricultural land. The applicant also suggests that the proposal's location is suitable in the context of the wider landholding as it would not extend into the surrounding farmland, is well-contained and would provide opportunities for enhancement. Officers agree with this and consider that the proposed development will not impact on the viability of the adjoining agricultural land. However, this does not overcome the other non-compliance issues raised above.
- 7.3.11. Given the site is not allocated and it has not been demonstrated that there is an alternative site of a lower grade, officers conclude that the proposed development would result in the loss of BMV agricultural land. It is therefore contrary to policy DM31 of the Local Plan insofar as it seeks to protect best and most versatile agricultural land.

Swale's Settlement Strategy

- 7.3.12. Local Plan Policy ST1 Part 4 states that to deliver sustainable development in Swale, all development proposals will, as appropriate, accord with the Local Plan settlement strategy. Local Plan Policy ST3 Part 5 relates to the settlement strategy and states that at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless:
- Supported by national planning policy, and
 - Able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.3.13. It is acknowledged that the site is located outside of the built-up-area boundaries. However, in terms support for the proposal from national planning policy, Paragraph 85 of the NPPF states that planning decisions should help create the

conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity. The proposed development aligns with the NPPF in this regard.

- 7.3.14. Furthermore, NPPF paragraph 88 supports the growth and expansion of business in rural areas and seeks to enable the development and diversification of agricultural and other land-based rural businesses. In addition, NPPF paragraph 89 encourages planning decisions to recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. It also encourages the use of previously developed land. The proposal is considered to be supported by these paragraphs of the NPPF.
- 7.3.15. The extract of policy ST3 Part 5 reflected in the second bullet point above requires proposals to contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. In this instance, the site adjoins an established hub of activity within the Brogdale Farm holding, which buffers the site from rural landscape to the south. The site is also well contained within the wider property, being screened by mature trees to the north, east and west, whilst the M2 Motorway nearby to the north forms a prominent feature and reduces the tranquillity of this location. These matters are discussed in greater detail in Section 7.4 of this report, which concludes that the proposal is not harmful to the countryside in this regard.
- 7.3.16. In terms of promoting the vitality of rural communities, the proposal would generate further commercial activity and further diversify the commercial portfolio of the Brogdale Farm holding. The applicant advises that this is important to supporting the continuing survival of Brogdale's function as host of the National Fruit Collection, which is significant to the protection of fruit growing in the UK. This function of Brogdale Farm generates national and internal recognition, which in turn generates tourism and therefore promotes the vitality of the rural community. As such, it is considered the proposal complies with Policy ST3 (5) in principle, provided that the design and scale of development protects the countryside setting.
- 7.3.17. Notwithstanding the above, members are also advised to consider the Council's most recent Employment Land Review (ELR) undertaken in 2023, which forms part of the Local Plan evidence base and is therefore afforded weight in planning decisions. This identifies that there has been strong take-up of employment land in recent years, and as such supply is now tighter, which produces a higher requirement compared to that in 2018 (and higher than that set out in the (2017) Local Plan). Essentially, the ELR indicates that the quantum of land needed to meet the identified demand cannot be met from land within the designated built-up-area boundaries or site allocations.

- 7.3.18. The application site and indeed this application is identified within the table of 'Sites Potentially Suitable for Employment Uses' in Appendix B of the ELR, although it notes that there are a number of constraints leading to a 'Medium' rating of 'Overall Constraints'.
- 7.3.19. Notwithstanding this, as the increased requirement cannot be accommodated within the 2017 settlement boundaries, those boundaries are also substantively out of date. It follows that rigid application of the settlement boundaries under Policy ST3 would not enable the Council to deliver current employment space requirements.
- 7.3.20. Paragraph 11 of the NPPF states that where the policies which are most important for determining an application are out of date (in this case Policy ST3) the 'Tilted Balance' in favour of sustainable development should apply to decision making, unless the exclusions at NPPF paragraph 11 (d) (i) or 11 (d) (ii) are activated. This is discussed in the Planning Balance and Conclusion section of this report.

Proposed workshop / business units

- 7.3.21. Local Plan Policy ST1 Part 3 seeks for development proposals to "*Support a prosperous rural economy, especially for sustainable farming and tourism, or where enabling communities to meet local needs or benefiting countryside management*".
- 7.3.22. Local Plan Policy CP1 relates to building a strong and competitive economy and states in part that development proposals will exploit competitive strengths in the Swale economy. Paragraph 5.1.8 of the Local Plan identifies that future growth depends on attracting inward investment, developing the sectors where there are already established strengths and stimulating growth of smaller scale home-grown firms (inc. creating a positive climate to encourage school and higher education leavers to base new businesses in Swale). Part 14 of Policy CP1 states that subject to proposals not significantly compromising the Local Plan, unanticipated needs can be met on appropriate sites within 'Priority Locations', which includes extensions to existing employment sites. The application aligns with Policy CP1 in this regard.
- 7.3.23. Local Plan Policy ST7 provides the strategic direction for the Faversham area and Kent Downs. It states that "*Decisions will strengthen the viability of Faversham or its rural communities and support their shared social, economic and cultural links*", and lists out 16 broad expectations in development proposals.
- 7.3.24. The proposed development of business units on the application site will support the local rural economy and provide employment opportunities, therefore it aligns with Policy ST7 in this regard.

- 7.3.25. Local Plan Policy DM3 supports development proposals for the sustainable growth and expansion of business and enterprise in the rural area. Part 1 of Policy DM3 sets out criteria (a) to (f) that development proposals for rural based employment are required to meet, including for proposals to be located within rural local service centres and urban areas, and seeks the reuse of existing buildings where possible. Criteria (d) to (f) regard design, heritage, ecology, landscape and transport matters, which are discussed in the relevant parts of this report.
- 7.3.26. The application site forms part of an existing business hub at Brogdale Farm including employment, retail and farm buildings, which as mentioned above are related to the National Fruit Collection's agricultural activity, research and tourism facilities located at Brogdale Farm. The National Fruit Collection is one of the largest fruit collections in the world and includes over 3,500 named Apple, Pear, Plum, Cherry, Bush fruit, Vine and Cob Nut cultivars. The applicant has stated that the diversification of use on their site over the years has been required to support the farm business and continuing operation of the Fruit Collection.
- 7.3.27. The proposal seeks to provide up to 1,710sqm of flexible workshop, industrial and research & development floorspace, which would fall under Use Class E(g) (ii & iii). The proposed flexible workshop, industrial and research units would be provided within 18 units spread across 6 separate 2-storey buildings of varying size and layout. Each unit would be provided with direct vehicle access for deliveries and servicing, with parking provided in close proximity.
- 7.3.28. The applicant has provided a letter from George Webb Finn, the letting agents for the existing commercial space at Brogdale Farm, which states that the occupancy of the existing space has always been high and void periods incredibly low. It further states that they continuously receive enquiries for space frequently and that the proposed units would cater to the demand for space on site. George Webb Finn attribute the high demand at Brogdale Farm to its wealth of charm, abundant parking, open communal space and picturesque views.
- 7.3.29. The Council's Economic Development Team have reviewed the application and discussed the proposals with the applicant. They advise that the proposal reflects an established demand for flexible space which can be adapted and used by a very broad range of business types. The enquiries received also reflect a demand from occupiers that would inherently be seeking an attractive environment, for instance where the business offers not only products but also experiences. This is something that Brogdale is able to offer over existing employment sites in the town, and most likely the sites allocated by the Local Plan (if delivered) would be unlikely to service this segment of the market.
- 7.3.30. The Economic Development Team have also examined the deliverability of the proposal and indicative rental rates of £20psf. They advise that the marketing details provided in the past have indicated a rental at or around £20psf and with no properties currently 'live' on the register (and therefore are not available) this

concurs with the statements made in regard to meeting a demand for space. Whilst the Economic Development Team have not raised an objection to the application, they note the individual buildings have large footprints and it will need to be clear as to whether there will sufficient scope for sub-division to meet the micro and small business demand that makes up most of the enquiries received by Brogdale. However, officers consider that this matter would be more clearly shown at the reserved matters stage.

- 7.3.31. As set out in the previous section, it is considered that the proposed development would not result in the loss of agricultural land and is suitably located on site so as to avoid impact on existing agricultural functions. Given the high occupancy of the existing buildings at Brogdale Farm, it is agreed that there is no ability to accommodate the proposal within existing buildings on site.
- 7.3.32. The proposed flexible workshop, industrial and research units would in principle have the potential to compliment and support the existing hub at Brogdale Farm and its primary function as a farm. It would provide a unique offer that is unlikely to be met elsewhere in the area, and thereby would address an established demand for this space. The proposed development would also provide long-term financial security for Brogdale Farm by further diversifying its income source and securing a steady revenue.
- 7.3.33. The proposed flexible Class E(g) (ii & iii) units would therefore support the local and rural economy, meet local needs, provide employment opportunities and address challenges facing Brogdale Farm by building greater resilience. As such, the proposal complies with Local Plan Policies ST1 (3), ST7 and CP1.
- 7.3.34. It is also acknowledged that the proposal is not located within a rural service centre, urban area or a designated employment site. As such, the proposal creates tension with Policy DM3 Part 1 (a). However, the proposal is considered to comply with the other relevant parts of the policy and is considered to comply with Policy DM3 when read as a whole. As such, the proposed development does not depart from this policy.
- 7.3.35. The detailed design of the proposed flexible workshop, industrial and research & development units would be secured through the reserved matters stage. The details will need to demonstrate that the proposal is well designed, accessible, safe and sustainable in accordance with the relevant policies. A condition is recommended seeking this detail through the submission of a reserved matters application.

Proposed Nursery

- 7.3.36. Local Plan policy CP1 encourages the provision of educational facilities whilst policy CP6 seeks to address infrastructure deficiencies including the provision of education facilities, especially those forming part of the Local Plan implementation and delivery schedule. Policies CP1, ST7 and DM3 together support sustainable

growth and expansion of businesses and employment opportunities in the rural area.

- 7.3.37. The proposed nursery facility will comprise of up to 360sqm (Use Class E(f)) and includes up to 465sqm of secure external space for outdoor play and learning. It is considered to be of a scale that is suitable for the context of the site and surrounding area and would provide a community facility for local families. The principle of the proposed nursery as a community facility is therefore considered to be acceptable in line with Policy CP6.
- 7.3.38. The proposed nursery as a business will also support the local rural economy and provide employment opportunities, therefore it aligns with Policies CP1, ST7 and DM3 in this regard.
- 7.3.39. Officers note that the proposed nursery was originally brought forward in collaboration with Lorenden Prep School when the application was first submitted in 2020. However, during the course of the application Lorenden Prep School withdrew their interest to pursue a different venture. The applicant advises that they have received interest from other education bodies in the area and therefore continue to include the nursery in the proposal. Officers acknowledge that other education bodies may show interest and therefore this does not affect the compliance of the principle of the proposed nursery with the abovementioned policies.

Proposed Visitor Accommodation

Policies CP1, ST7 and DM3 together support sustainable growth and expansion of businesses and employment opportunities in the rural area, including facilities to support tourism.

- 7.3.40. The proposal includes 5 x 2 bedroom holiday let units, which were included in revisions to the proposal in August 2021. The holiday lets were included at the advice of the Council's Tourism Manager, who confirmed that she would be supportive of tourism accommodation at the site as Brogdale Farm would be a great site to enhance its tourism offer.
- 7.3.41. Brogdale Farm generates tourism through its function as the National Fruit Collective site and already contains a number of facilities and services for tourists. The proposed holiday lets would help to further diversify the tourism offer at Brogdale Farm and offers the potential of tourism opportunities that are unique to the area. The proposal also further supports the rural economy and resilience of the Farm. As such, the principle of the proposed holiday lets complies with Local Plan policies ST1 (3), ST7 (2), CP1 (9) and DM3 (2).
- 7.3.42. The detailed design of the proposed holiday lets would be secured through the reserved matters stage. The details will need to demonstrate that the proposal is well designed, accessible, safe and sustainable in accordance with the relevant

policies. A condition is recommended seeking the detailed design through the submission of a reserved matters application.

Conclusion on Principle of Development

7.3.43. The proposed development would in principle support and compliment the primary agricultural function of Brogdale Farm and its secondary role as a tourist destination. The proposal would support the rural economy, meet local needs, provides employment opportunities and addresses challenges facing Brogdale Farm by building greater resilience. The proposal also provides a community facility to the benefit of local families. However, the location of the site outside of the settlement boundaries and loss of BMV agricultural land create conflicts with policies ST3 and DM31. The overall planning balance is discussed in the Conclusion section of this report.

7.4. Landscape and Visual

7.4.1. Paragraph 181 of the NPPF requires decisions to ensure that development contributes to and enhances the natural and local environment by “*a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)*”.

7.4.2. The Local Plan echoes this in the Borough’s settlement strategy in Policy ST3 Part 5 and then further sets this out in Policy DM24, which seeks to protect, enhance and, where appropriate, manage the value, character, amenity and tranquillity of the Borough’s landscapes.

7.4.3. The Kent Downs National Landscape Area (NLA) is located approximately 700m to the south-west. However, the site is not easily visible and the proposed buildings would be low set and screened by existing buildings and vegetation. As such, officers consider that the proposal would not affect the setting of the NLA.

7.4.4. The application site is located within an Area of High Landscape Value of Kent level significance. The Swale Landscape and Biodiversity Appraisal SPD (2011) includes the site within the Faversham and Ospringe Fruit Belt area, which is identified as having a tranquil landscape with a strong traditional character. It contains many fine historic properties and ancient lanes and is also a valuable landscape in terms of biodiversity due to the varied habitats and wildlife corridors that exist here. The SPD rates the area as having a good condition level and moderate level of sensitivity.

7.4.5. The SPD sets guidelines for the Faversham and Ospringe Fruit Belt area to encourage the conservation and reinforcement of the landscape and built form. The relevant guidelines to this proposal seek to conserve the rectilinear landscape pattern and look for opportunities to reinforce the continuity of hedgerows, shaws and shelterbelts, whilst maintaining the openness of areas that have never been enclosed and conserving the intimate, orchard covered and enclosed landscape

character around the valley forms at Whitehill and Plumford. It also seeks the use of local and vernacular materials appropriate to the location.

- 7.4.6. The proposed development would be well contained within the site on land that is largely previously developed land that is bordered by tree belts and would not encroach into the surrounding open farmland. The indicative materials proposed and built form also reflect the local vernacular. The proposed development is therefore considered to be consistent with the relevant guidelines.
- 7.4.7. The proposal is also located within the existing farmstead and adjoining the M2 motorway. As such, the site is not considered to be a particularly tranquil area and therefore the proposal would not adversely impact on the tranquillity of the wider protected landscape area.
- 7.4.8. The proposed development is considered to protect the value, character, amenity and tranquillity of the Faversham and Ospringe Fruit Belt Area of High Landscape Value. As such, the proposal complies with Local Plan Policies DM24 and ST3.

7.5. Heritage

- 7.5.1. 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.
- 7.5.2. The application site is not within or adjoining a World Heritage Site, National Landscape area or Conservation Area, nor would it affect the setting of any such areas. The proposal does not contain any listed and locally listed buildings, however it does adjoin a grade II listed building. This is the only heritage asset in the vicinity of the site.
- 7.5.3. Local Plan Policy DM32 sets out that development proposals affecting a listed building, including its setting, will be permitted provided that the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved.

Adjoining Listed Building

- 7.5.4. The adjoining grade II listed building is the Brogdale Farmhouse, which is an 18th Century farmhouse that was originally part of the wider Brogdale Farmstead but was separated sometime after 1960. The building was listed in 1970, after it was separated from Brogdale Farm, and therefore the boundary of the property containing the listed building is its curtilage. As such, the application site does not form part of the curtilage of the listed property. The official listing is limited, noting it as an C18th house and a description of the building features.

7.5.5. The Applicant's Heritage Advice Note sets out a detailed description of the significance and setting of the listed Farmhouse. It describes the significance of the listed building as being predominantly derived from historical and architectural interest, stating that *"Its form, detailing, materiality, and methods of construction are all firmly within the local vernacular style and illustrate the building's type and primacy within the farmyard context"*.

7.5.6. With regard to the setting of the listed Farmhouse, the Advice Note states the following:

Our own assessment concludes that the contribution the setting makes to special interest of Brogdale farmhouse can be summarised as:

- i. The immediate farmyard, the cluster of buildings is arranged around a central concreted yard, this important open space continues to illustrate the hierarchy of farm buildings and the important relationship between the main farmhouse and the ancillary farm buildings. This remains legible, although the relationship between the farmhouse and the yard has been disrupted through historic change notably, planting and the retail units.*
- ii. The wider rural landscape, the system of fields, hedgerows, and remnants of agricultural character of the area all contribute to the legibility of the building's former use. - However, this has been severely diminished through development along Brogdale Road, the siting of the carpark over former orchards, the nearby M2 and an intensification of commercial use at Brogdale farm.*

7.5.7. Officers agree that the entire application site boundary falls within the setting of the listed building. However, the Council's Heritage Officer advises that his main point of difference to the description of setting and significance provided in the Applicant's Heritage Statement is that accepts the changes to the setting of the listed building as a fait-accompli and thus having a neutral effect on the significance of the listed building.

7.5.8. The Council's Heritage Officer finds that the changes that have taken place to the setting of the building (since it was listed in 1970) have in the main been negative. The evergreen trees concealing the listed building and largely divorcing it from its agricultural setting (in visual terms) are harmful and along with the other negative factors (e.g. the motorway and reservoir), have contributed to materially diminishing its setting. The adjoining listed building still derives some very limited heritage significance from this setting.

7.5.9. The Heritage Advice Note goes on to conclude that the proposed development would have a low degree of less than substantial harm to the setting of the listed building, which is based on the following considerations:

- The extent of historic change to the rural context

- The application site, which is open agricultural land, contributes little to significance when considering the other component parts of the building and site's special interest as a whole.
 - The primary features of the listed building, its architectural and historic interest would be preserved.
 - Change and adaptation is part of the farmstead's narrative.
 - Design of the development draws reference to the ad hoc ancillary farm building character and would be subservient to the existing farmstead.
- 7.5.10. The Council's Heritage Officer advises he finds that there would be a higher level of harm than that suggested by the applicant due to the differences pointed out above, and would therefore ascribe a medium level of less-than-substantial harm. The case officer agrees with this assessment.
- 7.5.11. The identified harm to the setting of the Grade II Listed Building results in the proposed development conflicting with Policy DM32. Development plan policies relating to heritage matters do not include, within the policies themselves, the application of the balancing exercises set out in the NPPF. The balance between heritage impacts and the public benefits of the proposal is discussed in the planning balance section of the report.
- 7.5.12. Notwithstanding the harm identified above, officers acknowledge that the application is for outline permission and seeks up to a maximum quantum of floorspace. As such, further mitigation to heritage impacts could be provided in the design at the reserved matters stage. Further mitigation might be achieved through a smaller quantum of development, changes in land levels to set the new development at a lower level, and a walkway around the site with information panels that might offer better public awareness of the listed farmhouse and its historic context. Officers acknowledge that the vegetation screen is outside of the application site boundary and therefore not within the ability of the applicant to control.
- 7.6. Archaeology**
- 7.6.1. 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.
- 7.6.2. 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.
- 7.6.3. The site is not located within or adjoining an area identified with potential for archaeological heritage assets. Given that there is limited archaeological interest at this site and a standard condition is recommended for an archaeological watching brief to be secured prior to works commencing and to be carried out

during construction. Subject to this condition the development complies with Policy DM34.

7.7. 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. Policy CP4 of the Local Plan requires good design and seeks development proposals to enrich the qualities of the existing environment by promoting and reinforcing local distinctiveness and strengthening sense of place. The Policy goes on to highlight that development proposals should be appropriate to the context in respect of materials, scale, height and massing.
- 7.7.3. Policy DM14 of the Local Plan states that development proposals will as appropriate reflect the positive characteristics and features of the site and locality.
- 7.7.4. Whilst the layout, appearance, scale and landscaping of the development are reserved for future consideration, the illustrative Site Plan and Stage 2 Design report provides some indication of how the proposal could be developed.
- 7.7.5. The proposed indicative design has also evolved through the planning application process. There has been a reduction in the floorspace and a move away from stridently commercial sheds to the current iteration, which proposes a more contemporary agricultural aesthetic. Officers consider this is the correct approach in principle and therefore acceptable at outline stage, however officers will seek refinement within the reserved matters stage to ensure the development appropriately responds to the context.
- 7.7.6. Whilst the layout is described as irregular in the application, there are hints of groupings of buildings around courtyards in the arrangement shown. Officers will seek this layout to be more strongly expressed in the any future reserved matters application to respond to the existing form and layout of Brogdale Farm more closely, which the Kent Historic Environment Record identifies as a regular multi-yard farmstead. Typically, a multi yard farmsteads include a complex series of grouped buildings; attached and detached from each other and formed around a series of yards.
- 7.7.7. There is variety in scale and built form proposed, which is an acceptable approach in principle given the mixed uses of buildings found in farmsteads. Officers will also seek this to be more strongly expressed in a future reserved matters application and encourage the design to explore a wider range of agriculturally inspired forms, scales and materials to arrive at a sequence of varied building typologies, which together have architectural coherence. In particular, the workshop units as indicatively shown, whilst offering different footprints and scale, would all be of the same height and follow very similar design patterns and materials which can

appear quite repetitive. Any changes to layout/scale/appearance as described above would also need to consider the setting of the listed building.

- 7.7.8. The detailed design of the proposed nursery would be secured through the reserved matters stage. The details will need to demonstrate that the proposal is well designed, accessible, safe and incorporates sustainable building materials in accordance with the relevant policies. A condition is recommended seeking the detailed design through the submission of a reserved matters application.
- 7.7.9. In terms of landscaping, existing planting to site boundaries, shelterbelts and orchards, together with nearby roads and built development of Brogdale Farm, separates the site from the surrounding countryside, so that the site is seen as a discrete compartment rather than as significant portion of a wider landscape context. Nonetheless, the development could be visually contained further by augmenting existing planting with new native species of plants and trees along the edges of the development and drawing this into the site to respond to the surrounding rural character. Planting should also be used to soften built form including parking areas and workshop courtyards and to increase biodiversity. Officers would expect the landscaping strategy to be fully explained with proposed species in a future reserved matters application.
- 7.7.10. Overall, the site will be intensified by the development both in terms of built form and activity, however officers are encouraged by the proposed design approach. Further refinement will be required to the proposed development's layout, form, appearance and landscaping to demonstrate it is fully responsive to its context; however officers are satisfied that this can be secured through a future reserved matters application and have recommended appropriately worded conditions to this effect. Subject to the recommended conditions the proposal accords with Local Plan policies CP4 and DM14.

7.8. 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 site does not include any trees covered by a Tree Protection Order (TPO). The submitted Arboricultural Impact Assessment identifies 27 individual trees, 3 groups of trees and 7 hedges in its tree survey. It states that all of the trees that are of at least moderate arboricultural quality are landscape value are to be retained. Two small and young category 'C' trees comprising a cherry and a plum and one category 'C' Leyland hedge and one category 'C' group of elder, Myrobalan plum, English Elm and Sycamore trees are to be partially removed. The trees to be removed are all young and are of low arboricultural quality and landscape value.

- 7.8.3. The AIA recommends tree protection measures including tree protection fencing surrounding the root protection areas of the trees proposed to be retained. The measures are agreed and are to be secured by condition.
- 7.8.4. The proposal indicates that new tree planting would be included across the site which, whilst indicative, is considered to demonstrate the ability to improve the amount of tree planting on site.
- 7.8.5. The Council's Trees Officer has reviewed the application and advises that the tree protection measures as shown within the AIA, are acceptable and recommends that they be secured by way of a condition. The Trees Officer also recommends that a condition to secure a scheme of landscaping that will mitigate the loss of any trees and further improve biodiversity with the use of native species.
- 7.8.6. It is considered that the proposed tree removal, retention and protection plans are acceptable subject to the recommended conditions. The proposal therefore accords with Local Plan policy DM29.

7.9. Ecology

- 7.9.1. 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.'
- 7.9.2. 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".
- 7.9.3. 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 can not be mitigated.
- 7.9.4. An Ecological Impact Assessment was submitted with the application and then amended in July 2021 to address comments from the County's Ecologist, who requested further information in regard to ecological enhancements and the retention of the reptile population on site. The Ecologist confirmed that the revised Assessment provided sufficient information, however recommended that an

update of the Ecological Impact Assessment is submitted prior to any construction works in case there is a change in circumstance on site. The Ecologist also recommended conditions to mitigate lighting impacts on wildlife, securing ecological enhancements, and a construction ecological management plan.

- 7.9.5. The Ecological Impact Assessment notes that the habitats within the application site comprise predominantly areas of bare ground with ruderal / ephemeral vegetation with areas of semi-improved neutral and modified grassland and a tree line. An individual common lizard was recorded from the reptile survey undertaken between September and October 2020. No protected species were recorded. Mitigation measures are proposed for foraging and commuting bats, badger, hedgehog, harvest mouse, nesting birds and reptiles. Habitat enhancement measures within the wider ownership boundary will provide compensatory habitat for nesting birds and reptiles.
- 7.9.6. Due to the length of time of the application an updated assessment was provided in the form of an ecology site walkover visit and technical note at the Ecologist's request, who confirmed that sufficient information has been provided to determine the application. The above conditions continue to be recommended and are included accordingly.
- 7.9.7. Subject to the recommended conditions the proposed development is acceptable in accordance with policies CP 7 and DM 28 of the Local Plan.

SPA Payment

- 7.9.8. 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.
- 7.9.9. An Appropriate Assessment is set out below. Since this application will result in a net increase in residential accommodation on the site, albeit accommodation that would be occupied on a temporary basis, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £328.27 per new residential unit. Given the similarity of the use, holiday lets also incur this fee. As the development will result in an uplift of five holiday lets at the site, the fee required is £1,641.35. The fee will be secured by s106 legal agreement.

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

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

- 7.9.11. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 7.9.12. SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 7.9.13. 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.
- 7.9.14. 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.
- 7.9.15. 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.
- 7.9.16. 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.
- 7.9.17. Due to the scale of development there is no scope to provide sufficient onsite 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.

- 7.9.18. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.
- 7.9.19. 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 will 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.
- 7.9.20. 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/>).

7.10. Transport and Highways

- 7.10.1. 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.”

- 7.10.2. 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. The application was submitted with a Transport Statement, which was updated when the revisions to the proposal were made in August 2021 and to address initial comments made by KCC Highways. Updated parking provision and clarification that the use of the workshop units would be restricted to Class E(g)(ii & iii) was also provided to confirm that sufficient parking could be provided on site. KCC Highways reviewed the updated Statement and parking provision and confirmed the issues were addressed including clarifications regarding the trip generation figures.

Accidents Review

- 7.10.5. The review of the latest five-year period of data available across the study area indicates that the accidents that occurred within it were the result of driver error, and there were no patterns to suggest that the highway layout contributed toward these or that an existing safety issue could be identified that additional activity would exacerbate.

Speed Survey

- 7.10.6. Two Automatic Traffic Counter surveys were carried out in order to obtain data for traffic flows either side of the proposed access, and officers are content that these are acceptable to gather the speed survey information at this location. Whilst some representations have been made to suggest that the survey may have been carried out around the time the access junction for the Perry Court was being constructed, the relevant data used is in respect of the speed measurements to inform the required visibility sightlines for the proposed new access. This would not have been affected by any roadworks located over 400m away and the records indicate that the survey dates did not overlap with the roadworks.
- 7.10.7. The speed survey results indicate 85th percentile speeds at 35.9 mph southbound and 34.3 mph northbound. These speeds have been used to determine the sight stopping distances for the proposed new vehicular access onto Brogdale Road.

Proposed Site Access

- 7.10.8. The proposed access position complies with the minimum junction spacing distance requirements between accesses, and KCC Highways are satisfied that the geometry is also in accordance with design standards.
- 7.10.9. Drawing number 19-008-001 Revision C has been produced to demonstrate that the associated visibility sightlines can be achieved across the site frontage and land available within the highway boundary, also taking into account the vertical alignment of the carriageway approaching the motorway bridge.

Development Layout

- 7.10.10. The indicative layout of the development has been amended to reflect the new proposals for fewer business units and the addition of holiday lets. Swept path analysis demonstrates that adequate access can be provided for service vehicles to enter and exit the development in a forward gear as sufficient turning space is provided within the development.
- 7.10.11. The site access drawing includes detail of the proposed pedestrian route from the development onto Brogdale Road, and indicates an uncontrolled crossing point where it emerges. A Stage 1 Road Safety Audit to consider the details with the pedestrian access has been provided, and this has not identified any issues with the access.

Car and Cycle Parking

Applying Swale's car parking standards to the scheme would require a total of 73 parking spaces, whereby the application also proposes a total of 73 car parking spaces, although not directly aligned with the parking requirements for individual uses as illustrated in the table below. There is also an area for parent drop off and pick up adjacent to the nursery, whilst 6 of the car spaces are proposed to be accessible and 8 spaces include EV chargers.

Use	Required	Proposed
Workshops	49	51
Nursery (Staff)	8	8
Nursery (visitors)	10	6
Holiday Lets (1 per unit)	5	5
Holiday Lets (staff)	1	3
Total	73	73

- 7.10.12. Additional information and clarification has been provided in response to queries during the application. Whilst the visitor parking levels for the proposed nursery are indicatively shown to be below the requirements, the drop off style arrangement is considered suitable and there is a surplus of parking proposed overall to cater for additional parking needs. The application therefore demonstrates that the proposed development can accommodate the required level of parking on site. KCC Highways did not raise an objection to the proposed parking provision, noting that the layout is only indicatively shown and would be dealt with as a reserved matter. KCC Highways have recommended a condition requiring the submission of details of parking for approval.
- 7.10.13. Applying Swale's car parking standards to the scheme would require 9 long-stay and 2 short-term cycle spaces for the proposed workspace units, 4 cycle spaces for the proposed nursery, and 1 cycle space for the holiday lets, making a total of 16 cycle parking spaces required. The proposal includes 16 cycle spaces in two secure stores. However, parking should be provided in line with the requirements and separated into stores for each use to offer secure and convenient access. This is unlikely to require significant amendments and so could be secured at the Reserved Matters Stage. A condition is therefore recommended to secure appropriate cycle parking facilities at the Reserved Matters stage.

Trip Generation and Distribution, and Traffic Impact

- 7.10.14. KCC Highways initially raised concerns with the journey assignments following the provision of supporting Census data within the revised Statement. A Transport Addendum was provided in October 2021 to address these issues. KCC Highways have confirmed the Addendum addresses their previous

concerns and agree to the figures presented in the subsequent traffic flow diagrams.

- 7.10.15. Based on the number of vehicle movements likely to pass through each of the identified junctions and highway links, KCC Highways are satisfied that the level of impact on the local highway network is acceptable in terms of severity under the gauge measured by the NPPF. Conditions are recommended as set out in Section 5 (Representations).
- 7.10.16. National Highways have assessed the application in relation to the potential impact to the Strategic Road Network. They conclude that the proposed uses would not have an unacceptable impact subject to confirmation that a contribution of £17,375 is secured towards improvements to M2 Junction 7. The contribution is to be secured by s106 legal agreement.
- 7.10.17. Subject to securing the conditions and planning obligations as set out above the proposal accord with Local Plan policies DM6 and DM7.

7.11. Community Infrastructure

- 7.11.1. Planning Obligations need to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations. These stipulate that an obligation can only be a reason for granting planning permission if it is:
- Necessary
 - Related to the development
 - Reasonably related in scale and kind
- 7.11.2. The following planning obligations are necessary to mitigate the impact of the development and make it acceptable in planning terms. The obligations have been identified and assessed by Officers to comply with the Regulations (as amended):

Requirement	Obligation	Reason
Highways and transportation		
	£17,375 - financial contribution secured towards improvements to M2 Junction 7.	To mitigate the impact to the Strategic Road Network
Air Quality		
	Air Quality Assessment and necessary mitigation measures (via financial contribution)	Mitigating air quality impacts from transport
Ecology		
	£1,641.35 – financial contribution towards SPA	To mitigate impacts to the SPA and Ramsar sites, which may occur from

	and Ramsar site recreation mitigation measures.	increased recreational disturbance from the holiday lets.
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7.11.3. Subject to the above planning obligations being secured in a legal agreement associated with any consent the proposals would mitigate impacts and make the development acceptable in planning terms and comply with Local Plan policy DM6.

7.12. Flood Risk, Drainage and Surface Water

7.12.1. 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.

7.12.2. The entire site is located in Flood Zone 1, which is the zone with the lowest probability of fluvial/tidal flooding, and access can be achieved from the adjacent road networks, that will be free from fluvial/tidal flooding.

7.12.3. Part 4 of Local Plan Policy DM21 states that development should include where possible, sustainable drainage systems (SuDS) to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, to enhance biodiversity and amenity and increase the potential for grey water recycling.

7.12.4. The application is accompanied by a Flood Risk Assessment and Drainage Strategy, which proposes to attenuate surface water on-site using permeable paving and attenuation tanks, before discharging to a nearby watercourse via a new on-site pumping station.

7.12.5. No objection has been raised to the drainage proposals by the Environment Agency (EA), the KCC Flood and Water Management team (SUDS) or Southern Water. If approved, conditions should be imposed on any consent to secure:

- A detailed sustainable surface water drainage scheme,
- Verification that the drainage strategy, once implemented, actually functions as proposed, will be protected and maintained.

7.12.6. Subject to the above conditions being imposed on any consent the proposal would comply with Policy DM21 of the Local Plan.

7.13. Contamination

7.13.1. 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.

7.13.2. A Phase 1 Land Contamination Assessment was submitted during the application, which identified potential sources of contamination from historical

uses of the site. It recommends that a Phase 2 site investigation be undertaken to determine and assess below ground conditions including the extent and content of any 'made ground', potential hydrocarbon tanks and artificial ground areas across the site. This could be combined with a geotechnical site investigation to inform the design stage if required.

- 7.13.3. The EA reviewed the submitted report and raised no objections subject to the inclusion of recommended conditions. They advise that the reports submitted in support of this planning application provides confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. The Council's Environmental Health advisor confirmed that they agree with the EA response and have no further comments to add.
- 7.13.4. Subject to conditions to secure further testing and a remediation strategy should it be required, along with the other conditions set out above the application would accord with paragraph 189 of the NPPF and no objection is raised.

7.14. Living Conditions

- 7.14.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.14.2. Brogdale Farm House, which adjoins the site to the south and west, comprises a 2-storey detached house set within a generously sized plot and well screened by dense vegetation on all sides. The next closest residential properties are located further to the west on the opposite side of Brogdale Road.
- 7.14.3. The indicatively proposed development comprises 2-storey buildings, the closest of which is over 12m from the boundary of Brogdale Farm House and over 30m from the dwelling. The proposed buildings would also be over 45m from the closest residential property on the western side of Brogdale Road. By virtue of their relatively limited scale, the significant separation, and the intervening retained and proposed vegetation, the proposed development is unlikely to result in unacceptable loss of light impacts, overlooking or overbearing impacts on neighbouring properties.
- 7.14.4. The Acoustic Assessment submitted with this application concludes that the development will not create a detrimental effect to the nearest sensitive receptor from plant likely to be associated with the units, provided that the recommended mitigation measures are put in place. These include selecting plant with low noise levels, locating plant away from noise sensitive receptors, and installing noise barriers, such as close board fencing in between noise sensitive dwellings and the proposed plant. This is based on the illustrative design layout required at this stage. The Environmental Health officer advises that the details demonstrate that the application is acceptable in principle and recommend conditions to secure appropriate mitigation measures.

- 7.14.5. To protect amenity during the construction phase, conditions are recommended to limit construction hours and to require the submission of a construction management plan, to limit noise and dust during the construction of the development. The Environmental Health officer also recommends a condition to secure details of any external lighting to prevent light spill into the neighbouring properties.
- 7.14.6. Taking the above into account, and subject to the recommended conditions, the scheme is considered acceptable and would not cause unacceptable harm to the living conditions of neighbours. As such the proposal accords with Policy DM 14 of the Local Plan.

7.15. Sustainability / Energy

- 7.15.1. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change. The policy also states that all new non-residential development of more than 1000sqm gross floor area should aim to achieve BREEAM 'Very Good' standard or equivalent as a minimum. Details of sustainable design and construction measures to minimise environmental impacts can be secured at the Reserved Matters stage and may include measures such as electric vehicle charging points, solar panels, and passive energy efficient design measures.
- 7.15.2. The applicant has set out within the Planning Statement Addendum (July 2024) their commitment to the proposed development achieving BREEAM 'Very Good'. They also indicate that alternative renewable technologies will be explored and energy efficiency measures that would be incorporated into the design of the development for the Reserved Matters stage, which would be supported by a detailed Energy and Sustainability Strategy.
- 7.15.3. Given the application is at outline stage and without knowledge of the detailed design and construction of the proposals, officers accept that a detailed energy and sustainability strategy cannot yet be formulated. However, the information submitted is considered sufficient for this outline stage. The Council's Climate Change officer advises that outline proposal is acceptable, subject to a more detailed strategy being secured at the reserved matters stage. A condition is therefore included to this effect. Conditions are also included to secure details of electric vehicle charging facilities, and details to demonstrate that the proposed development would achieve BREEAM 'Very Good', which covers energy performance, efficiency and water consumption.
- 7.15.4. Subject to the conditions, the application would comply with Policy DM19 and DM21 of the Local Plan, and as such no objection is raised.

7.16. Air Quality

- 7.16.1. 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.
- 7.16.2. The Council's Environmental Health advisor has reviewed the application and notes that a proportion of the additional vehicle trips generated by the proposal will likely come from the A2, which is within the Ospringe Air Quality Management Area (AQMA). There are also developments in pipeline within the vicinity of the site, which will collectively produce greater traffic generation and potentially more traffic generated air pollution. Therefore, the cumulative impacts to the receptors along the A2 could be substantial and need to be assessed. However, due to the outline stage of the proposal it is not possible to fully assess the potential impacts and required mitigation at this time.
- 7.16.3. The Environmental Health advisor therefore recommends that an air quality assessment is undertaken and secured by planning obligation prior to the commencement of development to assess the impact of traffic generated from the development on receptors close to and with the AQMA. The assessment should also include cumulative effects by including traffic generated by other recently built and committed developments within the vicinity of the proposed development. This will need to include a damage cost calculation / emission mitigation assessment, which will need to be secured within a s106 legal agreement to secure the necessary offsite mitigation measures and / or financial contributions. The air quality assessment should reference the most relevant and accurate data which can be found in Swale's latest Annual Status Report (ASR) 2020 and the council's Air Quality and Planning - Technical Guidance 2019.
- 7.16.4. Subject to securing the necessary mitigation measures through planning obligations the proposed development accords with policy DM6.

7.17. Conclusion

- 7.17.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 7.17.2. The development proposal is located outside of the built-up area boundaries and results in harm to a designated heritage asset. However, there is support for the development in national policy, particularly when taking account of the fact the Council does not have a sufficient supply of employment land to meet the

identified need and the current Local Plan is out of date. Taking this into account, the benefits of the proposed development need to be weighed against the harm identified.

- 7.17.3. As set out in the above report, harm is caused by the proposed development's location outside of the built-up-area boundaries. Whilst there would clearly be changes to the site's existing landscape as well as visual impacts, this would be mitigated by existing and proposed landscaping and development. As such, limited weight is afforded to this disbenefit in the planning balance.
- 7.17.4. Harm is also caused by the loss of BMV agricultural land, however as it does not function as agricultural land and would not impact on the viability of the adjoining agricultural land only limited weight is afforded to this disbenefit.
- 7.17.5. As set out in the Heritage section of this report, the development would result in a medium level of 'less than substantial' harm to the setting of the Grade II listed Brogdale Farmhouse, which is afforded great weight in the planning balance.
- 7.17.6. The proposed development will generate a variety of beneficial economic effects within Swale by providing employment opportunities, supporting local businesses through tourism, attracting inward investment, and encouraging future growth including for SMEs. Significant weight is given to the economic benefits of the scheme.
- 7.17.7. The proposal would also support the continuing survival of Brogdale's function as host of the National Fruit Collection, which is significant to the protection of fruit growing in the UK and promotes the vitality of the rural community. Moderate weight is afforded to this benefit. The proposed nursery responds to a demand for such facilities in the community and is offered strong support by paragraph 99 of the NPPF. However, given the small scale of the nursery, moderate weight is afforded to this benefit.
- 7.17.8. In terms of the heritage balancing exercise that is required to be undertaken, it is considered that the abovementioned public benefits identified are sufficient to outweigh the heritage harm that would be caused. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990.
- 7.17.9. In the general planning balance, taking the above into account, when applying the tilted balance it is considered that the harm identified would not significantly and demonstrably outweigh the benefits of the proposal. Therefore, the proposal accords with the NPPF when taken as a whole.
- 7.17.10. The proposed development conflicts with policies CP8 and DM32 of the development plan. However, overall it is considered that the proposal would

accord with the development plan when it is taken as a whole. Moreover, other considerations, including the NPPF, also suggest that the application should be supported. As such it is recommended that planning permission be granted subject to conditions and planning obligations.

RECOMMEDATION – GRANT PLANNING PERMISSION subject to conditions and the prior completion of a Section 106 agreement.

CONDITIONS

1. Reserved Matters

Details relating to the design, appearance, landscaping, layout, and scale of the proposed development (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

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

2. Time Limit – Reserved Matters

The application for approval of reserved matters referred to in Condition (1) must be made to the local planning authority no later than the expiration of 3 years beginning with the date of the grant of outline planning permission.

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

3. Reserved Matters

The development to which this permission relates must be begun not later than the expiration of 2 years from the approval of the relevant reserved matters.

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

4. Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

- 08482-LEP-BF-ZZ-DR-A-00105 P08 (indicative layout)
- 19-008-001 Rev C

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

5. Landscaping

Any details submitted pursuant to condition (1) (the reserved matters) which covers the matter of 'Landscaping' shall include the following details:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, street furniture, lighting columns, boundary treatments and vehicular access;
- Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas.
- Details of the programme for implementing and completing the planting.
- Details of a proposed watching brief, monitoring or reporting.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

6. New Planting

All new planting, seeding or turfing comprised in the landscaping reserved matters shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

7. Secure by Design

The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.

Reason: In the interests of crime prevention and safety

8. Limits

The quantum of floorspace / units to be constructed for the development hereby approved shall be limited to the following maximum amounts:

- 1,710sqm of flexible workshop, industrial & research and development floorspace (Use Class Eg (ii, iii))
- 360sqm of nursery school (Use Class Ef)
- 5 holiday let units (Use Class C1)

Reason: To ensure that the development is carried out in accordance with the submitted with the application.

9. Details of Materials

No development above construction of foundations, in a particular phase, shall commence until full details/samples of the materials to be used in the construction of the external surfaces of the buildings in that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.

Reason: In order to further secure good design and a satisfactory appearance and so as not to delay construction the condition is triggered once development has reached slab level.

10. Archaeology

Prior to the commencement of the development hereby approved, the applicant, or their agents or successors in title, shall secure implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed, and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification, which has been submitted to and approved in writing by the Local Planning Authority. For the purposes of clarity the condition will be in two parts. Part (i) relating to the submission of a WSI and part (ii) relating to the submission of a satisfactory report relating to the outcome of the watching brief.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with the Swale Borough Local Plan and the NPPF.

11. Foul drainage

The development hereby approved shall not commence until a foul drainage strategy, detailing how the developer intends to ensure that appropriate foul drainage is implemented with a connection to foul sewer, has been submitted to and approved by, the local planning authority. The development shall be constructed in line with the agreed detailed design and recommendations of the strategy. No occupation of any premises can take place until the installed scheme is confirmed as meeting the agreed specifications.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

12. Surface water drainage

No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

caused by mobilised contaminants in line with paragraph 174 of the National Planning Policy Framework.

13. Land contamination

No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

14. Verification

Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework.

15. Contamination generally

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the National Planning Policy Framework.

16. Piling

Piling or any other foundation designs using penetrative methods shall not be occur other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the National Planning Policy Framework.

17. SUDS

Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based on Flood Risk Assessment prepared by Herrington (September 2020) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site.

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

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

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.

18. Infiltration

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

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

19. SUDS Verification

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

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

20. Construction Management Plan

Prior to the commencement of the development a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the relevant Highway Authority). The approved CMP shall be implemented and adhered to throughout the entire construction period of that phase. The CMP shall provide details of:

- (a) Routing of construction and delivery vehicles
- (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
- (f) Any requirements for temporary construction access
- (g) loading and unloading of plant and materials
- (h) storage of plant and materials used in constructing the development
- (i) measures to control the emission of dust and dirt during construction
- (j) a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To ensure that the impact of construction works on the strategic and local road network are managed, and in the interests of the amenities of the area and highways safety and convenience.

21. Loading and turning facilities

Prior to the commencement of any use within the development hereby permitted, details of loading, unloading and turning facilities 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 be retained as such for the lifetime of the development.

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

22. Access

Prior to the commencement of any use of the development hereby approved, the highway works to create the access into the site from Brogdale Road, including provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.9metres above carriageway level within the splays, shall be carried out in full in accordance with drawing ref: 19-008-001 Rev C and shall be maintained for the lifetime of the development.

Reason: In the interest of highway safety and convenience.

23. Parking Standards

The details submitted pursuant to condition 1 (the reserved matters) shall include details of areas for the parking and manoeuvring of vehicles in the development in accordance with Swale Borough Council's adopted Parking Standards Supplementary Planning Document (adopted 2020). The parking areas shall be provided in accordance with such details as approved prior to any use of the development and retained thereafter.

Reason: In the interests of highway safety.

24. EVCPs

Prior to the commencement of any use of the development, details of Electric Vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. 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 development shall be carried out in accordance with the details approved and retained thereafter.

Reason: In the interests of promoting sustainable transport methods and carbon reduction.

25. Cycle Parking

The details submitted pursuant to condition 1 (the reserved matters) shall include details of secure, covered cycle parking facilities. The cycle parking shall accord with the Council's adopted parking standards. The development shall be carried out in accordance with the details approved and the facilities retained thereafter.

Reason: In the interests of promoting sustainable transport methods and carbon reduction.

26. Construction times

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: To protect the amenity of nearby occupiers.

27. Dust

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 amenity of nearby occupiers and prevent pollution. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

28. Noise

Before any building works commence on the site, a noise survey shall be carried out to determine the background noise level frequency spectrum in accordance with a protocol, details of which shall be submitted to and approved by the Local Planning Authority. The results of the survey together with details showing the siting of all plant machinery and equipment (including refrigeration and ventilation systems) to be used and a scheme providing for the insulation of the building(s) and any appropriate boundaries against the transmission of noise based upon the results of the survey shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in full prior to the opening of the premises for business and shall be operated in accordance with the approved details, or such other details as may subsequently be approved by the Local Planning Authority.

Reason: To safeguard the amenities of nearby properties.

29. Ventilation

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

Reason: To safeguard the amenities of nearby properties.

30. Hours of use

The Class E(g)(ii & iii) units and Nursery shall not be used except between the hours of (07:00) – (19:00) Monday – Saturday and at no time on Sundays and Bank Holidays, without the express permission, in writing, of the Local Planning Authority.

Reason: To safeguard the amenities of nearby properties.

31. External Lighting

Prior to the installation of any external lighting, in a particular phase, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the following:

- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the proposed lighting columns or other fixtures.
- The type, number, mounting height & alignment of the luminaries.
- The beam angles & upward waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
- Details demonstration the lighting is designed following best practice guidance within Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night'1.

- Details confirming that external lighting will be downward facing and controlled by motion sensors so that it is switched off/dimmed when not in use.

Reason: External lighting details are necessary in the interests of the character and appearance of the area, biodiversity and to protect residential amenities.

32. Tree Protection Compliance

The development hereby approved shall be carried out in strict accordance with the construction control measures to protect retained trees and tree groups (including hedgerows) within, and adjacent to, the site in accordance with British Standard (BS) 5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations' as set out within the approved Arboricultural Assessment Report (Ref: AR-4000-TSAAR-210629, dated: 29/06/2021) and Tree Protection Plan (ref: AR-4000-TPP-210629, dated: 29/06/2021).

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

33. Updated EclA

Prior to works commencing a review and update of the Ecological Impact Assessment (Native Ecology. July 2021) shall be submitted to the LPA for written approval. The updated Ecological Impact Assessment shall include the following:

- Updated Preliminary ecological appraisal.
- Updated species surveys (if required).
- Details of any changes to mitigation required.
- Plans showing the mitigation areas.
- Timings of works.
- Details of who will carry out the works.

The development shall be carried out in strict accordance with the approved details and plans shall be implemented as approved.

Reason: To ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated.

34. Construction Ecological Management Plan:

No development (including site/vegetation clearance) shall commence before a construction ecological management plan (CEMP) for the protection of any protected and/or priority species on-site has been submitted to and approved in writing by the local planning authority. The CEMP shall comprise a method statement which includes consideration of the following:

- Risk assessment of potentially damaging construction activities to biodiversity;

- Identification of areas of vegetation to be retained and protected shown on appropriate scale plans, including reference to arboricultural method statement as required;
- Details of the practical measures (both physical measures and sensitive / anti-pollution working practises) to avoid or reduce impacts on the retained habitats;
- Details of those responsible for implementing the CEMP measures and lines of communication;
- Use and proposed location of protective fences, exclusion barriers and warning signs, where required.

The approved CEMP will be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated.

35. Ecological enhancements,

Within 3 months of works commencing on site an ecological enhancement plan shall be submitted to the Local Planning Authority for written approval. The plan shall provide details of the ecological enhancements to be implemented within the site and their management for the lifetime of the development. The plan shall be implemented as approved.

Reason: To ensure that any adverse ecological impacts of the development activities are suitably mitigated.

36. BREEAM

The Class E(g)(ii & iii) units and nursery hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the buildings 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.

37. Energy and Sustainability Strategy

The details submitted pursuant to condition 1 (the reserved matters) shall include an Energy and Sustainability Strategy, setting out the measures that will be incorporated into the development to maximise energy efficiency and reduce carbon emissions. The development shall be carried out in accordance with the details approved.

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

38. Heritage Interpretation Board

Prior to the first occupation of the development hereby permitted the applicant shall install a heritage interpretation board within the site in the vicinity of Brogdale Farmhouse in accordance with details which shall have been approved in writing by the Local Planning Authority. The heritage interpretation board shall provide

information about Brogdale Farmhouse including its historic connection with the wider Brogdale Farm.

Reason: In order to mitigate the impact of the development on Brogdale Farmhouse arising from the harm to its rural setting.

39. Removal of PD Rights (Class E)

Notwithstanding the provisions of Class G, Part 3, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) the use of the commercial units hereby approved shall be used for purposes within Use Class E(g)(ii) or E(g)(iii) only and for no other purpose.

Reason: To protect the amenity of adjoining properties, to safeguard the employment use on site and to ensure impacts on transport and highways are duly considered.

40. Holiday Lets

The holiday let units hereby approved shall be used solely for the purpose of holiday accommodation, and shall not be used by any person or persons as their sole or main residence and 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 merits of providing holiday accommodation in this attractive rural area.

41. Construction Hours

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

Monday to Friday 0800 – 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.

Informatives

Given part of the site is located within Zone 2 Groundwater Source Protection Zone. We would recommend consultation is undertaken with the Environment Agency's groundwater protection team regarding the use of infiltration within this part of the site, and their comments included within the submission.

Surface water drainage: Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater, a controlled water.

Piling: Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater. If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with EA guidance document “Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73”.



2.2 REFERENCE NO - 23/505678/FULL		
PROPOSAL Erection of 32no. dwellings with associated parking, access and landscaping.		
SITE LOCATION Land west of Warden Road, Eastchurch, Kent ME12 4EJ		
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 / 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 necessary and appropriate.		
APPLICATION TYPE Major		
REASON FOR REFERRAL TO COMMITTEE Objections from Minster-on-Sea Parish Council and Eastchurch Parish Council		
Case Officer Simon Greenwood		
WARD Sheppey East	PARISH COUNCIL Eastchurch	APPLICANT Chartway Partnerships Group and Moat Homes AGENT DHA Planning
DATE REGISTERED 4 January 2024		TARGET DATE 31 January 2025
BACKGROUND PAPERS AND INFORMATION:		
Documents referenced in report are as follows: -		
Air Quality Assessment ref. 12709A (November 2024)		
Arboricultural Impact Assessment ref. 6465-LLB-RP-AB-0001-S4-P04_AIA		
Tree Protection Plan ref. 6465-LLB-XX-XX-DR-Ab-0002-S4-P05		
Flood Risk Assessment 5905-001-01		
Drainage Strategy MISC78-3200 rev. P04		
Preliminary Ecological Appraisal ref: 1263_R01_PEA		
Reptile Survey Report ref. 1263_R04		
Biodiversity Net Gain Assessment: Feasibility Stage ref: 1263_R03_Rev A		
Landscape Visual Appraisal Report ref. 6465-LLB-RP-L-0001		
Landscape Design Statement (27.11.2023)		
Transport Statement SM/30772		
All drawings submitted.		
All representations received.		
The full suite of documents submitted pursuant to the above application are available via the link below: -		

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S5ND6QTYJO000>

1. SITE LOCATION AND DESCRIPTION

- 1.1. The approx. 1.14ha site is an undeveloped parcel of land which is currently used for the grazing of horses. It is located on the northern edge of the village of Eastchurch and is bounded by agricultural land to the north, west and south and by residential development on the opposite side of Warden Road to the east. The site is approximately 87m north of the built-up area of Eastchurch.
- 1.2. The site is currently accessed from Warden Road by a gated rural track with a drop-kerb. There is an existing pedestrian path on the western side of Warden Road providing access from the site to the village of Eastchurch.
- 1.3. There is a band of trees fronting Warden Road to the north-east of the site which are the subject of a Tree Preservation Order (TPO).
- 1.4. Public Right of Way (PRoW) ZS24 runs along the western boundary of the site.
- 1.5. The site falls entirely within Flood Zone 1 and is therefore identified as being at the lowest level risk of flooding.
- 1.6. The Grade I listed 'Church of All Saints' and the Grade II listed '2 Warden Road' and 'Rectory' are located approx. 200m to the south of the application site. The Grade II* listed Memorial to the Home of Aviation is located on the southern side of the High Street at the junction with Church Road (approx. 250m south of the site). The Grade II listed Connetts Farmhouse is located approx. 800m to the north of the application site.
- 1.7. The site is not subject to a landscape designation nor is it located in an Important Local Countryside Gap.

2. PLANNING HISTORY

- 2.1. There is no relevant planning history relating to the application site.

Nearby Sites

- 2.2. Outline planning permission was refused in May 2023 for the development of up to 63 dwellings and all necessary supporting infrastructure on Land North of Lower Road, Eastchurch (ref. 21/505041/OUT). The key ground of refusal related to encroachment of development and presence of built form and urbanisation in the open countryside which would be detrimental to the character and appearance of the locality and to the setting of Eastchurch Village. The decision is currently the subject of an appeal.

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the erection of 32 affordable rented residential dwellings. The unit mix will comprise six 1-bedroom flats, three 2- bedroom flats, eight 2-bedroom houses and fifteen 3-bedroom houses. There will be 6 pairs of two storey semi-detached houses and 11 two storey detached houses whilst the flats will be provided in a 2.5 storey block.
- 3.2. The materials palette incorporates red, buff, and cream / light multi brick, red and grey roof tiles and three colours of weatherboard cladding (mountain sage, Monterey taupe, and cobble stone). There will be a mixture of hipped and gable ended roof structures.
- 3.3. There will be a new access point from Warden Road into the site with a landscaped spine road running east-west for vehicles and pedestrians. An area of communal open space including a play area will be provided in the north-east corner of the site and a habitat area will be provided in the north-west corner. Additional landscaping including hedgerows and tree planting is proposed to the site boundaries to provide a landscape buffer to the development.
- 3.4. A pedestrian access to PRoW ZS24 will be provided to the northeast corner of the site and this will provide a traffic free pedestrian route to the village.

Amendments to scheme

- 3.5. The proposals were revised during the application process to address officer concerns relating to matters including the layout, design and the amount of development. The number of dwellings was reduced from 36 to 32 and a more organic layout and additional landscaping is now proposed.

4. CONSULTATION

- 4.1. 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.
- 4.2. 102 letters of objection were received in relation to the first consultation. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Loss of green space/countryside; harm to rural character; loss of arable land; site is not brownfield land.	Paras. 1.1; 7.12-7.17; 7.35-7.46 & 7.52-7.60.
Harm to character and appearance; poor design; harm to rural setting of village; overdevelopment; urbanisation of area; erosion of countryside gap between settlements; harm to landscape, including from long views.	Paras. 1.7; 7.35-7.46 & 7.52-7.60.
Site is not allocated for residential development; proposal is contrary to Local Plan policy including settlement strategy (Policy ST 3); 4 unit scheme on site closer to Eastchurch was	Paras. 7.5-7.11

refused in February 2022 due to conflict with Policy ST3.	
Development should take place on brownfield sites; more suitable development sites on the Island; existing housing stock could be refurbished; affordable housing should be more sustainably located.	Paras. 7.5-7.11; 7.138-7.152.
Sheppey has already accommodated a considerable amount of residential development.	Paras. 7.5-7.11.
Increased pressure on inadequate infrastructure and services including roads, health facilities and services, schools, public transport, shops and amenities, vets, church services sewage/ drainage, electricity, water, telecommunications; development will add to pressure which will arise from already consented housing not yet built; limited amenities and services in Eastchurch; emergency services are overstretched.	Paras. 5.8-5.20; 7.91-7.92; 7.102-7.119.
Lack of youth facilities; increased anti-social behaviour from youth population; increased crime; lack of police presence on the Island.	Paras.5.17; 7.108-7.112
Increased traffic and congestion; any accidents cause severe congestion; traffic issues impact emergency vehicles; traffic is particularly bad at peak hours and during holiday season; traffic surveys should have been undertaken at peak times; Transport Statement is flawed; mobile home transportation creates congestion; occupants will be car dependent; inadequate pedestrian and cycling infrastructure to serve development; rail and bus services are inadequate; impacts from construction traffic; increased demand for on-street car parking; parking stress in the village, particularly during holiday season.	Paras. 7.86-7.95.
Detrimental impact on highway and pedestrian safety; Warden Road is dangerous; no footpath shown on Warden Road to front of site; inadequate footways; no safe pedestrian and cycle access to/from site; Plough Road is unsuitable for increased traffic; impact on horse riders; lack of street lighting and poor footpaths and road surfaces; roads unsuitable for construction vehicles; cars park on footways at busy times; site access will be dangerous; hazardous highway conditions during school pick-up / drop-off; visibility splays for access have not been provided.	Paras. 7.86-7.92.

Affordable housing would accommodate need from outside the area	Paras. 7.30-7.31.
Lack of employment opportunities in the area; only employment available is at local prisons which is demanding and stressful work; access to employment on the mainland is car dependent.	Paras. 7.8; 7.86-7.92.
Loss of wildlife and wildlife habitat; impact on owls, voles, hedgehog, foxes, rabbits, birds and bats; ecological survey findings are questionable; impact on Ramsar site and Special Protection Areas; harm to ecology and biodiversity; loss of hedgerows; inadequate measures to improve biodiversity.	Paras. 7.66-7.85.
Increased noise and disturbance; increased air and light pollution.	Paras. 7.96-7.101; 7.121; 7.131-7.133.
Loss of privacy/overlooking at nearby dwellings; loss of outlook and views from nearby dwellings.	Paras. 7.120-7.126.
Increased flood risk; increased surface water run-off from hard surfaces; attenuation pond will be a danger to children.	Paras. 7.113-7.119.
Risk of subsidence due to ground conditions.	Para. 7.137.
Harm to setting of nearby heritage assets including Grade I Listed Church of All Saints and Grade II Listed Connetts Farmhouse, 2 Warden Road, Rectory and Shurland Hall; impact on heritage assets from construction noise, vibration, traffic and emissions.	Paras. 7.47-7.51.
Inadequate community consultation by applicant.	Para. 7.136.

4.3. 11 letters of objection were received in relation to the second consultation. Comments were made reiterating previous concerns, and the following additional comment was received: -

Comment	Report reference/ clarification
Reduction in amount of development under revised proposals does not address concerns	Paras. 3.5; 7.35-7.46;7.52-7.60.

4.4. Eastchurch Parish Council have objected to the application on the following grounds:-

Comment	Report reference/ clarification
Increased pressure on inadequate infrastructure and services including transport, healthcare, education and emergency services; holiday parks already place huge pressures on local infrastructure; pressures on infrastructure amplified because Sheppey is an island; lack of	Paras. 5.8-5.20; 7.91-7.92; 7.102-7.119.

education infrastructure on the Island undermines educational performance.	
3 storey flatted block is out of character in this location.	Paras. 7.52-7.60.
Accidents cause severe congestion and affect emergency vehicles; numerous accidents on local roads in recent years; increased traffic; detrimental impact on highway and pedestrian safety.	Paras. 7.86-7.92.
Harm to rural character and countryside setting of Eastchurch; increased urbanisation; erosion of countryside gap between Eastchurch and Kingsborough.	Paras. 7.35-7.46 & 7.52-7.60.
Lack of employment on the Island.	Para. 7.8.
Inadequate and unsafe road infrastructure to serve development; inadequate bus service; Plough Road is inadequate as alternative route to Eastchurch; inadequate pedestrian and cycling infrastructure; mobile home transportation creates congestion.	Paras. 7.86-7.95.
Site is not brownfield land; loss of agricultural land contrary to policy DM 31.	Paras. 7.12-7.17.
Planning statement incorrectly states that there is a doctor's surgery in the community; limited range of services available in Eastchurch.	Para. 7.8.
Inadequate pre-application community consultation.	Para. 7.136.
Excessive amount of development for village.	Paras. 7.52-7.60.
Sewage system regularly exceeds capacity and cannot accommodate more development.	Para. 5.15.
Proposal is contrary to Local Plan policy, including Swale Settlement Strategy, and the NPPF.	Paras. 7.5-7.11.
Proposal fails to mitigate impacts on Special Protection Area and Ramsar sites.	Paras. 7.74-7.85.

4.5. Minster-on-Sea Parish Council have objected to the application on the following grounds: -

Comment	Report reference/ clarification
Increased traffic.	Paras. 7.86-7.95.
Increased pressure on local services.	Paras. 5.8-5.20; 7.91-7.92; 7.102-7.119.
Congestion on Warden Road at school drop-off and pick-up times.	Paras. 7.86-7.92.
Diversion of traffic onto unsuitable, single lane Plough Road.	Paras. 7.86-7.92.

It is proposed to use Plough Road as part of a new cycle way and development will create additional danger.	Paras. 7.86-7.92.
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REPRESENTATIONS

- 5.1. **SBC Heritage:** - no objections raised. The proposed development would not result in harm to the setting of nearby heritage assets.
- 5.2. **SBC Urban Design:** - The layout and amount of development is appropriate to its context. The proposed landscaping would visually integrate the scheme into its countryside location. The two-storey height of the proposed houses would respect the local context whilst the 2.5 storey height of the apartment block would be acceptable in visual terms and reflective of buildings locally. The buildings will feature a unified range of architectural details and materials in muted colours that respond to local character. There is separation to the village on the western side of Warden Road which would change its character; however, overall the proposed development would satisfactorily integrate into its setting and is considered acceptable in design terms.
- 5.3. **Mid Kent Environmental Health:** - No objections raised in terms of air quality, noise, contaminated land and lighting subject to conditions securing the following:
- A scheme of contamination remediation in the event that contamination is identified during construction works (No. 8)
 - A Code of Construction Practice to mitigate environmental and highways impacts during the construction stage (No. 9)
 - Details of any external lighting (No. 21)
 - Noise restrictions in view of the low frequency noise which may arise from air source heat pumps and inverters for solar panel systems (No. 27)
 - Air quality mitigation measures (No. 30).
- 5.4. **SBC Housing:** - Proposed affordable housing would meet an identified need on the Island, in part arising from the 0% planning policy requirement, and accordingly is welcomed.
- 5.5. **KCC Developer Contributions:-** No objections raised. Financial contributions are sought towards infrastructure to mitigate the impacts of the proposed development.
- 5.6. **KCC Ecology:** - Sufficient information has been provided and no objections are raised subject to conditions to secure appropriate ecological mitigation measures and biodiversity enhancements (Nos. 12 and 13).
- 5.7. **SBC Green Spaces:-** No objections raised in respect of open space, sport and recreation subject to securing a financial contributions towards off-site sports provision and an appropriate standard of on-site play provision (condition 31).

- 5.8. **KCC Flood and Water Management:** - No objections raised subject to conditions to secure details of surface water drainage scheme to accommodate all rainfall durations and intensities up to climate change adjusted critical 100-year storm, including details of maintenance (Nos. 22 and 23).
- 5.9. **KCC Highways:** - No objections raised subject to conditions to secure: car parking spaces, EV charging points, cycle parking facilities and refuse storage facilities (Nos. 14-17); an application to progress a Traffic Regulation Order for a speed restriction on Warden Road (No. 18); provision of the link to PRow ZS24 (No. 19); and a Construction Management Plan (No. 13).
- 5.10. **KCC PROW:** - No objections raised.
- 5.11. **Lower Medway Internal Drainage Board:** - no objections raised subject to conditions securing a detailed surface water drainage scheme, including details of maintenance (Nos. 22 and 23). A condition securing a Construction Surface Water Management Plan (CSWMP) is also recommended (No. 10).
- 5.12. **Environment Agency:** - No comments.
- 5.13. **Historic England:** - No comments.
- 5.14. **Natural England:** - No objections raised subject to securing appropriate mitigation for recreational pressure impacts on habitat sites.
- 5.15. **Southern Water:** - No objections raised.
- 5.16. **SBC Trees:** - No objections raised subject to a condition securing tree protection measures at construction stage (No. 3).
- 5.17. **Kent Police:** - No objections raised. The scheme should incorporate crime prevention design measures (No. 6).
- 5.18. **Integrated Care Board:** - Financial contribution of £25,848 is sought towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
- 5.19. **SBC Climate Change:** - No objections raised subject to conditions securing measures to achieve carbon reduction and restrictions on water consumption (Nos. 24 and 25).
- 5.20. **UK Power Networks:** - No objections raised.

DEVELOPMENT PLAN POLICIES

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

- **ST 1** Delivering sustainable development
- **ST 2** Development targets for jobs and homes 2014- 2031
- **ST 3** The Swale settlement strategy
- **ST 4** Meeting the Local Plan development targets

- **ST 6** The Isle of Sheppey area strategy
- **CP 1** Building a strong, competitive economy
- **CP 2** Promoting sustainable transport
- **CP 3** Delivering a wide choice of high-quality homes
- **CP 4** Requiring good design
- **CP 5** Health and wellbeing
- **CP 6** Community facilities and services to meet local needs
- **CP 7** Conserving and enhancing the natural environment
- **CP 8** Conserving and enhancing the historic environment
- **DM 6** Managing transport demand and impact
- **DM 7** Vehicle parking
- **DM 8** Affordable Housing
- **DM 9** Rural Exceptions Housing
- **DM 14** General development criteria
- **DM 17** Open space, sport and recreation provision
- **DM 19** Sustainable design and construction
- **DM 21** Water, flooding and drainage
- **DM 24** Conserving and enhancing valued landscapes
- **DM 28** Biodiversity and geological conservation
- **DM 29** Woodland, trees and hedges
- **DM 31** Agricultural land
- **DM 32** Development involving listed buildings.

6.2. Supplementary Planning Guidance/Documents –

- Landscape Character and Biodiversity Appraisal (2011);
- Swale Borough Council's Noise and Vibration Planning Technical Guidance (2020);
- KCC Developer Contributions Guide;
- Developer contributions SPD (2009);
- Swale Landscape Character and Biodiversity Appraisal SPD (2011);
- Parking Standards SPD (2020);
- Planting on New Developments: A Guide for Developers;
- Air Quality Technical Guidance (2021);
- Guidance for complying with the climate change planning condition to reduce operational carbon of new dwellings in Swale by 50% (2020);
- Kent Design – A Guide to Sustainable Development (2000);
- National Design Guide: Planning practice guidance for beautiful, enduring and successful places (2021);
- Renewable Energy Guide (2014);
- Housing Land Supply Position Statement (2024/2025);
- Open Spaces and Play Area Strategy (2018-2022);
- A Heritage Strategy for Swale (2020);
- National Planning Practice Guidance.

ASSESSMENT

7.1. This application is reported to the Committee because Eastchurch and Minster-on-Sea Parish Councils have raised objections.

7.2. The main considerations involved in the assessment of the application are:

- The Principle of Development
- Loss of Agricultural Land
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Design of the proposed development
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space, Sport and Recreation
- Flood Risk, Drainage and Surface Water
- Living Conditions
- Sustainability / Energy
- Other Matters.

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.

Housing

7.5. Local Plan Policy ST1 (4) states that to deliver sustainable development in Swale, all development proposals will, as appropriate, accord with the Local Plan settlement strategy. Local Plan Policy ST3 (5) relates to the settlement strategy and states that at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

7.6. The supporting text to Policy ST3 of the Local Plan states in part that the primary objective of the strategy outside the built-up boundaries will be to protect it from isolated and/or large scales of development (as is proposed). The site lies outside of the settlement boundary for Eastchurch in the open countryside. Accordingly, the application is in conflict with Policies ST1 and ST3 of the Local Plan.

7.7. Local Plan Policy DM9 is concerned with rural exceptions housing and states (inter alia):

Planning permission for affordable housing to meet local needs in rural areas will be granted provided:

- *The site accords with Policy ST 3 and/or is in a location where access to day-to-day services can be conveniently and easily achieved;*
- *The site and proposed development would not have a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community.*
- *A need for the scheme is clearly justified by the applicant, to the satisfaction of the Council, by providing the following to accompany a planning application:*
- *an up-to-date parish or village housing needs assessment undertaken or carried out by a recognised and appropriate body.*
- *a thorough site options appraisal; and*
- *a prepared statement of community involvement that has sought to include the significant input of the Parish Council.*
- *Proposals will be subject to a legal agreement that provides for the permanent control and management of any affordable housing to ensure its long-term retention for local need.*

7.8. The site is in close proximity to an existing built-up area boundary within a reasonable walking distance of the services and facilities offered in Eastchurch village. These include a convenience store, a primary school, a public house, a church, and a village hall. There are employment opportunities in the area, with the prisons to the south, holiday parks to the northeast and the services and facilities within the village itself. Many essential day-to-day services can be met in the area, although the full range requires travel into Minster, Sheerness and beyond. There is no train station nearby but a regular bus service to more accessible locations, with connections available beyond. As such, the site could be considered to be in a reasonably sustainable location for residential development. However, the site is located within the open countryside and, as noted above, conflicts with Policy ST3 of the Local Plan. There is a degree of compliance with Policy DM9 part 1 on the basis of accessibility to day-to-day services. As set out later in this report, the proposal is not considered to result in a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community. The Council's Housing Register indicates a significant affordable housing need on the Isle of Sheppey; however, the applicant has not submitted information to address Policy DM9(3) and therefore the proposal development does not fully accord with Policy DM9. However, on the basis that the need for the affordable

housing is accepted the absence of the specified information required by Policy DM9(3) is not considered harmful.

- 7.9. As set out later in this report the affordable housing would not be secured through a legal agreement as required by Policy DM9(5). However, the housing will be delivered by Moat Housing Association who are a long established registered provider in the borough. The application is accompanied by a letter of comfort from Moat setting out a commitment to addressing local affordable housing need. In view of the circumstances and Moat's stated intentions it is considered that although not in compliance with Policy DM 9(5) no harm would arise as a result of the proposal.
- 7.10. The Council can demonstrate a 4.21-year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused.
- 7.11. As noted above, residential development conflicts with the Local Plan settlement strategy. However, given the Council's lack of a 5-year housing land supply (5YHLS) and the application of the 'Tilted Balance', the relevant policies are not afforded full weight. The erection of 32 affordable rented dwellings would contribute towards addressing the borough's lack of a 5YHLS whilst addressing a significant need for affordable housing on the Isle of Sheppey. The application of the 'Tilted Balance' affords significant weight to the delivery of housing. The subsequent sections of this report make an assessment of the impacts of the development and consideration of whether these would significantly and demonstrably outweigh the benefits. This is considered in the Planning Balance section of this report.

Loss of Agricultural Land

- 7.12. Policy DM31 of the Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile (BMV) agricultural land (identified as Grades 1, 2, and 3a) will not be permitted unless:
- The site is allocated for development by the Local Plan; or
 - There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and
 - The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.
- 7.13. This requirement is reiterated under Local Plan Policy ST6 (The Isle of Sheppey area strategy).

- 7.14. NPPF paragraph 175 is concerned with allocating land for development which has the least environmental or amenity value where consistent with other policies in the Framework. Footnote 58 to this paragraph advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer land should be preferred to those of a higher quality.
- 7.15. The site is identified as comprising Category 3a land on DEFRA's 'Magic Map' which details records held of agricultural land classifications. The site is currently used for the grazing of horses and the applicant has submitted photographic evidence demonstrating that the site has not been used for agricultural purposes for a significant period of time. The applicant has submitted comments from an agricultural land consultant who notes that the agricultural land classification indicated on the 'Magic Map' is based on a detailed soil survey of the site and a wider area of around 9ha that was carried out by the former Ministry of Agriculture, Fisheries and Food. It is acknowledged that the grading of the land is not likely to have changed since the survey was undertaken. The consultant also notes that the site is a small area of land that is constrained by existing mature vegetation, some of which is subject to a tree preservation order. It cannot therefore be incorporated into the neighbouring field, and accordingly is not likely to realise its potential as good quality agricultural land.
- 7.16. The agricultural consultant's comments are noted. However, it is considered that the site does have potential to be put to agricultural use and the erection of 32 houses would result in the permanent loss of BMV land. A similar issue was addressed in a recent appeal decision (Orchard View, Eastling Road - ref. APP/V2255/W/24/3341877) where the inspector noted that the appeal site was in use as a paddock but concluded that development of the site would result in the loss of BMV land.
- 7.17. Swale has a large amount of BMV land, which amounts to approximately 16,000 hectares. The site taken as a whole would translate to approximately 0.007% of this total. While the loss of BMV agricultural land counts against the scheme, it would represent only a tiny percentage of overall BMV land in Swale. The proposal would have a low to moderate adverse effect on agricultural land and conflict with Policies DM31 and ST6 of the Local Plan. The harm identified is attributed limited weight in the overall planning balance.

Size and Type of Housing

- 7.18. Paragraph 9 of the NPPF states that sustainable development involves seeking positive improvements in the quality of the built environment, including widening the choice of high-quality homes. The NPPF recognises that in order to create sustainable, inclusive and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 7.19. The proposed development is for the scheme to deliver 100% (32 units) affordable housing. This represents additionality over the Local Plan Policy DM8

requirement for 0% affordable housing in respect of developments of 11 or more dwellings on the Isle of Sheppey.

7.20. Local Plan Policy CP3 requires the mix of tenures and sizes of homes provided in any development to reflect local needs and the Strategic Housing Market Assessment. The proposed housing mix comprises six 1-bedroom flats, three 2-bedroom flats, eight 2-bedroom houses and fifteen 3-bedroom houses.

7.21. The supporting text to Local Plan Policy CP3 sets out requirements for market and affordable housing by size. The table below shows the requirements set out in the supporting text to Local Plan Policy CP3 and how the proposal compares with this.

Tenure – Local Plan	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	Total
Affordable Required	8%	20%	36%	36%	0%	100%
Affordable Proposed	18.75%	32.375%	46.875%	0%	0%	100%

7.22. The provision of 1, 2 and 3 bedroom units will exceed these identified requirements and there will be a shortfall of provision of 4 bedroom units. However, there is a significant need for all sizes of affordable housing units on the Isle of Sheppey due to an historic lack of delivery. The current housing register figures for Sheppey indicate 898 households expressing a preference for accommodation on the Isle of Sheppey and this is broken down by units size as follows:

- 1 bed - 372 applicants
- 2 bed - 205 applicants
- 3 bed - 178 applicants
- 4 bed - 95 applicants
- 5 bed – 38 applicants
- 6 bed – 10 applicants.

7.23. It should be noted that not all applicants for housing express a locational preference and all applicants can bid on available homes regardless of their area of preference.

7.24. The proposed unit mix would therefore meet an identified need and can be considered acceptable in the context of Local Plan requirements.

7.25. Further to the above, the Council had a Housing Market Assessment (HMA) prepared in 2020, i.e., more recently than the Local Plan, and after the introduction of the standard method for calculating the objectively assessed need. As such officers have considered the proposed mix against that set out in the HMA.

Tenure – HMA	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	Total
Affordable Required	27%	23%	30%	20%	0%	100%
Affordable Proposed	18.75%	32.375%	46.875%	0%	0%	100%

7.26. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes, albeit the requirement for 1-bedroom affordable dwellings is notably higher. It should be noted that this reflects the Borough wide need.

7.27. There would be a shortfall against the requirements for 1 and 4 bedroom units whilst the provision of 2 and 3 bedroom units would exceed the identified need. However, again, in view of the historic lack of delivery in Sheppey and the need as identified on the housing register the unit mix is considered acceptable in the context of the HMA identified need.

7.28. The Council's Affordable Housing Manager raises no objection in relation to the affordable housing unit mix.

7.29. Account has been taken of the context in which the site is set, policy requirements, the HMA, the housing register, the local housing market areas and overall analysis. The proposal satisfactorily complies with Local Plan Policy CP3.

Affordable Housing

7.30. The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Local Plan Policy DM8 sets out that nil affordable housing will be required from developments on the Isle of Sheppey as the delivery of affordable housing without grant funding has not been demonstrated to be viable. As a result, affordable housing need on the Isle of Sheppey is high and the delivery of new affordable homes, in particular affordable and social rent tenure housing, falls far below local housing need.

7.31. As set out above, there are a considerable number of applicants on the Council's Housing Register for Sheppey for all unit sizes. The number of households living in temporary accommodation in Swale was the highest across all Kent authorities last year. The proposed delivery of 32 units of affordable housing would obviously exceed the nil policy requirement for the Isle of Sheppey. There are no tenure mix requirements in view of the nil policy requirement. The provision of 32 affordable rented homes is very much welcomed in affordable housing terms.

Accessible and Adaptable Homes

7.32. In line with Policies DM8 and CP3 of the Local Plan the affordable homes should be designed for use by disabled persons and made available for a variety of groups including families, vulnerable and older persons. As such, there should be a number of accessible and wheelchair adaptable homes provided. It is proposed that 12 dwellings (37.5%) will achieve Building Regulations Part M4(2)

standards (accessible and adaptable dwellings) whilst none will achieve Part M4(3) standards (wheelchair user dwelling). It is noted that Local Plan policy does not set out a specific requirement for homes to Part M4(2) and M4(3) standards and in view of this the Council's Affordable Housing Manager has commented that the proposed development would provide a good proportion of homes built to a Lifetime Homes standards and is considered acceptable. It is recommended that the accessible and adaptable homes are secured by planning condition (No. 26).

Affordable Housing Delivery

7.33. The applicant advises that Moat Homes intend to deliver the proposed development using Recycled Capital Grant Funding (RCGF) which has been specifically ringfenced by Moat for the development with monies already secured from Homes England. Moat advise that the use of RCGF is restricted by the terms of the Homes England Capital Funding Guide which presently imposes restrictions whereby the funding cannot be applied where the affordable housing is secured through planning conditions or a Section 106 agreement. Accordingly, there would be no mechanism to secure the affordable housing. Moat Housing have provided a letter of comfort offering assurances around the delivery of the affordable housing. Homes England are a public body and Moat are a reputable not-for-profit organisation. It is reasonable to consider that the affordable housing will be delivered; however, the absence of a mechanism to secure the affordable housing marginally reduces the weight to be afforded to the benefit of the affordable housing within the planning balance which is considered at the end of this report.

7.34. The proposals are considered consistent with Policies DM8 and CP3 of the Local Plan and the NPPF and are therefore acceptable in terms of affordable housing.

Landscape and Visual

7.35. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*' whilst paragraph 174 criterion b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

7.36. The site is not within a designated landscape. Local Plan Policy ST6 seeks to ensure that development is appropriate to landscape character and quality and Local Plan Policy DM24 states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced, and, where appropriate, managed. Part B of Policy DM24 allows for development within non-designated landscapes subject to the minimisation and mitigation of adverse landscape impacts.

7.37. The National Character Area Profile (prepared by Natural England in 2013) locates the site within the landscape character area of the 'Greater Thames Estuary' which can be characterised as a predominantly remote and exposed landscape of arable farmland and tidal salt marshes, patterned by a network of drainage ditches and dykes.

- 7.38. The Landscape Assessment of Kent (2004) locates the site within the North Sheppey Local Character Area (LCA) and describes this LCA as having been subject to change whereby it now has an exposed and open character and is in poor condition. It is considered to have a moderate sensitivity to change.
- 7.39. Swale's Landscape Character and Biodiversity Appraisal (2011) puts the application site within Landscape Character Area 16 (LCA16) (Minster and Warden Farmlands). The overall condition of LCA16 is identified as 'poor' and it is considered to have a 'moderate' sensitivity to change.
- 7.40. The application is accompanied a Landscape Visual Impact Assessment (LVIA) which establishes a study area. The LVIA establishes a landscape character baseline for the assessment and identifies where the development has the potential to cause impacts to landscape resources which contribute to the landscape character of the study area.
- 7.41. The LVIA considers the impact of the proposed development from 7 viewpoints which are located on PRoW ZS24 (2 viewpoints), Dicksons Field Recreation Area, Greenways Kennels, Waterlane Cottages and Warden Road (2 viewpoints).
- 7.42. The proposed development involves dense, mixed species native hedgerow and tree planting on all boundaries to strengthen the existing planting and to assist with screening the proposed development and thereby mitigate landscape impacts.
- 7.43. In terms of impact on the landscape the LVIA identifies that in relation to Land Use / Land Cover there will be a localised and short term 'adverse and temporary impact of moderate significance', and this is anticipated to reduce to 'neutral' over time. The development would result in a 'neutral impact of no significance' in consideration of all other landscape resources.
- 7.44. In terms of landscape character, the LVIA identifies that the development results in a 'neutral impact of no significance' on the North Sheppey Landscape Character Area and on LCA16, and accordingly there will be no impact on landscape character at either a local or regional level. The LVIA identifies that, whilst the scheme will completely alter the physical appearance and primary land use of the site itself, the effect will be limited to the site and will not extend to the surrounding landscape. The LVIA concludes that the development will be appropriate and in keeping with the site's immediate contextual setting.
- 7.45. In terms of visual amenity, the scheme is judged to result in a long term 'beneficial visual impact of major significance' on the section of PRoW ZS24 immediately adjacent to the site as a result of the proposed landscaping. The development is assessed as having a 'neutral' impact on the remainder of the PRoW. A short term 'adverse visual impact of major significance' is identified on Warden Road immediately adjacent to the site and this would reduce to 'normal' over time. The impact on the remainder of Warden Road is identified as 'neutral'. The LVIA identifies that the development would result in a 'neutral visual impact of no significance' on Dicksons Field Recreation Area, Greenways Kennels and

Waterlane Cottages. The LVIA concludes that, overall, the scheme would have a 'neutral impact' on visual amenity.

- 7.46. It is noted that the LVIA was prepared in relation to the initial application submission and the scheme was subsequently revised to incorporate more substantial boundary planting. This enhancement of the landscape buffer around the site is considered to further mitigate the landscape and visual impacts of the development. It is considered that the LVIA satisfactorily demonstrates that, following the establishment of the boundary planting, the proposed development will not result in any significant adverse impacts in landscape and visual terms, and the proposed development is in accordance with Local Plan Policies ST6 and DM24 and the NPPF.

Heritage

- 7.47. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("PLBCAA") provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.48. 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.
- 7.49. Local Plan Policies CP8 and DM32 seek to sustain and enhance the significance of designated heritage assets and ensure proposals affecting listed buildings preserve the buildings setting and any features of special architectural or historic interest.
- 7.50. The application is accompanied by a Heritage Impact Assessment which considers the impact of the proposals on the Grade I listed Church of All Saints, the Grade II* listed Memorial to the Home of Aviation, the Grade II* listed Shurland Castle and the Grade II listed properties: The Rectory, 2 Warden Road and Connetts Farmhouse. The Assessment concludes that the proposed development will not result in harm to the setting of these heritage assets.
- 7.51. SBC Heritage agree that the proposed development would not result in harm to the setting of nearby heritage assets. Accordingly, it is considered that the proposal is acceptable in heritage terms and in accordance with Local Plan Policies CP8 and DM32 and the NPPF.

Character and appearance

- 7.52. 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.
- 7.53. Policy CP 4 of the Local Plan requires development proposals to be of high quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals. Similar requirements are set out within policy DM 14 of the Local Plan.
- 7.54. The National Design Guide illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Kent Design Guide seeks to provide a starting point for good design while retaining scope for creative, individual approaches to different buildings and different areas and provides criteria necessary for assessing planning applications.
- 7.55. The proposed development would be set back from Warden Road and incorporates an organic layout with curved road alignments and informal building positions that draws on the character of this edge of settlement location. The proposed soft landscaping including tree planting is considered to extend the countryside character into the application site reinforcing local distinctiveness whilst softening the development, and providing a landscaped transition between the edge of settlement and countryside. The proposed density of development is considered to satisfactorily respond to existing development on the opposite side of Warden Road.
- 7.56. The proposed detached and semi-detached dwellings would be two storeys in height, which respects the immediate and wider built context and provides a sense of cohesiveness across the site. The hipped roof design of the 2.5 storey apartment block reduces its visual impact and ensures that is reasonably reflective of the scale of buildings locally.
- 7.57. In terms of appearance, the buildings seek to respond to the varied local context through a unified range of architectural details and materials in muted colours.
- 7.58. The access to the PRow from the west of the site is welcomed in connectivity terms and provides a route into the village. As a result of the access plot 10 appears somewhat disconnected from the remainder of the development; however, the layout provides natural surveillance over the PRow connection and in this regard is considered an acceptable response.
- 7.59. Although there is a degree of separation to the village on the western side of Warden Road and the development of the site would therefore alter its character in this regard, given the integration of the landscaping into the overall design, it is considered that the proposed development responds well to its context. It is recommended that details of hard and soft landscaping, boundary treatments, lighting strategy and materials be secured by condition (Nos. 4, 5, 7 and 21). The landscaping condition would provide an opportunity to enhance the scheme through additional landscaping to the parking court of the apartment block.

Overall, the layout and design of the proposed development is considered acceptable.

7.60. It is considered that the scheme represents a good quality of design which complements its surroundings, and the proposal therefore accords with Local Plan Policies CP4 and DM14 and the NPPF.

Trees

7.61. The NPPF and Policy DM29 of the Local Plan recognises the contribution of trees to the intrinsic character and beauty of the countryside.

7.62. The application is accompanied by an Arboricultural Impact Assessment which identifies that several category C (low quality) trees will require removal to facilitate the proposed development.

7.63. The Arboricultural Impact Assessment has been reviewed by the Council's Tree Officer who observes that the small number of low quality trees to be removed are considered to add little to the character of the site and would be easily replaced by new planting. Accordingly, no objections are raised subject to securing tree protection measures in relation to the remaining trees that are to be retained through a condition (No. 3).

7.64. In terms of new landscaping, the Council's Tree Officer notes that a broad mix of native trees of varying sizes are proposed which is considered to represent an acceptable approach.

7.65. The proposed development is considered acceptable in terms of trees and in accordance with Local Plan Policy DM29 and the NPPF.

Ecology

7.66. 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 CP7 and DM28 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.

7.67. 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 furthering the general biodiversity objective of conserving and enhancing biodiversity in England. Furthermore, the NPPF 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 NPPF 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.'

- 7.68. Local Plan Policy ST6 (The Isle of Sheppey area strategy) seeks net gains to biodiversity and natural and semi-natural greenspace at development sites and mitigation of impacts on internationally designated sites for biodiversity.
- 7.69. The application is accompanied by a Preliminary Ecological Appraisal (PEA) which identifies that 2 native hedgerows along the eastern and western boundaries of the site are a habitat of principle importance. Further survey work is recommended to determine any presence of reptiles within the site and to inform suitable mitigation. Mitigation is recommended for foraging and commuting bats, hedgehog and nesting birds. The Appraisal also recommends biodiversity enhancement works.
- 7.70. The application is accompanied by a Reptile Survey Report which identifies that there are unlikely to be any reptiles present on the site.
- 7.71. The KCC Ecology Officer raises no objections to the proposal subject to a condition securing the recommended survey and mitigations works (No. 12).

Biodiversity

- 7.72. The application was submitted before Biodiversity Net Gain became a mandatory requirement. However, the application is accompanied by a Biodiversity Net Gain Feasibility Report which identifies potential for the development to achieve at least a 10% net gain. The KCC Ecology Officer recommends that a scheme of biodiversity enhancement is secured by condition (No. 13).
- 7.73. It is considered that the proposal accords with Local Plan Policy DM 28 and the NPPF.

Habitat Regulations

- 7.74. The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA, and Wetland of International Importance under the Ramsar Convention (Ramsar Site) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 7.75. SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 7.76. The proposal would result in 32 residential dwellings on the site which would be anticipated to result in impacts to the SPA and Ramsar sites from increased recreational disturbance. Due to the scale of the development there is insufficient scope to provide on-site mitigation and in such circumstances off site mitigation is normally required by means of developer contributions at the rate of £328.27 per dwelling. The proposal would therefore give rise to a requirement for a

contribution of £10,504.64 which would be secured through a Section 106 agreement. In accordance with the Conservation of Habitats and Species Regulations 2017, for completeness an Appropriate Assessment has been completed and is set out below.

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

- 7.77. This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.
- 7.78. The proposal therefore has potential to affect the abovementioned site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 7.79. In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.
- 7.80. The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.
- 7.81. However, in view of the scale of the development it is considered that it, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to appropriate mitigation measures.
- 7.82. 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 should be in place before dwellings are occupied.
- 7.83. Due to the scale and location of the development it is not considered that there is 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.

7.84. Based on the correspondence with Natural England, it is concluded that off-site mitigation is required.

7.85. In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures can be implemented within the SPA from collection of the standard SAMMS tariff and this will ensure that these impacts will not be significant or long-term. It is considered that any adverse effect on the integrity of the SPA can be satisfactorily addressed through mitigation measures.

Transport and Highways

7.86. 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.”

7.87. 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.”

7.88. Local Plan Policy DM6 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.

7.89. A vehicular access to the development will be provided to the centre of the site frontage onto Warden Road.

7.90. The application is accompanied by a Transport Statement which considers accessibility to public transport and local amenities. The Transport Statement identifies that the proposed development will generate approx. 102 vehicle movements during a 12-hour period (7am-7pm). The Assessment concludes that the proposals would not result in an unacceptable impact on the highways network.

7.91. KCC Highways raise no objections to the proposals subject to conditions to secure the following:

- Provision and permanent retention of car parking spaces, EV charging points, cycle parking facilities and refuse storage facilities (Nos. 14-17);
- An application to progress a Traffic Regulation Order for a speed restriction on Warden Road (No. 18);
- Provision of the link to PRow ZS24 (No. 19);
- A Construction Management Plan (No. 13).

7.92. It has been demonstrated that the proposal would not result in unacceptable impacts on highway safety or severe residual cumulative impacts on the road

network which the NPPF states would warrant refusal of planning permission. The proposal is in accordance with Policy DM6 of the Local Plan and the NPPF.

Public Rights of Way

7.93. The KCC PRow and Access Officer raises no objections to the proposed development and advises that the linking of the site to the PRow to the west is welcomed and allows another route into the village other than Warden Road.

Car and Cycle Parking

7.94. The Parking Standards SPD includes recommended residential car parking standards. A total of 61 car parking spaces are proposed. Allocated parking with electric vehicle charging points (EVCPs) would be provided at a ratio of 1 space per dwelling for 1 and 2 bedroom flats (9 spaces) and 2 spaces per dwelling for 2 and 3 bedroom houses (46 spaces). 6 visitor bays will be provided across the site. The site is considered to occupy a rural location where the Parking Standards SPD requires 3 or more car parking spaces for 3 bedroom houses. Accordingly, there will be a shortfall of 15 car parking spaces across the development in relation to the 3 bedroom houses. Occupants of these houses would benefit from parking for two cars which in many cases may be adequate. However, in view of the shortfall against the SPD standards there will be a low degree of harm which is attributed limited weight in the planning balance. The car parking and electric vehicle charging points will be secured through conditions 16 and 20.

7.95. Cycle storage will be provided at a ratio of 1 cycle space per bedroom or 1 space per flat within garden sheds for the houses and within a dedicated store for the flats and will be secured by condition 16. Accordingly, the proposal can comply with the requirement of Local Plan Policy DM7 to provide cycle parking facilities of an appropriate design and in a convenient, safe, secure and sheltered location.

Air Quality

7.96. 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.

7.97. 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.

7.98. 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.....”.

- 7.99. The application is accompanied by an Air Quality Assessment (AQA) which considers potential air quality impacts associated with the construction and operation of the development. The AQA identifies that there is potential for air quality impacts as a result of construction stage dust emissions which can be satisfactorily mitigated through good practice measures. Operational stage air quality impacts from traffic exhaust emissions were predicted to be negligible at all sensitive receptor locations. Accordingly, the AQA identifies that air quality is not considered a constraint to the proposed development.
- 7.100. The AQA provides an Emissions Mitigation Assessment which calculates the value of the impact of harmful emissions arising from the proposed development and provides an air quality damage cost of £4,108.00. The damage cost will be secured through the Section 106 agreement and any air quality mitigation measures implemented by the applicant further to condition No.30.
- 7.101. The AQA has been reviewed by the Council’s Environmental Health Officer who raises no objections to the proposed development in terms of air quality subject to a condition securing a Code of Construction Practice setting out construction stage dust control measures (No. 9). Accordingly, the proposed development is considered to satisfy Local Plan Policy DM6 which requires that development proposals 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.

Open Space, Sport and Recreation

- 7.102. Local Plan Policy CP7 requires developments to promote the expansion of Swale’s natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. Policy DM17 sets out various open space typologies and the amounts of space that would be required for residential development. The table below compares the proposal to the open space requirements.

Typology	Policy DM17 requirement (ha per 1,000 person)	Scheme requirement (ha)	Proposed (ha)	Difference (ha)
Parks and gardens	1.11	0.08	0.07	-0.01
Natural and semi natural greenspace	4.36	0.33	0.32	-0.01
Formal outdoor sport	1.09	0.08	0	-0.08
Amenity Greenspace	0.45	0.03	0.04	0.01
Provision for children and young people	0.24	0.02	0	-0.02
Formal Play facilities			On site	
Allotments	0.2	0.02	0	-0.02
Total		0.56	0.43	0.13

- 7.103. The proposed development will provide an area of public open space featuring a children's play area and several areas of landscaped green space including ecology areas to provide biodiversity enhancements.
- 7.104. As the table above shows, there is a minor shortfall in the parks and gardens and natural and semi-natural greenspace typologies whilst there will be a minor surplus of amenity greenspace.
- 7.105. There will be a shortfall in the provision of allotments and there are no allotments nearby. There is no opportunity for a meaningful provision of allotments within the proposed development and therefore the shortfall in allotments can be accepted.
- 7.106. The Council's Open Spaces and Play Area Strategy sets out a requirement for financial contributions towards off-site formal sports facilities and off-site play/fitness facilities. In view of the on-site provision of children's play space the Council's Green Spaces Manager has advised that a financial contribution towards off-site provision would not be sought. A financial contribution of £22,821.44 (£713.17 per dwelling) will be secured towards enhancing the capacity of formal sports provision in the village in accordance with the Council's Open Spaces and Play Area Strategy.
- 7.107. The overall provision of open space within the scheme is generally close to meeting the requirements set out in the Council's Open Spaces and Play Area Strategy. The Council's Green Spaces Manager confirms that no objections are raised in terms of open space, sports and recreation provision. Therefore, having regard to the overall on-site provision and the financial contribution towards formal sports provision, the proposal is acceptable in terms of open

space and is therefore in accordance with Policy DM17 of the Local Plan and the NPPF.

Community Infrastructure

7.108. The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. This is reflected in Policies CP5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

7.109. It is critical that necessary social and other infrastructure to support the future population occupying the site is delivered in a time frame that ensures infrastructure is in place when it is required.

7.110. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind.

7.111. The following planning obligations would be necessary to mitigate the impact of the development and make it acceptable in planning terms. The obligations have been identified and assessed by Officers to comply with the Regulations (as amended).

Requirement	Value	Towards
Ecology		
SAMMS payment	£10,504.64 (£328.27 per dwelling)	North Kent Strategic Access Management and Monitoring Strategy.
Education		
Secondary Education Contribution*	£132,695.77 (£5,587.19 per applicable house and £1,396.80 per applicable flat)**	Towards a new Secondary school in northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey 7.112. selective planning groups
Special Educational Needs and Disabilities (SEND) Contribution	£13,295.97 (£559.83 per applicable house and £139.96 per applicable flat)**	Special Education Needs (SEND) contribution to be applied towards additional places and/or additional SEND facilities in Swale district.
Community Learning & Skills	£1,094.72 (£34.21 per dwelling)	7.113. Community Learning Project details contribution to be applied towards/ or additional

		equipment and resources for adult education centres serving the development, including outreach provision.
Community		
Integrated Children's Services	£1,925.30 (£74.05 per applicable dwelling**)	Contributions towards additional resources for Integrated Children's Services to enable expansion of capacity within the hubs and provision of outreach work in the vicinity of the development.
Library Service	£2,004.16 (£62.63 per dwelling)	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development, including Minster, Queenborough & Sheerness Libraries.
Adult Social Care	£5,788.16 (£180.88 per dwelling)	Financial contribution towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within Swale.
Waste		
Refuse	£6,212.16 (£194.13 per dwelling)	Financial contribution towards additional capacity at the Sheerness Household Waste Recycling Centre and Sittingbourne Waste Transfer Station.
Refuse and Recycling Bins	<u>Each house</u> 180ltr green bin for refuse £51.20 240ltr blue bin for recycling £51.20 23ltr food bin £11.90 5ltr food caddy £6 <u>Flatted block</u> 2 x 1100ltr refuse - £994 2 x 1100ltr recycling - £994 2 x 140ltr food - £90.40 <u>Each flat</u> 5ltr food caddy 9 x £6 = £54	Bin provision.
Health care		

NHS (Integrated Care Board)	£25,848.00	Financial contribution towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
Open Space		
Formal Sports Contribution	£22,821.44 (£713.17 per dwelling)	Financial contribution to enhance the capacity of formal sports provision in the village.
Air Quality Mitigation		
Air Quality Damage Cost payment	£4,108	Financial contribution towards measures to reduce the air quality.
Monitoring		
Monitoring fee	Amount to be agreed with SBC Legal Services and KCC Infrastructure based upon the obligations being secured.	Contribution to cover the cost of monitoring the delivery of various planning obligations.

*Kent County Council in its capacity as education provider, has a duty to ensure that adequate school places are provided to accommodate current and future projections for primary school and secondary needs. Currently there is no Primary school requirement.

**Applicable excludes 1 bed units of less than 56sqm (GIA).

7.112. Subject to securing the obligations, the application would accord with Policies CP5, CP6, DM8, DM17 and DM28 of the Local Plan and the NPPF.

Flood Risk, Drainage and Surface Water

7.113. 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 DM21 of the Local Plan.

7.114. The application site lies within Flood Zone 1, meaning it is an area with a low probability of river or sea flooding. Planning Practice Guidance confirms that the aim is to steer new development to Flood Zone 1. In respect of the Flood Risk Vulnerability Classification residential dwellings are classified as 'more vulnerable'. Within Flood Zone 1, Table 3 of the Planning Practice Guidance confirms that 'more vulnerable' uses in Flood Zone 1 are appropriate and an exception test is not required. As the application site is greater than 1 ha a Flood Risk Assessment (FRA) is required.

- 7.115. The application is accompanied by a Flood Risk Assessment and Outline Drainage Strategy which identifies that the site has a very low risk of surface water flooding and a low risk of all other sources of flooding. The Strategy proposes a SuDS drainage system and calculations indicate that the surface water runoff generated by the proposed development can be attenuated for all rainfall events up to the 1:100 year event including an allowance for climate change.
- 7.116. KCC Flood and Water Management have reviewed the proposals and raise no objections subject to conditions to secure details of surface water drainage scheme to accommodate all rainfall durations and intensities up to climate change adjusted critical 100 year storm, including details of maintenance (Nos. 22 and 23).
- 7.117. Southern Water raise no objections in relation to surface water drainage subject to an informative relating to maintenance and/or adoption by Southern Water of SUDS infrastructure.
- 7.118. Lower Medway Internal Drainage Board raise no objections subject to conditions securing a detailed surface water drainage scheme, including details of maintenance (Nos 22 and 23). A condition securing a Construction Surface Water Management Plan (CSWMP) is also recommended (No. 10).
- 7.119. In view of the above, the proposals will include sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, enhance biodiversity and amenity and increase the potential for grey water recycling. It is therefore considered that the proposals are in accordance with Policy DM21 of the Local Plan and the NPPF.

Living Conditions

Existing residents

- 7.120. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM 14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 7.121. The nearest neighbouring dwellings are located on the opposite side of Warden Road. Landscaping is proposed along the Warden Road boundary. The layout of the proposed development is considered to demonstrate that there would be no undue harm to the residential amenities of the occupants of nearby dwellings by reason of overlooking, loss of daylight and/or sunlight, visual impact and noise and disturbance.

Future residents

- 7.122. 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.
- 7.123. All units are designed to meet Nationally Described Space Standards (NDSS) and all units benefit from a dual aspect.
- 7.124. The layout of the proposed development would ensure sufficient separation between dwellings to ensure adequate outlook and privacy for occupants of the dwellings.
- 7.125. The proposed houses will benefit from adequate private external amenity space in the form of rear gardens whilst the proposed ground floor flats will benefit from external private amenity space. The flatted block will also benefit from a generous communal amenity space which will include a children's play area. It is recommended that relevant permitted development rights are removed to ensure that adequate private amenity space to the proposed houses is maintained (Condition 28).
- 7.126. The proposed development is considered acceptable in terms of the living conditions of both future occupiers and the occupiers of existing nearby residential properties. The proposal is therefore considered to be in accordance with policy DM14 of the Local Plan and the NPPF.

Sustainability / Energy

- 7.127. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Further details of sustainable design and construction measures to minimise environmental impacts can be secured by condition and may include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; and/or low NOx boilers as examples.
- 7.128. The application is accompanied by an Energy Statement which considers the feasibility of low and zero carbon technologies and proposes the use of high performance building fabric, air source heat pumps, photovoltaic panels and sanitary wear to reduce water consumption.
- 7.129. The Council's Climate Change Officer raises no objections to the proposed development. Conditions are recommended to secure sustainable design and energy efficiency measures and a reduction in water consumption (Nos. 24 and 25).
- 7.130. In view of the above the proposed development is considered acceptable in relation to sustainability and energy and is in accordance with Local Plan Policy DM19 and the NPPF.

Noise

- 7.131. The NPPF states that planning decisions should ensure that noise from new development is mitigated and potential adverse impacts are reduced to a minimum.
- 7.132. The Council's Environmental Health Officer advises that the proposed air source heat pumps and inverters for solar panel systems are sources of low frequency noise which can penetrate noise insulation which other frequencies cannot. Accordingly, a condition is recommended to ensure that low frequency noise does not result in harmful impacts (No. 27).
- 7.133. In view of the above the proposed development is considered acceptable in terms of noise and in accordance with the provisions of the NPPF.

Other matters

- 7.134. The application will need to accord with the latest Secure by Design requirements which can be secured through condition 6.
- 7.135. A condition is recommended to require the cessation of construction works in the event that potential land contamination is identified on the site, and the submission and approval of a scheme of remediation (No. 8).
- 7.136. An objection has been received raising concerns regarding the adequacy of the developer's pre-application community consultation. It is noted that, whilst community consultation is promoted as good practice, there is no statutory obligation for developers to undertake pre-application community consultation.
- 7.137. An objection has been received raising concerns that the proposed development will be at risk of subsidence due to ground conditions. Building regulations will require that the foundation design is appropriate to the ground conditions on the site.

The Planning Balance

- 7.138. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 7.139. The Council can demonstrate a 4.21 year's supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is therefore necessary to consider the benefits and disbenefits of the proposal in order to determine whether there are adverse impacts which would justify a refusal of planning permission.

- 7.140. It is considered that the proposal will result in disbenefits arising from conflict with Local Plan Policies ST1 and ST3 which set out the Swale Settlement Strategy. Recent appeal decisions have been considered in assessing the weight to be attached to conflict with the Swale Settlement Strategy where the 'tilted balance' is applied. The conflict was afforded moderate weight in relation to Land off Swanstree Avenue (LPA ref. 21/505498/OUT; PINS ref. APP/V2255/W/22/3311224) and limited weight in relation to Land at Ufton Court Farm (LPA ref. 22/505646/OUT; PINS ref. APP/V2255/W/23/3333811). Accordingly, it is considered appropriate to afford **moderate weight** to the conflict with the Swale Settlement Strategy.
- 7.141. The proposed development would result in a disbenefit arising from the loss of BMV agricultural land contrary to Local Plan Policies DM31 and ST6 and **limited weight** is afforded to this disbenefit.
- 7.142. The proposed development would result in a disbenefit arising from a shortfall of 15 car parking spaces for the 3 bedroom houses contrary to the Swale Parking Standards SPD and **limited weight** is afforded to this disbenefit.

Benefits

Housing and affordable housing

- 7.143. The provision of 32 affordable rented dwellings would contribute towards addressing the lack of 5YHLS within the borough. The site is in the countryside and as such conflicts with the spatial strategy set out in the Local Plan. However, given the Council's lack of a 5 YHLS, the spatial strategy is not afforded full weight. Given the Framework's general imperative to boost the supply of housing, this is an important factor weighing in favour of the application.
- 7.144. There has been a historic lack of affordable housing delivery on the Isle of Sheppey due to the nil Local Plan policy requirement. The delivery of 32 units of affordable housing would contribute to meeting a significant identified need and would represent a significant planning benefit. The weight afforded to the affordable housing is reduced marginally as a mechanism to secure the housing cannot be applied due to the terms of Homes England grant funding. However, overall, it is considered that the delivery of housing and affordable housing is a benefit which should be afforded **substantial weight**.

Employment and economic activity

- 7.145. New residents who will use local services and facilities contribute to potential future growth opportunities which meet the economic and social objectives of sustainable development at paragraph 8 of the NPPF.
- 7.146. The development would bring forward jobs and spending during the construction phase. Paragraph 81 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity; however, this weight is moderated on the basis that these benefits will be limited to the construction phase. Overall, **moderate**

weight is afforded to the employment and economic activity benefits of the development.

Ecology and Biodiversity

7.147. The proposed development would provide suitable landscaping and planting in and around the site which would provide ecological and biodiversity enhancements. This is a normal planning requirement and is therefore attributed **limited weight** in the planning balance.

Design and Appearance

7.148. The proposed development is considered to complement the surrounding context and represents a good standard of design which will deliver a distinctive development. **Limited weight** is afforded to this benefit.

Sustainability and carbon reduction

7.149. The proposed development would comply with Local Plan policy and Building Regulations requirements in respect of sustainability and energy consumption which would be a normal planning and Building Regulation requirement. Accordingly, **limited weight** can be afforded to this benefit.

Economic benefits

7.150. The Town and Country Planning Act 1990 sets out general considerations in the determination of applications states the following:

“In dealing with an application the authority shall have regard to

- (a) the provisions of the development plan, as far as material to the application,*
- (b) any local finance considerations, as far as material to the application, and*
- (c) any other material considerations.”*

7.151. The application proposes 32 new dwellings with associated Council tax being received from occupiers and able to be used by the Borough to carry out its statutory functions. The funding is needed to mitigate the impacts of the development and **limited weight** is afforded to this benefit in the planning balance.

Planning balance – conclusion

7.152. The above assessment identifies a series of benefits which weigh in favour of the proposal. In particular, the delivery of 32 units of housing which will also be affordable rented. In the context of a significant need of housing in general but particularly affordable housing on the Isle of Sheppey, this is considered to be a benefit which attracts substantial weight overall. The benefits identified above are considered to substantially outweigh the identified moderate degree of harm which will arise from conflict with Local Plan Policies ST1 and ST3 and the limited degree of harm arising from the conflict with Policies DM31

and ST6 and the Swale Parking Standards SPD. Accordingly, the proposal is considered acceptable, and it is recommended that planning permission be granted subject to conditions and the prior completion of a Section 106 agreement.

RECOMMEDATION – GRANT PLANNING PERMISSION subject to conditions and the prior completion of a Section 106 agreement

CONDITIONS

1. Time Limit

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. Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

Indicative Landscape Masterplan 6465-LLB-XX-XX-DR-L-0001-S2-P07

External Levels Strategy MISC78-3040 rev. P04

Earthworks Strategy MISC78-3041 rev. P05

Earthworks Strategy - Topsoil Strip MISC78-3042 rev. P05

Drainage Strategy MISC78-3200 rev. P04

Impermeable Areas Plan MISC78-3201 rev. P03

Exceedance Flow MISC78-3202 rev. P03

Drainage Construction Details Sheet 1 of 2 MISC78-3220 rev. P02

Drainage Construction Details Sheet 2 of 2 MISC78-3221 rev. P02

Site Road Construction Details MISC78-3220 rev. P01

Proposed Contextual Masterplan 01-083_100 rev. P3

Proposed Illustrative Contextual Masterplan 01-083_105 rev. P3

Proposed Masterplan 01-083_110 rev. P3

Proposed Illustrative Masterplan 01-083_115 rev. P3

Proposed Parking Plan 01-083_120 rev. P3

Proposed Surfacing Plan 01-083_130 rev. P3

Proposed Boundary Treatment Plan 01-083_140 rev. P3

Proposed Unit Mix Plan 01-083_150 rev. P3

Proposed Block Massing Plan 01-083_160 rev. P3

Proposed Refuse & Cycling Plan 01-083_170 rev. P3

Proposed EV Charging Plan 01-083_180 rev. P3

Flat Block – Ground Floor Plan 01-083_200 rev. P2

Flat Block – First Floor Plan 01-083_201 rev. P2

Flat Block – Second Floor Plan 01-083_202 rev. P2

Flat Block – Roof Plan 01-083_203 rev. P2

Flat Block – Primary Elevation - East 01-083_204 rev. P2

Flat Block – Rear Elevation - West 01-083_205 rev. P2

Flat Block – Side Elevation – North 01-083_206 rev. P2
 Flat Block – Side Elevation – South 01-083_207 rev. P2
 Betony – Semi Detached – Ground Floor Plan 01-083_210 rev. P2
 Betony – Semi Detached – First Floor Plan 01-083_212 rev. P2
 Betony – Semi Detached – Roof Plan 01-083_214 rev. P2
 Betony – Semi Detached – Type A Elevations 01-083_216 rev. P3
 Betony – Semi Detached – Type B Elevations 01-083_226 rev. P3
 Goldcrest – Semi Detached – Ground Floor Plan 01-083_230 rev. P2
 Goldcrest – Semi Detached – First Floor Plan 01-083_232 rev. P2
 Goldcrest – Semi Detached – Roof Plan 01-083_234 rev. P2
 Goldcrest – Semi Detached – Type A Elevations 01-083_236 rev. P3
 Goldcrest – Semi Detached – Type B Elevations 01-083_246 rev. P3
 Kite – Detached – Ground Floor Plan 01-083_250 rev. P3
 Kite – Detached – First Floor Plan 01-083_252 rev. P3
 Kite – Detached – Roof Plan 01-083_254 rev. P3
 Kite – Detached – Elevations 01-083_256 rev. P3
 Osprey – Detached – Ground Floor Plan 01-083_260 rev. P2
 Osprey – Detached – First Floor Plan 01-083_262 rev. P2
 Osprey – Detached – Roof Plan 01-083_264 rev. P2
 Osprey – Detached – Elevations 01-083_266 rev. P3
 Osprey 2 – Detached – Ground Floor Plan 01-083_270 rev. -
 Osprey 2 – Detached – First Floor Plan 01-083_272 rev. -
 Osprey 2 – Detached – Roof Plan 01-083_274 rev. -
 Osprey 2 – Detached - Elevations 01-083_276 rev. P1.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

3. **Tree Protection**

The development hereby permitted shall be carried out in accordance with the details of tree protection set out in the Arboricultural Impact Assessment (ref. 6465-LLB-RP-AB-0001-S4-P04_AIA) and on the Tree Protection Plan (ref. 6465-LLB-XX-XX-DR-Ab-0002-S4-P05).

Reason: In the interests of protecting trees identified to be retained during the construction process.

4. **Hard and soft landscaping**

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 additional landscaping to the apartment block car parking area, 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, where possible), plant sizes and numbers where appropriate, means of enclosure and hard surfacing materials.

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

5. Landscaping

All new planting, seeding or turfing comprising the approved landscaping scheme pursuant to condition 4 shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

6. Secure by Design

Prior to first occupation of the development hereby permitted details demonstrating how the development meets the principles of 'secure by design' shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of crime prevention and safety.

7. Details of Materials

No development above construction of foundations shall take place until full details/samples of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details/samples.

Reason: In order to further secure good design and a satisfactory appearance and so as not to delay construction the condition is triggered once development has reached slab level.

8. Contaminated Land

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 that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution from previously unidentified contamination sources at the development site.

9. **Code of Construction Practice**

No development shall take place until a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003).

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

Reason: To protect the amenity of nearby occupiers and prevent pollution. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

10. Construction Surface Water Management Plan

No development shall take place until a Construction Surface Water Management Plan (CSWMP) has been submitted to and approved by the Local Planning Authority. The CSWMP shall detail how surface water and storm water will be managed on the site during construction. The plan should outline the phases of construction showing where and when drainage features will be installed and how runoff will be managed, to minimise flood risk and water quality impacts on site and to the surrounding areas. The construction shall be implemented in accordance with the approved details throughout the construction phase.

Reason: In the interest of managing flood risk during the construction stage. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

11. Hours of Construction Activity

No construction work in connection with the development shall take place on any Sunday or Public 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: To protect the amenity of nearby occupiers.

12. Ecological Mitigation

The development works and site clearance shall be carried out in accordance with the details provided within Section 11 of the Native Ecology Preliminary Ecological Appraisal Report (October 2023).

Reason: To ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated.

13. Biodiversity Enhancement

The development shall achieve a biodiversity enhancement through implementation of the recommendations detailed within the BNG feasibility report and through the landscaping proposals detailed within the Lloydbore Indicative Landscape Master Plan 6465-LLB-XX-XX-DR-L-0001-S2-P07.

Reason: To ensure that a biodiversity enhancement can be achieved through the development.

14. Construction Traffic Management Plan

No development shall take place (including any works of preparation) until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CTMP shall

be adhered to throughout the construction period. The Plan shall include as a minimum:

- a) Routing of construction and delivery vehicles to / from site.
- b) Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
- c) Timing of deliveries, avoiding network and school peaks where possible.
- d) Provision of wheel washing facilities.
- e) Measures to prevent the discharge of surface water onto the highway.
- f) Temporary traffic management / signage.
- g) Recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic.

Reason: In the interests of the amenities of the area and highway safety and convenience. These details are required prior to commencement in order to ensure that satisfactory measures are in place prior to any construction activity.

15. Electrical vehicle charging

The electric vehicle charging points indicated on plan ref. 01-083_180 shall be provided prior to first occupation of each dwelling within the development hereby permitted and shall be permanently retained and maintained to good working order thereafter. All Electric Vehicle chargers must be provided to Mode 3 standard (providing a minimum of 7kw).

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

16. Cycle storage

The cycle parking facilities indicated on plan ref. 01-083_170 rev. P3 shall be provided prior to first occupation of each dwelling hereby permitted and shall be permanently retained thereafter.

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.

17. Refuse Storage

The refuse storage facilities indicated on plan ref. 01-083_170 rev. P3 shall be provided prior to first occupation of each dwelling hereby permitted and shall be permanently retained thereafter.

Reason: To ensure the provision and retention of adequate refuse storage facilities.

18. Traffic Regulation Order

An application shall be made to progress a Traffic Regulation Order for a speed restriction on Warden Road between 'Boxmoor' and 'The Nest' and the scheme shall be implemented in accordance with the outcome of the

application prior to the occupation of any dwellings hereby approved as indicated on drawing number 30772-H-02 rev. P1.

Reason: In the interests of highway and pedestrian safety.

19. Public Right of Way Connection

No occupation of any dwelling shall take place until a footway link is provided within the red line site boundary to Public Right of Way ZS24, as indicated on drawing 01-083_110 rev. P3 and an uncontrolled crossing across the access road, as per the Transport Technical Note, have been completed in accordance with a Section 278 agreement with the Highway Authority.

Reason: In the interests of connectivity and to provide an alternative pedestrian route to Eastchurch.

20. Retention of car parking spaces

The vehicle parking spaces shown on plan ref. 01-083_120 rev. P3 shall be provided prior to the occupation of each dwelling to which the parking relates and all of the vehicle parking shall be permanently retained thereafter.

Reason: In the interests of providing adequate parking for occupants and visitors to the development.

21. Details of Lighting

Prior to the installation of any external lighting, full details including fittings, illumination levels and spread of light shall be submitted to, and approved in writing by, the Local Planning Authority. The lighting installation shall then be carried out in accordance with the approved details.

Reason: External lighting details are necessary in the interests of the character and appearance of the area, biodiversity and to protect residential amenities

22. SUDS Scheme

No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Drainage Strategy prepared by Robert West (June 2024) 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 and thereafter maintained 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.

23. Surface Water Drainage Verification Report

Prior to first occupation of the development hereby permitted a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be 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.

24. Sustainable development, energy efficiency and renewable energy

No development beyond the construction of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency.

The details shall demonstrate that 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) will be achieved.

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

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

25. Water conservation

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.

26. Accessible and Adaptable Dwellings

At least 12 of the dwellings hereby permitted shall be built to M4(2) of building regulations standards.

Reason: In order to secure accessible and adaptable dwellings.

27. Noise (plant and equipment)

Prior to the occupation of any dwelling details of the rating level of noise emitted from the proposed air source heat pumps and inverters for solar panels (determined using the guidance of the current version of BS 4142 for rating and assessing industrial and commercial sound) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To protect the amenities of any future residents and to ensure acceptable external and internal noise levels are specified and achieved.

28. Permitted Development Rights

Upon completion, no further development 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) shall be carried out.

Reason: In the interests of the amenities of occupants of the dwellings and the amenities of the area.

29. Travel Plan

The development hereby permitted shall not be occupied until a comprehensive Full Travel Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A249). The Full Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the timetable/ phasing of the implementation of the Travel Plan measures shall be alongside occupation of the development and its operation thereafter;

- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;
- the mechanisms to secure variations to the Travel Plan following monitoring and reviews.

The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority in conjunction with the Highway Authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework and paragraph 40 DfT Circular 01/2022.

30. Air Quality Mitigation

Prior to the first occupation of the development hereby permitted, and notwithstanding the provisions of the submitted Air Quality Assessment (Phlorum, November 2024) at paragraph 7.11, a schedule of on-site air-quality mitigations to offset the partial or full damage cost calculation at paragraph 7.6 shall be submitted to and approved by the Local Planning Authority in writing. The agreed mitigation measures shall be implemented in advance of the first occupation of any approved dwelling and maintained as such thereafter.

Reason: To ensure that the proposed development adequately mitigates against its expected adverse air-quality effects and to avoid duplication where mitigations are otherwise required by compliance with alternative regulatory regime.

31. Play Area

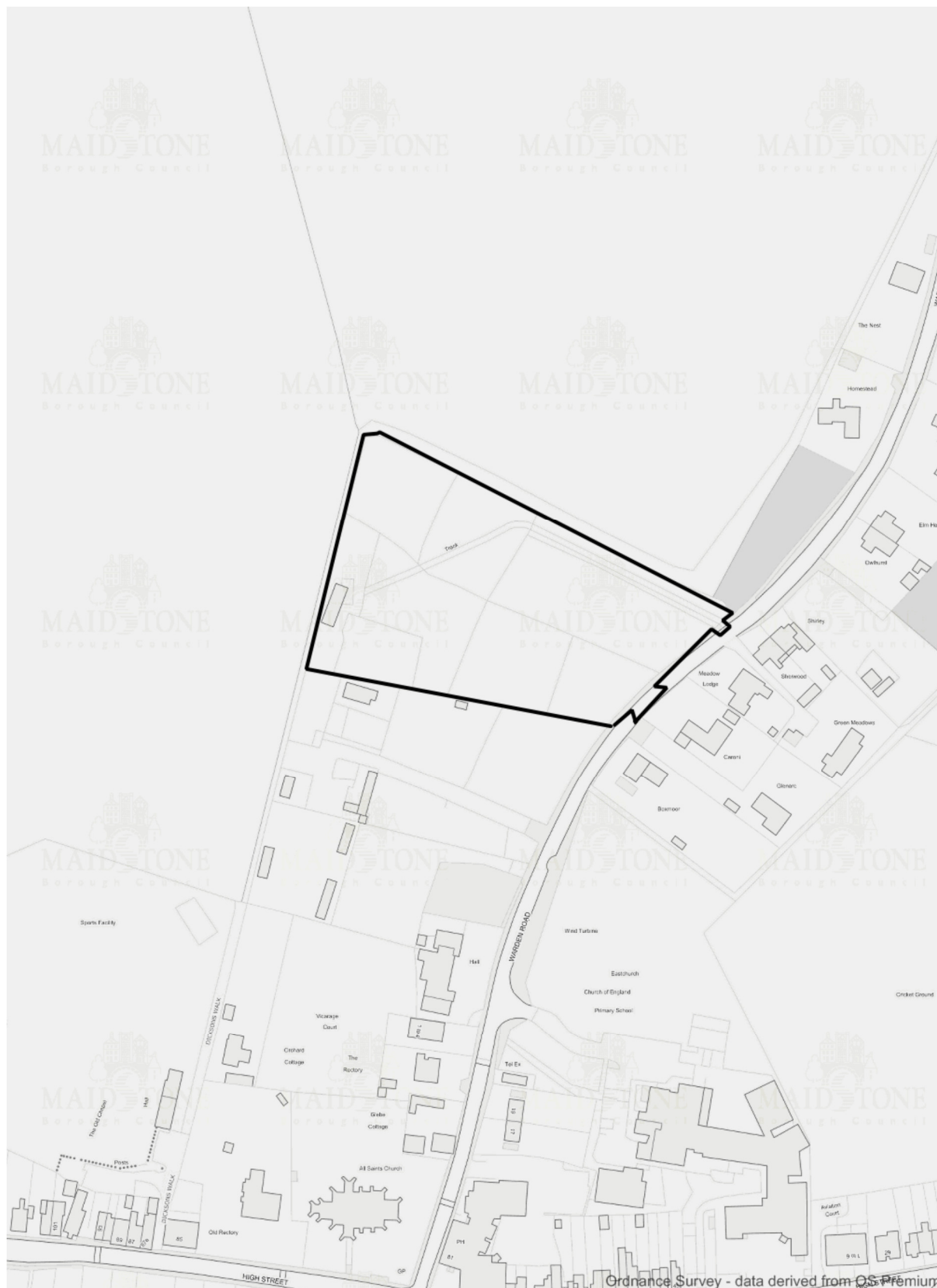
Prior to first occupation of the development hereby permitted details of the equipment for the children's play area shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the development and shall be retained thereafter.

Reason: In the interests of securing a satisfactory standard of play provision.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), 2023 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.



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2.3 REFERENCE NO - 22/504274/FULL		
PROPOSAL Erection of 187no. residential units (Use Class C3), 260sqm of commercial floorspace (Use Class E), 104sqm of community floorspace (Use Class F2) and associated infrastructure, car and cycle parking, landscaping, public realm and access.		
SITE LOCATION Land At Sittingbourne Mill, Mill Way, Sittingbourne, Kent ME10 2GZ		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to a S106 legal agreement and appropriate planning conditions with further delegation to the Head of Planning /Head of Legal Services (as appropriate) to negotiate the precise wording of the S106 agreement and planning conditions, including adding or amending such planning conditions as may be necessary and appropriate.		
APPLICATION TYPE Large Major Dwellings		
REASON FOR REFERRAL TO COMMITTEE: Councillor Whelan advised that if provision is not made for at least 10% affordable housing and 50% of units with parking, they wish the application to be heard at committee. In addition, that application site partly includes Council owned land.		
Case Officer Joanna Russell		
WARD Chalkwell	PARISH/TOWN COUNCIL N/A	APPLICANT Essential land (Sittingbourne NO 5) Ltd AGENT Eutopia Homes
DATE REGISTERED 13.12.2022		TARGET DATE 26.06.2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - Flood Risk Assessment and Drainage Strategy ref 22631-HYD-XX-XX-RP-FR-0001-P05 Area Schedule – unit mix Contamination Assessment ref PRA.212211.01R.02_SJC Ecological Impact Assessment document number 13738-30-R02-01 Energy and Sustainability Statement dated July 2022 Financial Viability Assessment dated August 2022 Noise impact Assessment dated July 2022 Design and Access Statement Transport Assessment dated July 2022 Tree Survey and Arboricultural impact Assessment dated June 2022 Heritage and Archaeology Statement Response to comments (acoustics) ref HT: 29667/PTM2 Infrastructure assessment Odour Screening Assessment dated August 2023 Travel Plan dated June 2024 Transport Note dated August 2023 Transport Note-further information for national highways Transport Note – further information for national highways dated June 2024 Air Quality Assessment dated September 2023		

Dust Technical Note dated August 2023
Additional acoustic information email dated 16.10.23
Transport Vision dated June 2024

All drawings submitted
All representations received

The full suite of documents submitted pursuant to the above application are available via the link below: -

INCLUDE WEB LINK

[22/504274/FULL | Erection of 187no. residential units \(Use Class C3\), 260sqm of commercial floorspace \(Use Class E\), 104sqm of community floorspace \(Use Class F2\) and associated infrastructure, car and cycle parking, landscaping, public realm and access. | Land At Sittingbourne Mill Mill Way Sittingbourne Kent ME10 2GZ \(midkent.gov.uk\)](https://midkent.gov.uk/22/504274/FULL)

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is located within the urban centre of Sittingbourne and is allocated within the Local plan as part of the Central Sittingbourne Regeneration Area.
- 1.2 The application site is within an area identified in the Sittingbourne Town Centre and Milton Creek Supplementary Planning Document. This is a Masterplan which forms part of the Local Development Framework for Swale Borough Council and is the context for deciding planning applications for new development in the town centre and Milton Creek.
- 1.3 Part of the site is under the ownership of the Council. This part is occupied by the Mill Skate Park which is a publicly accessible community asset. The Dolphin Sailing Barge Museum, also on Council land, is a heritage-based boatbuilding and cultural site.
- 1.4 The majority of the site is covered by concrete hardstanding and scrub vegetation. It is currently surrounded by fencing and is not publicly accessible.
- 1.5 The Site is bound by Milton Creek to the north, Sittingbourne Retail Park to the south and the Redrow Crown Quay site the east.
- 1.6 To the west of the skate park is the Sittingbourne & Kemsley Light Railway company, a specialist light railway organisation, who operate the site as a tourist attraction.
- 1.7 The site is accessed from The Wall which is connected to Mill Way, linking to the A249 and M2.
- 1.8 The whole of the site is within flood zone 2, and is partially in flood zone 3, and sits in close proximity to the St Pauls Air Quality Management Area (AQMA).

2. PLANNING HISTORY

- 2.1 The Site forms part of the wider Paper Mill Masterplan area which was granted planning permission on 08.02.2012 (Ref. SW/11/0159) for:

Hybrid application seeking; outline planning permission (Phases 3,4 & 5) for up to 1,200sqm of leisure use floorspace, 250sqm of community floorspace, 150 residential units, in buildings ranging from 2 to 4 storeys in height, together with car and cycle parking; and incorporating detailed planning permission (Phase 1) for a retail food store of 6,682sqm, petrol filling station of 72sqm together with associated landscaping, car and cycle parking & full landscaping detail for new parkland areas (Phases 2 & 3).

- 2.2 Subsequently reserved matters approval was given on 03.11.2017 under application ref 17/501894/REM for:

Reserved Matters for approval of details relating to the appearance and landscaping of the proposed dwellings relating to outline planning permission SW/11/0159 for a mixed use development including 150 residential units

- 2.3 This related only to the western element of the original hybrid permission and did not include the current application site.

3. PROPOSED DEVELOPMENT

- 3.1 The application seeks full planning permission for the erection of 187no. residential units (Use Class C3), 260sqm of commercial floorspace (Use Class E), 104sqm of community floorspace (Use Class F2) and associated infrastructure, car and cycle parking, landscaping, public realm and access.

- 3.2 The proposed development comprises 187 new homes including the following dwelling mix:

- 8 x Studio Flats
- 80 x 1 Bedroom Flats
- 78 x 2 Bedroom Flats
- 11 x 3 Bedroom Flats
- 10 x 3 Bedroom Town Houses

- 3.3 The proposed density of the scheme is 112 dwellings per hectare and the scale of the scheme is as follows:

- Block A – Ground + 6 Storeys
- Block B (Town Houses) – Ground + 2 Storeys
- Block C – Ground + 5 Storeys
- Block D – Ground + 8 Storeys

- 3.4 The tallest point is Block D which is located furthest away from sensitivities and marks the corner with Milton Creek. The low-rise houses are located behind the barge museum.

- 3.5 A flexible commercial space (Use Class E) measuring approx. 315m² (GEA) and a community unit (Use Class F2) measuring approx. 130m² (GEA) is proposed at the ground floor of Block D.
- 3.6 Vehicular and pedestrian/cycle access to the site will be via The Wall and servicing activity will be undertaken to the rear of the site. It is proposed that a new shared footway / cycleway, with a width of 3m, is provided which connects the site and Barge Museum to The Wall and then onwards to the existing infrastructure adjacent to the B2006. This would route via the entrance to the Sittingbourne and Kemsley Light Railway, with the gates being relocated to the rear of the shared path. This new path is proposed entirely within the land in the applicant's control or that they have a right of access across. It connects to the western end of the main site access linking to the footways that run adjacent to the site access road.
- 3.7 It is proposed that 95 car parking spaces will be provided on the site as follows:
- 79 residential spaces;
 - 2 Blue Badge spaces;
 - 8 visitor spaces; and
 - 6 spaces for the Barge Museum.
- 3.8 The scheme will also facilitate the delivery of a new pedestrian and cycle route connecting Sittingbourne town centre to the future park and public right of way being created at the Northern Phase, Regent Quay, via the waterfront.
- 3.9 The scheme will deliver a total of 270 cycle parking spaces for residents and visitors within the site's private residential area. An additional 26 spaces are also proposed in the publicly accessible space for visitors to the waterside.
- 3.10 Cycle parking for the flatted accommodation will be provided in individual bike stores within the blocks. For the three storey houses the cycle parking will be provided within the housing units.
- 3.11 20% of parking spaces will be dedicated EV charging spaces and all parking spaces will have access to EV charging points.
- 3.12 All apartment buildings feature a Bio Solar roof system that maximises both PV and biodiverse areas.
- 3.13 The scheme includes proposals to improve a wider area of land in Council's ownership and outside of the Applicant's ownership. This area of land extends 0.77 hectares and is located directly adjacent to the Applicant's ownership boundary.
- 3.14 The landscaping scheme focuses on the creation of a pedestrian dominated public environment and includes the introduction of native and coastal planting flora. Areas for play and gathering seek to reinforce a strong sense of community and identity on site.

3.15 The proposed development includes the following open space typologies:

- Area of ecological enhancement – 2,609m²
- Brown roofs – 1,138m²
- Growing area/allotment – 402m²
- Roof terraces- 530m²
- Play area – 193m²
- Pocket parks – 381 m²
- Seating areas – 174m²
- Skate park – 592m²

3.16 The landscaping strategy includes the provision of:

Public Realm Area:

- A pedestrian and cycle route;
- A workshop/growing area;
- Two seating areas;
- An area of Ecological Enhancement;
- A popup stall;
- Bird hides;
- A storage unit/workshop for small craft;
- A heritage trail and display boards;
- Railings along the water's edge.

Private Residential Area:

- Two pocket parks;
- A play area; and
- Two roof terraces.

4. CONSULTATION

4.1 One round of consultation has 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.

4.2 Four letters of objection from separate addresses were received. Concerns/comments were raised in relation to the following matters: -

Comment	Report reference
Questions what the benefit will be to the local community, the local roads and the retail park.	The principle of the proposal is discussed at para 7.11 and the benefits weighed up in para 7.134-7.143
Access concerns – unclear, whether the proposed access is sufficient or wide enough and that it makes use of a current a service road	This has been concluded to be acceptable by KCC Highways. See para 7.83-7.84
Concern about pedestrian access	Para 7.86

Detrimental impact on traffic congestion	National Highways have raised no objection. See para 7.85
Parking concerns – insufficient parking proposed and this will impact on the retail park	Para 7.82-7.84
Air quality statement not comprehensive	Para 7.92-7.94
Noise generated by the retail park will detrimentally impact on occupiers of the proposal.	Para 7.126-7.127
Ecological Impact Assessment is not comprehensive.	Para 7.60
The metal bridge at the end of The Wall is a health and safety hazard.	This is not a material planning consideration.

4.3 Five notifications of neither objection or support from separate addresses were received. Concerns/comments were raised in relation to the following matters:

Comment	Report reference
<p>Sittingbourne Society raised concerns about the following:</p> <ul style="list-style-type: none"> • 3 parking spaces for the barge museum would be insufficient • Museum building may be overwhelmed by the development • Ground conditions are unstable • Flooding dangers on site • The development might conflict with the retail site 	<p>The existing car park is to be retained Para 7.120</p> <p>This would be managed through the building regulations. Para 7.109-7.111</p> <p>This has been assessed throughout with regard to noise (para 7.127), odour (para 7.129), parking and highways (para 7.83-7.85)</p>
How will emergency services gain access	This will be via the vehicular access into the site.
Insufficient parking	Para 7.83-7.84
Access through retail park is unacceptable	Para 7.84
<p>Concerns about impact on Creek:</p> <ul style="list-style-type: none"> • Would like to see 106 contributions be spent on improving the quality of the creek environment. • Concern about overshadowing of the wharf and increased use of opposite bank of the creek 	<p>The application as a whole will achieve this. Public realm improvements contribution detailed at Para 7.17</p> <p>Ecological impact acceptable. Lighting controlled by condition. Para 7.64-7.65</p>
Question level of Biodiversity net Gain claimed.	Para 7.63
Small scale community works should be retained.	Skate park and barge museum are retained,

A management body and long term funding agreement should be put in place for the community use of the site.	Not a material planning consideration.
Public part of the site should be run as a community design project.	Para 3.5
Barge building and boat repair should be protected uses at the wharf.	Not protected through policy
Section 106 contribution should be directed to navigation improvements.	106 contributions can only mitigate against the impact of the development.
Tram and crane rails should be retained as heritage remains.	Para 7.31

- 4.4 Sittingbourne and Kemsley Light Railway made 3 sets of comments in response to the initial consultation, and then in response to the submission of additional information. The comments made in the three representations (dated) are as follows:

Comment	Report reference
Sittingbourne and Kemsley Light Railway Ltd (SKLR)	
14.10.22	
<ul style="list-style-type: none"> Support the development of the site in a sympathetic manner but they have serious concerns over the impact of the development on the operation of the light railway because accessible access to the SKLR station from its car park is via step free access within the application site, and this access is not shown on the submitted plans. 	Para 7.86
<ul style="list-style-type: none"> The proposed new vehicular access to the development would cut through the accessible access route. 	Para 7.86
<ul style="list-style-type: none"> The proposal does not provide sufficient pedestrian access along the vehicular access point from The Wall. 	Para 7.86
<ul style="list-style-type: none"> The proposal provides insufficient parking, which will result in overspill into the SKLR car park. 	Para 7.82-7.84
	Para 7.85

<ul style="list-style-type: none"> • Unacceptable level of congestion and impact on visitors to the railway. <p>14.1.24</p> <ul style="list-style-type: none"> • In response to the submission of further transport information which provided for ongoing pedestrian access between their car park and station, SKLR advise that they appreciate the recognition of the need to ensure ongoing pedestrian access between the SKLR car park and Sittingbourne Viaduct Station, but the proposed means by which this would be achieved does lead to further questions and other existing concerns. • Insufficient information is provided to demonstrate how the 3m wide pedestrian /cycle route can be made and how it can join the access road. • It is not clear how access to the station can be restricted when the pedestrian access will be open 24/7. • The revision does not address the lack of a suitably wide pavement along the west side of the access road. • Continued concern about how resident and visitor parking will be prevented in the SKLR car park. <p>10.9.24</p> <ul style="list-style-type: none"> • Previous concerns have not been addressed. 	<p>Para 7.86</p> <p>This is a matter for the railway to manage.</p> <p>Para 7.83</p> <p>This is a matter for the railway to manage</p>
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5. REPRESENTATIONS

5.1 **KCC Highways** – further to the revision of access and the provision of additional information, no objection raised subject to the imposition of conditions.

5.2 **National Highways** - raise no objection subject to the imposition of conditions.

- 5.3 **KCC Flood and Water Management** – raise no objection subject to further considerations at the detailed design stage which can be dealt with through the imposition of conditions.
- 5.4 **SBC Affordable Housing Manager** – understands that an independent assessment of the applicant's viability confirms that the scheme cannot viably include affordable housing and that the 19 affordable homes (10% as per DM8) will not be delivered on the development site.
- 5.5 **SBS Heritage** – agrees with the conclusion of the submitted Heritage Statement that there would be no material indirect heritage impacts to the range of identified designated and non-designated heritage assets nearest to the application site area. No objection subject to the imposition of conditions.
- 5.6 **SBC Urban Design Manager** – supports the proposal and recommends approval subject to the imposition of conditions.
- 5.7 **KCC Ecology** – raise no objection subject to the imposition of conditions.
- 5.8 **KCC Minerals and Waste** – no objection.
- 5.9 **SBC Climate Change Officer** – no objection.
- 5.10 **SBC Active Travel Officer** – supportive of the proposal and raises no objections.
- 5.11 **KCC Economic Development** – request contributions towards infrastructure provision.
- 5.12 **Southern Water** – provide information to be added as informatives and request imposition of a condition.
- 5.13 **Environment Agency** – raise no objection subject to imposition of conditions.
- 5.14 **Kent Police** – no objection subject to the imposition of conditions.
- 5.15 **NHS** - request contributions towards the healthcare implications of the development.
- 5.16 **SBC Environmental Health** – No objection subject to the imposition of conditions and securing the Air Quality Mitigation payment through a 106 agreement.
- 5.17 **KCC Archaeology** – no objection subject to the imposition of a condition.
- 5.18 **SBC Greenspaces Officer** – no objection subject to the imposition of conditions.

6. DEVELOPMENT PLAN POLICIES

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

ST1	Delivering sustainable development
ST3	The Swale settlement strategy
ST5	The Sittingbourne Area Strategy
CP2	Promoting sustainable transport
CP3	Delivering a wide choice of high-quality homes
CP4	Requiring good design
CP6	Community facilities and services to meet local needs
CP7	Conserving and enhancing the natural environment
CP8	Conserving and enhancing the historic environment
Regen 1	Central Sittingbourne Regeneration Area
DM 6	Managing transport demand and impact
DM 7	Vehicle parking
DM 8	Affordable housing
DM 14	General development criteria
DM 19	Sustainable design and construction
DM 20	Renewable and low carbon energy
DM 21	Water, flooding and drainage
DM 28	Biodiversity and geological conservation
DM 29	Woodlands, trees and hedges.
DM 32	Development involving listed buildings
DM 33	Development affecting a conservation area
DM 34	Scheduled Monuments and archaeological sites

6.2 **Supplementary Planning Guidance/Documents**

KCC Developer Contributions Guide.
 Swale Parking Standards (2020).
 Swale Borough Council's Noise and Vibration Planning Technical Guidance (2020).
 Planting on new development – a guide to developers.
 Air Quality Technical Guidance (2021)
 A Heritage Strategy for Swale (2020)
 Sittingbourne Town Centre and Milton Creek Supplementary Planning Document.

7. ASSESSMENT

7.1 This application is reported to the Committee at the request of Cllr Whelan, and also includes land within the ownership of the Council.

7.2 The application has been the subject of an Appropriate Assessment (AA) under the Habitats Regulations. The AA, concludes that these impacts can be mitigated.

7.3 The main considerations involved in the assessment of the application are:

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

Principle

- 7.4 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.
- 7.5 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.
- 7.6 Local plan policy ST1 seeks to deliver sustainable development in Swale with Policy ST2 of the Local Plan setting out development targets for jobs and homes in the Borough. Policy CP2 of the Local Plan highlights that development should minimise the need to travel for employment and services and facilitate sustainable transport.
- 7.7 Policy ST3 of the Local Plan sets the Swale settlement strategy and along with Policy ST5 identifies that Sittingbourne will provide the primary urban focus for growth, where development will support town centre regeneration and underpin the town's role as the principal centre.
- 7.8 Local Plan Policy Regen1 identifies the site as within an allocation that should support the objective of consolidating and expanding Sittingbourne's position as the main retail, business, cultural, community and civic centre for the Borough.
- 7.9 The application site sits within an area identified in the Sittingbourne Town Centre and Milton Creek Supplementary Planning Document (SPD). This is a Masterplan which forms part of the Local Development Framework for Swale

Borough Council. The vision for the document is to enhance the retail offer of the locality with new and improved public spaces and buildings of architectural excellence, provide new wide ranging and high quality services, leisure and cultural facilities and attractions, establishing the town as a leading centre for learning and skills, building on and enhancing its unique local character and heritage, built form and the rediscovery of Milton Creek and creating a vibrant new community and lifetime neighbourhood at Milton Creek.

- 7.10 The proposal is for a mixed use development of housing, commercial and community uses interspersed by a variety of open spaces and public realm enhancements that centre on the creek and its heritage.
- 7.11 In light of the above policy support, the application site is in a sustainable and accessible location that has been identified as appropriate for the development proposed. On this basis, the principle of the proposal would accord with Local Plan Policies ST1, ST2, ST3, ST5, CP2 and Regen1, the Sittingbourne Town Centre and Milton Creek SPD, and the NPPF.

Size and Type of Housing

- 7.12 The NPPF recognises that to create sustainable, inclusive and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 7.13 The Local Plan requires the mix of tenures and sizes of homes provided in any particular 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
- 7.14 The Council's Housing Market Assessment (HMA) was prepared in 2020, i.e. more recently than the Local Plan, and after the introduction of the standard method for calculating the objectively assessed need. As such officers have considered the proposed mix against that set out in the HMA.
- 7.15 The application proposes the following mix of units:
- 8 x Studio Flats
 - 80 x 1 Bedroom Flats
 - 78 x 2 Bedroom Flats
 - 11 x 3 Bedroom Flats
 - 10 x 3 Bedroom Town Houses
- 7.16 The HMA identifies that between 2022 and 2038, there will be a need for all sizes of owner occupied and private rented accommodation in the Borough, with a greater emphasis on 2 and 3 bedroom accommodation.
- 7.17 On this basis, the proposal would accord with Policy CP3 of the Local Plan 2017 and the NPPF.

Affordable Housing

- 7.18 The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Through Policy DM8, the Local Plan requires 10% of affordable housing from developments in Sittingbourne Town.
- 7.19 Policy DM8 of the Local Plan provides that in exceptional circumstances, where an applicant can demonstrate that providing the full affordable housing provision would result in the scheme becoming unviable, a reduced requirement may be considered.
- 7.20 The applicant has provided viability evidence to show that owing to the costs of remediating the site, providing high quality public realm space and implementing effective flood alleviation measures which will be of wider public benefit, it is not viable to make a contribution towards affordable housing on the site.
- 7.21 This has been independently assessed by the Council's viability consultant who concludes that the level of provision would not result in an economically viable scheme as required by the NPPF.
- 7.22 The Council's Affordable Housing Manager accepts that the applicant's viability assessment has been independently assessed for the LPA and confirms that this scheme cannot viably include affordable housing and that the 19 affordable homes (10% as per DM8) will not be delivered on the development site.
- 7.23 On this basis, the proposal would fail to accord with Local Plan Policy DM8 although satisfactory information has been submitted and assessed to evidence why this is the case. This will be weighed in the planning balance (set out below) in consideration of the acceptability of the proposal.

Heritage

- 7.24 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.
- 7.25 The application site does not include any designated heritage assets nor is it situated within any Conservation Areas; however, it is within 500m of the following heritage assets:
- Grade II Listed Church of the Holy Trinity;
 - Milton Regis Conservation Area;
 - Sittingbourne Conservation Area; and
 - The non-designated Kemsley Light Railway Viaduct.

- 7.26 A Heritage Statement is submitted with the application which assesses the significance on these and the subsequent impact of the proposal on significance through changes to their setting.
- 7.27 The statement concludes that the application site does not make any particular contribution to the significance of the Listed Building and Conservation Areas through setting. The non designated Light Railway Viaduct, on the other hand, has a historic relationship to the application site through their previous associations with the Sittingbourne Paper Mill; however, their original functions associated with the mill no longer exist. Therefore, the application site is only considered to contribute to the significance of the Light Railway Viaduct through their shared historic associations, rather than in terms of any visual connection.
- 7.28 There would be very limited intervisibility between the identified assets, and there would not be any negative impact on the significance of the designated heritage assets. The design of the buildings takes into account the former industrial character of the site and its surroundings. The proposals therefore will result in 'no harm' to the significance of the Grade II Listed Church of Holy Trinity, Sittingbourne Conservation Area, Milton Regis Conservation Area and non-designated Kemsley Light Railway Viaduct.
- 7.29 SBC Heritage has considered the submission and advised that they agree with the conclusions set out in the supporting Heritage Statement that there would be no material heritage impacts to the range of identified designated and non-designated heritage assets nearest to the application site area. Appropriately worded planning conditions are recommended for high-quality construction materials and associated detailing to ensure an appropriately high standard of design for the development.
- 7.30 The site lies in an area with a rich industrial heritage (including for maritime related uses) at the head of Milton Creek. Reference is made in the supporting information about the provision of heritage information boards linked to a heritage trail to make the most of placemaking opportunities. This is welcomed and will be secured through condition.
- 7.31 Consultee comments relating to the maritime heritage of the creek side are also noted, and further details of hard landscaping and a heritage scheme will be required through condition to enhance this element of the proposal through, for example sensitive treatment of the crane tramway track and provision of mooring posts.
- 7.32 With the suggested conditions, the proposal would accord with Local Plan Policies CP8, DM32 and DM33 of the Local Plan, and the provisions of the NPPF.
- 7.33 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.

Archaeology

- 7.34 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.
- 7.35 Policy DM34 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.
- 7.36 The proposed development is in an area that is archaeologically sensitive and there is potential for deeply buried archaeological deposits associated with the early use of the Creek and its banks to survive within the site. In addition, there may be remains of the tidal mill and any earlier similar structures buried within the site. The excavations for the former tidal pond and works for the later wharf and industry on the site may have disturbed earlier deposits but there remains potential that significant remains could still survive on the site and given waterlogged conditions could be well preserved. Remains of the industry would themselves be of archaeological interest as well.
- 7.37 New development ground excavations are likely to have an impact on buried archaeological remains and deposits of geoarchaeological interest. More detailed study and evaluation is needed to fully model impacts of the development. The area of the former mill buildings is proposed for ecological enhancement so impacts may be less significant in that area and more manageable in terms of mitigation measures. The Barge Museum and the tracks are to be retained which is welcomed.
- 7.38 There is potential for the development to affect archaeological remains. Potential impacts of the scheme on archaeology can be appropriately addressed through further assessment, evaluation and mitigation that can be secured through a condition.
- 7.39 Taking this into account, subject to the imposition of a condition, the proposal would accord with Local Plan Policy DM34 and the NPPF.

Character and appearance

- 7.40 The NPPF 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.
- 7.41 As outlined above and shown in the submitted plans, the residential units would be arranged across buildings ranging from 3-9 storeys in height and in an architectural style that reflects the creekside context. A range of open space typologies will be created. Given the risk of flooding, residential accommodation is appropriately located above ground level, with ground level given over to other uses including car and cycle parking.

- 7.42 The proposal has undergone an extensive pre-application process where officers have scrutinised and challenged design decisions. Matters raised regarding the assumptions, narrative and approach of the proposals have been tested and changed, resulting in a refined development with clear function and identity.
- 7.43 The addition of commercial, community and residential uses would consolidate and augment the existing cultural uses on the site and other uses within the immediate vicinity creating a complementary cluster of attractions. Their distribution across the site would serve to maximise topographic changes, line key routes and public spaces and provide natural surveillance where necessary.
- 7.44 The layout has been arranged as three apartment blocks of varying scales and a row of terraced houses, separated by non-vehicular routes. Vehicular access and circulation are to the south, with public open space including pedestrian and cycle routes to the northern creek side. The approach is a rational subdivision of a broadly linear site which ensures good permeability through the blocks and connectivity and integration with the surrounding streets. The subdivision of the site also establishes a scale of block and streetscape that is responsive to the wider area. In addition to the creek side open space, there would be a series of 'pocket' parks created that would benefit from southerly orientation which, together with balconies, should provide good amenity space for the development's residents.
- 7.45 A range of heights are proposed across the site that will be stepped and staggered through the development. The two end buildings, blocks A & D would bookend the development with increased heights rising up to 7-9 storeys. The distribution of height helps to create a hierarchy of buildings across the site, with the gateway and landmark buildings (A&D) forming key focal points. The transition to lower heights of the town houses have been sensitively considered. This proposed height and its variation through the site is considered to be responsive to the site and wider context where a wide range of heights are evident.
- 7.46 The proposed massing is well-modulated with a variety of block forms, lengths and heights which adds a degree of diversity without undermining the principles of continuity or harmony. This variety in the block-form is especially important along the creek side, where the rhythm of blocks and breaks enliven this urban edge while providing a level of consistency and order to the streetscape.
- 7.47 The form and elevational treatment proposed comprises a simple palette of materials, repeating window patterns, balconies and a range of decorative brickwork features which would give the buildings a wharfside aesthetic rooted in Sittingbourne's character and history. It is appreciated that the Design and Access Statement examines the architectural design and character of existing wharf buildings to explain the design response proposed. The careful attention to elevation, bay and façade analysis is a real strength of the proposal and demonstrates that the design approach responds positively to the context.

- 7.48 The apartment block facades are articulated through the arrangement of bays, decorative brickwork, balconies and legible entrances with vault style openings. The interplay of these features together with colour and texture of materials would provide visual interest, depth and character. Elevations are designed to provide active frontages on all sides, particularly on upper floors where flooding is less of an issue. Windows and balconies would provide natural surveillance across the site and help create a rhythm and structure to the architectural design. The design and variation in these buildings across all facades is well managed and of high design quality. Similarly, the design and materiality of the town houses respond positively to the maritime history of the area.
- 7.49 Given the reliance of brick to express volume and character of the wharfside buildings it is crucial that the physical and aesthetic qualities of these materials have a richness and variety in the surface colour and texture so samples of materials and construction design details – particularly decorative brickwork, windows, entrances, balconies, eaves, commercial unit frontage etc - would be required by condition.
- 7.50 In terms of landscaping, a range of hard and soft landscaping, including the use of living roofs, is provided across the scheme that will help reinforce character and support biodiversity with new habitat space for local wildlife. Also proposed is a series of new public open spaces including dedicated play spaces and pocket parks which provide variation across the scheme. The design and access statement and accompanying plans provide details of the hard and soft landscaping strategy including the proposed material and species palette and play and furniture to be used across the site. The indicative details provided are accordant with the character of the site and further details can be required by condition.
- 7.51 Overall, the proposed development is an acceptable design response that would enhance the site and surroundings with additional design details to be provided by condition. On this basis, the proposal would accord with local and national planning policy providing a high quality and locally responsive design for the site.

Trees

- 7.52 The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.
- 7.53 A Tree Survey and Arboricultural Impact Assessment accompanies the application. It identifies that there are no protected trees on site and that 5 low category C trees will be removed to facilitate the development. This will be mitigated against through new tree planting as shown in the soft landscaping proposals and Tree Strategy for the site. This incorporates a range of native and near-native tree species which will be planted as street trees, feature trees and ornamental trees.

- 7.54 A plan of proposed planting locations for trees accompanies the submission.
- 7.55 The proposed tree removal is considered acceptable and will be sufficiently mitigated against through the new and appropriate planting. As such the proposal would accord with local and national policy in this regard.

Ecology

- 7.56 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 CP7 and DM28 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.
- 7.57 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 and enhancing 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 NPPF 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.'
- 7.58 National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments.
- 7.59 Local Plan Policy DM28 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.
- 7.60 Ecological survey information has been submitted with the application. KCC Ecology have assessed this and advised that sufficient information has been provided.
- 7.61 The site supports a 'good' population of common lizard and slow worm. All suitable habitat within the development area will be lost and reptile translocation has been proposed. The receptor site, which currently supports 'low' populations of slow worm and common lizard, will also be subject to scrub clearance and grassland creation. The receptor area is included within the red-line boundary on the site plans.
- 7.62 The proposed education and birdwatching area, was used as a reptile receptor site as part of a previous application for the Barge Museum development (15/501934/FULL). Natural England Standing Advice advises that repeat

translocation of animals is to be avoided. However, KCC Ecology has advised that animals will have dispersed since 2015 and note that the population size has increased beyond that which could be supported by the original receptor. They agree that the proposed Area of Enhancements provides a more suitable receptor area, including some connectivity to wider areas of suitable habitat. As detailed within the Ecological Impact Assessment (EclA) report, significant habitat creation and enhancement will be required for this area to support both the low population that is already present and the good population to be translocated. These habitat works will need to precede the start of the translocation by several months for sufficient suitable habitat to establish. KCC Ecology advise that a reptile mitigation strategy is submitted, to be secured by condition.

- 7.63 With regard biodiversity enhancement, the application was submitted a significant amount of time before the statutory BNG condition became applicable. KCC Ecology have advised that the submitted scheme demonstrates a include a good range of biodiversity enhancement measures, particularly the brown roof habitats. However, the number of bat and bird boxes are low for a development of this size and additional opportunities should be included within the new buildings for bats and priority bird species. Additional boxes for a range of bat and bird species should also be provided on suitable trees within the area of enhancements. There will be a considerable loss of scrub habitat throughout the site, including 50% of existing scrub within the area of enhancements. Whilst the proposals result in a net gain in terms of habitat units, there will be a net loss of scrub habitat and the impact on breeding and foraging birds requires further consideration within the LEMP. On this basis, it is recommended that a condition be imposed requiring submission of a Landscape and Ecological Management Plan.
- 7.64 To ensure the lighting of the site would not have an unacceptable impact on nature conservation, a lighting design strategy should be required by condition.
- 7.65 Subject to the imposition of conditions, and SAMs payment, the ecological impacts of the proposal would be acceptable and accord with national and local planning policy.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

- 7.66 This Appropriate Assessment (AA) has been undertaken alongside a shadow assessment submitted by the applicant.
- 7.67 The proposal therefore has potential to affect the abovementioned site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 7.68 In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the

proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

- 7.69 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.
- 7.70 However, in view of the scale of the development it is considered that it, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to appropriate mitigation measures.
- 7.71 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 should be in place before dwellings are occupied.
- 7.72 Due to the scale and location of the development it is not considered that there is 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.
- 7.73 Based on the correspondence with Natural England, it is concluded that off-site mitigation is required. The mitigation payment would be incorporated into a legal agreement as detailed in the ‘Community Infrastructure’ section of this report.
- 7.74 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures can be implemented within the SPA from collection of the standard SAMMS tariff and this will ensure that these impacts will not be significant or long-term. It is considered that any adverse effect on the integrity of the SPA can be satisfactorily addressed through mitigation measures.

Transport and Highways

- 7.75 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.*’

- 7.76 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.'*
- 7.77 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.
- 7.78 Vehicular and pedestrian/cycle access to the site is shown via The Wall with servicing activity taking place to the rear of the site. A new 3m shared footway/cycleway is proposed which would connect The Wall to the site and the Barge Museum and then onwards to the B2006 via the light railway with the gates being relocated to the rear of the shared path. It would connect to the western end of the main site access linking to the footways that run adjacent to the site access road.
- 7.79 A walking/cycling route is also proposed around the perimeter of the site that connects the site and Barge Museum to routes to the northeast. It is proposed that a wayfinding strategy will be introduced within the site to inform residents and visitors of the route and connections on to the wider England Coast path.
- 7.80 The application is accompanied by a travel plan which includes measures that will be implemented to promote sustainable transport behaviour and minimise the transport impacts of the development. This outlines the following measures:
- Suitable disabled access and provision.
 - Appointing a travel plan coordinator
 - Provide new residents with a travel brochure detailing transport provision in the locality.
 - Walking and cycling initiatives.
 - Reducing need to travel initiative.
 - Car club provision.
- 7.81 As detailed above, a total of 95 car parking spaces are proposed on the site, in addition to a total of 270 cycle parking spaces for residents and visitors and 26 spaces in the publicly accessible space for visitors to the waterside.
- 7.82 The parking spaces will be allocated to specific units which would be sold with the property and therefore residents will be aware of the arrangements before purchasing. The restricted parking on and off the site will encourage residents with low car ownership to move to the site. A private management company will be responsible for managing parking spaces and enforcing parking within the site.
- 7.83 KCC Highways have raised no objection to the proposal. They advise that the development is located in a central location with good links to public transport including Sittingbourne railway station and bus links. The proposed 3m path which connects the site and Barge Museum to The Wall and then onwards to the existing infrastructure adjacent to the B2006 and routes past the entrance

to the Sittingbourne and Kemsley Light Railway will mitigate the need for residents and visitors passing directly through the retail park.

- 7.84 Although the objections about parking pressure on the retail park, and suitability of the access provision are noted, both KCC Highways and National Highways are satisfied that the arrangements are sufficient and would not cause harm to highway safety.
- 7.85 National Highways are satisfied with the impact on the wider strategic network. Locally, although the area does suffer from traffic congestion, it is highly accessible by alternative means of transport, and the site is located within a sustainable location within easy reach of services and facilities.
- 7.86 The improved pedestrian links to and within the site would be of benefit to its accessibility to both the town centre and development to the south east of the site. Detail of the footpath and connections to the adopted highway can be required by condition.
- 7.87 On the basis of the above, and subject to the imposition of conditions, the transport and highways impact of the proposal would accord with local and national planning policy.

Air Quality

- 7.88 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.
- 7.89 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.
- 7.90 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.....'*
- 7.91 The Local Plan at Policy DM6 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.

- 7.92 The applicant has undertaken an Air Quality Assessment in support of this proposal (by Miller Goodall dated 7th September 2023 (report reference no. 102834-2). This sets out mitigation measures that can be included in the development also summarises the Damage Cost Assessment contributions that will be required to mitigate against impact from the proposal (£22,220 for NOx and £28,322 for PM). This has been reviewed by the Environmental Health who advise that these should be secured through a legal agreement and conditions.
- 7.93 In addition, a 'Dust Technical Note' dated 23rd August 2023 has been submitted. This reviews dust generated by nearby commercial/industrial premises and assess the impact on future occupants of the proposed development. The methodology and findings of this report are accepted – that operational dust from the existing commercial premises in the vicinity will not be detrimental.
- 7.94 In light of the above, subject to the imposition of conditions and securing damage costs through a legal agreement, the air quality impact of the proposal is acceptable and in accordance with Local Plan policy and the NPPF.

Community Infrastructure

- 7.95 The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. This is reflected in policies CP5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.
- 7.96 As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:
- Necessary
 - Related to the development
 - Reasonably related in scale and kind
- 7.97 The following financial contributions have been sought by KCC County Council and Swale Borough Council to mitigate the impact of the development upon services, these contributions are all for specific capital projects which have been identified and assessed by Officers to comply with the Regulations (as amended).

Education	£181 900 towards Primary education £54 201.39 towards Primary land £138 458 towards Secondary education £70 505.87 towards Secondary land
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Libraries	£10 369.15
Adult Social Care	£27 466.56
Community learning	£3 070.54
Youth Services	£12 248.50
Health care	£121 680 towards general practice
Refuse	£34 346.29
Air Quality Damage Cost Assessment contributions	£22,220 for NOx and £28,322 for PM
Travel Plan provision	Bikeability scheme, bicycle and walking groups and car club provision
Swale Bin provision	£42 901.80
SAMs	£61 386.49
Formal open Space provision	£133 362.79
Public realm maintenance	£54 165

7.98 For the purposes of the s106, the accompanying plan to the s106 will need to exclude the Council owned land as the Council cannot enter into a legal agreement with itself.

Open Space

7.99 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.

7.100 Detail of the open space provision on site is as follows:

- Area of ecological enhancement – 2,609m²
- Brown roofs – 1,138m²
- Growing area/allotment – 402m²

- Roof terraces- 530m²
- Play area – 193m²
- Pocket parks – 381 m²
- Seating areas – 174m²
- Skate park – 592m²

7.101 Swale Greenspaces Officer has advised that although the open space provision does not meet the requirements for the different typology open space provision contained in DM17 of the Local Plan, it is recognised that the proposal provides significant investment in the public realm and that there is a balance to be made in this regard.

7.102 The proposed landscaping is good quality with appropriate tree, shrub and planting species and can be managed through conditions. The surface treatment is also of good quality design and the furniture generally appears appropriate. Details of this can be required by condition. Consideration needs to be given to how to define the skatepark boundary from wider public open space. In addition, the boundary of the skatepark with the access road to the south needs strengthening to avoid conflict with vehicles. This can be achieved through the use of conditions regarding hard landscaping and furniture.

7.103 There are no details relating to future management and maintenance of the landscape/open space within the development. This can be required through condition. A contribution is required for the provision of formal open space and for the maintenance of the new public realm. This has been incorporated into the infrastructure section above. Subject to this and the other detailed conditions, the proposal would accord with Policy DM17 of the Local Plan and the NPPF.

Flood Risk, Drainage and Surface Water

7.104 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 DM21 of the Local Plan.

7.105 In preparing the Sittingbourne and Milton Creek masterplan, the Borough Council applied the sequential test. It was concluded that given the fact that there is a need for town centre regeneration identified by the adopted Local Plan, the ability for the Borough Council to reasonably locate the regeneration elsewhere at lesser risk of flooding does not exist. The NPPF is clear at para 172 that where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. On this basis therefore, the sequential test has been satisfied.

7.106 The masterplan identifies that in terms of exception testing for development in areas at higher risk of flooding, the regeneration area provides substantive regeneration and sustainability benefits sufficient to outweigh flood risk. These include a significant upgrade in the environmental quality of the Milton Creek area, and developing housing and other facilities in a sustainable central

location close to high speed travel links and town centre facilities. In addition to this, the site represents previously developed land. In order to pass the exception test, planning applications will need to be accompanied by a flood risk assessment and demonstrate that development will be safe without increasing flood risk elsewhere.

7.107 The application is supported by a detailed site-specific Flood Risk Assessment which includes a flood strategy.

7.108 The proposed flood strategy includes:

- No residential uses at ground floor;
- The first floor of residential accommodation will start at 7.5 AOD, well above the 200-year tidal event of 6.35m AOD (in 2115 climate conditions);
- A waterproof flood defence wall;
- Flood resistant and resilient measures for the ground floor units;
- A walkway at first floor providing safe egress in a flood event; and
- Adoption of flood warning and emergency response procedures.

7.109 Kent County Council as Lead Local Flood Authority have considered the submission and raised no objection to the proposal in terms of flood risk. They have made comments for consideration as part of the detailed design stage and recommended that conditions be imposed requiring that a detailed drainage scheme been submitted for approval.

7.110 The Environment Agency (EA) have raised no objection to the proposal on flood risk grounds but do require additional detail about the proposed flood wall. This can be required by condition.

7.111 On this basis therefore, the flood impact of the proposal accords with national and local planning policy and subject to the imposition of conditions is acceptable.

Contamination

7.112 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.

7.113 A contamination report is submitted with the application. However, this only applies to the land owned by the applicant. It does not cover land owned by SBC or others that is covered by the development. Environmental Health advise that this will need to be addressed through condition.

7.114 The report concludes that further investigation is required including gas and ground water monitoring. Environmental Health advise that the proposed scope of the further investigation appears to be satisfactory.

7.115 The Environment Agency (EA) have also considered the proposal and advised that the previous use of the proposed development site presents a medium risk

of residual contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive in this location because the proposed development site is located upon Principal aquifer within a Source Protection Zone 1.

- 7.116 The EA state that the reports submitted in support of this planning application provide them with confidence that it will be possible to suitably manage the risk posed to controlled waters by the development. Further detailed information will be required before built development is undertaken.
- 7.117 On this basis, there is no objection to this element of the proposal subject to the imposition of conditions and recommended by Environmental Health and the EA. The proposal is in accordance with Local Plan policy and the NPPF.

Living Conditions

Existing residents

- 7.118 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.119 The application site is not located in close proximity to any residential use such that there would be any impact in terms of loss of privacy, daylight, sunlight or overshadowing. The site is surrounded by commercial uses including a retail park to its North.
- 7.120 In the area surrounding the Barge Museum, development sits at its lowest height on the site with the housing and lower level apartment blocks sitting adjacent to the museum. This is a satisfactory relationship that would not give rise to unacceptable overshadowing impact.
- 7.121 The relationship between the proposed units and the retail park would be acceptable given that the new development would predominantly face towards the creek side, and that at the point of the shared boundary, the retail uses face away from the site with only subservient elevations pointing towards it with a service road and landscaping in between. In this regard, there would be no detrimental overlooking or overshadowing impact from the proposal.

Future residents

- 7.122 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.
- 7.123 The application is accompanied by a unit compliance statement (within the Design & Access (D&A) statement) which demonstrates that all units will accord with the national space standards in all regards.
- 7.124 The application is accompanied by an access statement (within the D&A statement) which contains an explanation of inclusive design measures to be

incorporated within the scheme and gives details of how current standards are met. The information outlines the design rationale, where appropriate, and explains how a good standard of accessibility is to be achieved. The assessment includes parking, external areas in the immediate vicinity of the building, approach, entrances and common parts, residential and commercial accommodation.

- 7.125 The D&A statement includes measures to ensure that the design and detailing of the site would accord with secured by design measures. This includes wider considerations such as the design and layout of the public realm and more detailed measures such as the specification for lighting, self closing and locking bike stores and internal access and security measures for each residential block. Details of lighting of the site will be required by condition. An informative will be placed on any planning permission regarding the implementation of secured by design principles.

Noise

- 7.126 Given the location of the site in close proximity to commercial uses, a detailed noise assessment has been undertaken and submitted with the application. This includes noise mitigation measures. Environmental Health have assessed the submission and advise that they have no objection in this regard subject to the imposition of a condition to require implementation of the mitigation measures and the carrying out of a post completion noise survey. In addition, it would be appropriate to condition the proposed new commercial space to prevent any detrimental impact on new occupiers from its operation.
- 7.127 On this basis, the noise impact of the local surroundings on the occupation of the development can be sufficiently mitigated against and is acceptable in accordance with Local Plan policy and the NPPF.

Odour

- 7.128 Given the site is in an urban location, close to sewage works, a waste site and commercial uses, Environmental Health requested that an odour screening assessment be carried out. This has been completed and accompanies the application. It assesses the odour impact on the basis of FIDOL (Frequency, Intensity, Duration, Offensiveness and Location) and the source-pathway-receptor methodology, in accordance with the Institute of Air Quality Management 'Guidance on the assessment of odour for planning' 2018.
- 7.129 The screening assessment concludes that the risk of odour impact is insignificant. Environmental Health have considered the submission and advised that they raise no objection on this basis. This impact is therefore considered acceptable in this regard.

Sustainability / Energy

- 7.130 Policy DM19 of the Local Plan requires development proposals to include measures to address climate change.

- 7.131 The application advises that all residential units will reduce C)2 emissions by 67% against part L, exceeding the target of 50% for new dwellings. A condition should be imposed on any planning permission to ensure details are provided (prior to the construction of any dwelling) setting out the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste and reduce carbon emissions by 50% for new dwellings compared to current regulations (Building Regulations Part L1a 2013).
- 7.132 A condition will also be imposed requiring the commercial elements of the proposal to meet BREEAM very good standard or equivalent as a minimum.
- 7.133 Further conditions should be imposed on any planning permission to control excessive water consumption. Subject to the conditions, the application would comply with Policy DM19 of the Local Plan and the NPPF.

Planning Balance and Conclusion

- 7.134 The application site is located within the confines of Sittingbourne which is identified as the primary urban focus for growth. The site is allocated in Local Plan Policy Regen1 which seeks to support the objective of consolidating and expanding Sittingbourne's position as the main retail, business, cultural, community and civic centre for the Borough; and within the Sittingbourne Town Centre and Milton Creek SPD area.
- 7.135 The application site is in a sustainable and accessible location that has been identified as appropriate for mixed use development as proposed. The principle of the proposal along with the enhancement of the creek area and the creation of a high quality area of public realm would accord with Local Plan Policies ST1, ST2, ST3, ST5, CP2 and Regen1 of the Local Plan and the NPPF
- 7.136 The proposal would bring forward development of a high-quality appearance that would improve the quality of the locality and its interaction with the creek area, and would not result in harm to nearby designated and non-designated heritage assets.
- 7.137 The proposal would result in an acceptable standard of living accommodation for future occupiers and would assimilate into its immediate setting. Conditions will secure appropriate amenity in terms of noise impact.
- 7.138 Flooding impact has been found to be acceptable subject to the imposition of detailed conditions, and the applicant has undertaken to enter into a legal agreement to make contributions to mitigate against wider infrastructure and ecological impacts of the proposal.
- 7.139 Contrary to the requirements of Local plan Policy DM8, the proposal has demonstrated that in light of the benefits that the scheme will bring to the locality as described above, it is not viable to provide a policy compliant provision of 19 affordable units. The scheme does however provide a range of unit sizes including a number of studio homes.

- 7.140 Swale is unable to provide a deliverable 5 year supply of housing. Paragraph 11 of the NPPF states that at the heart of the Framework is a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.141 In this instance, subject to the imposition of conditions and a legal agreement setting out infrastructure and ecological mitigation payments, there are no other identified adverse impacts of the proposal.
- 7.142 When weighed against the provision of 187 homes in a high quality, locally responsive development that additionally makes commercial, community and public realm provision with sensitively designed open space in an sustainable and accessible location that is identified as the primary focus for growth in the Borough and is subject to a specific regeneration allocation, the lack of 19 affordable homes does not represent an adverse impact that significantly outweighs the benefits.
- 7.143 On this basis therefore, it is recommended that subject to the imposition of conditions and the signing of a S106 agreement, permission is granted for the proposal.

8. **CONDITIONS**

TIME

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.

PLANS

2. The development hereby permitted shall be carried out in accordance with the following approved drawings:

D3182 FAB 00 XX DR L 1001 PL01 Landscape masterplan
21029 03305 Rev PL Proposed site section
21029 03000 Rev PL1 Proposed site plan
21029 03100 Rev PL1 Proposed ground floor – site
21029 03101 Rev PL1 Proposed first floor plan – site
21029 03102 Rev PL1 Proposed second floor plan – site
21029 03103 Rev PL1 Proposed third floor plan – site
21029 03104 Rev PL1 Proposed fourth floor plan – site

21029 03105 Rev PL1 Proposed fifth floor plan – site
21029 03106 Rev PL1 Proposed sixth floor plan – site
21029 03107 Rev PL1 – Proposed seventh floor plan – site
21029 03108 Rev PL1 – Proposed eighth floor plan – site
21029 03109 Rev PL1 – Proposed roof plan – site

21029 03301 Rev PL Block A section sheet 1
21029 03302 Rev PL Sections sheet 2
21029 03303 Rev PL Sections sheet 3
21029 03304 Rev PL Sections sheet 4

21029- 03217 Rev PL Indicative wider context buildings sheet 1
21029- 03218 Rev PL Indicative wider context buildings sheet 2
21029- 03219 Rev PL Indicative wider context buildings sheet 3

21029 03213 Rev PL Town House elevations
21029 05TH401 Rev PL Town house 3B 01 floorplan
21029 03TH100 Rev PL Proposed terraced housing ground floor
21029 03TH101 Rev PL Proposed terraced housing first floor
21029 03TH102 Rev PL Proposed terraced housing second floor

21029 03214 Rev PL Block A bay studies
21029 03205 REV PL Block A elevation sheet 1
21029 03206 Rev PL Block A elevation sheet 2
21029 03207 Rev PL1 Block A elevations sheet 3
21029 03208 Rev PL1 Block A elevations sheet 4

21029 03A100 Rev PL1 Block A proposed ground floor
21029 03A101 Rev PL1 Block A proposed first floor
21029 03A102 Rev PL1 Block A proposed second floor
21029 03A103 Rev PL1 Block A proposed third floor
21029 03A104 Rev PL1 Block A proposed fourth floor
21029 03A105 Rev PL1 Block A proposed fifth floor
21029 03A106 Rev PL1 Block A proposed sixth floor
21029 03A107 Rev PL1 Block A proposed roof plan

21029 03215 Rev PL Block C bay studies
21029 03209 Rev PL Block C elevations sheet 1
21029 03210 Rev PL1 Block C elevations sheet 2
21029 03211 Rev PL1 Block C elevations sheet 3
21029 03212 Rev PL1 Block C elevations sheet 4

21029 03C100 Rev PL1 Block C proposed ground floor
21029 03C101 Rev PL1 Block C proposed first floor
21029 03C102 Rev PL1 Block C proposed second floor
21029 03C103 Rev PL1 Block C proposed third floor
21029 03C104 Rev PL1 Block C proposed fourth floor
21029 03C105 Rev PL1 Block C proposed fifth floor
21029 03C106 Rev PL1 Block C proposed roof

21029 03216 Rev PL Block D bay studies
21029 03201 Rev PL Block D elevations sheet 1
21029 03202 Rev PL Block D elevations sheet 2
21029 03203 Rev PL Block D elevations sheet 3
21029 03204 Rev PL Block D elevations sheet 4

21029 03D100 Rev PL1 Block D proposed ground floor
21029 03D101 Rev PL1 Block D proposed first floor
21029 03D102 Rev PL1 Block D proposed second floor
21029 03D103 Rev PL1 Block D proposed third floor
21029 03D104 Rev PL1 Block D proposed fourth floor
21029 03D105 Rev PL1 Block D proposed fifth floor
21029 03D106 Rev PL1 Block D proposed sixth floor
21029 03D107 Rev PL1 Block D proposed seventh floor
21029 03D108 Rev PL1 Block D proposed eighth floor
21029 03D109 Rev PL1 Block D proposed roof

21029 05401 Rev PL Apartment type 1B-01 Studio
21029 05411 Rev PL Apartment type 1B-01 1 bed 2 person
21029 05412 Rev PL Apartment type 1B-02 1 bed 2 person
21029 05413 Rev PL Apartment type 1B-03 1 bed 2 person
21029 05433 Rev PL Apartment type 1B-04 1 bed 2 person
21029 05415 Rev PL Apartment type 1B-05 1 bed 2 person
21029 05421 Rev PL Apartment type 2B-01 2 bed 4 person
21029 05422 Rev PL Apartment type 2B-02 2 bed 4 person
21029 05423 Rev PL Apartment type 2B-03 2 bed 4 person
21029 05424 Rev PL Apartment type 2B-04 2 bed 4 person
21029 05426 Rev PL Apartment type 2B-05 2 bed 3 person
21029 05431 Rev PL Apartment type 3B-01 3 bed 5 person
21029 05432 Rev PL Apartment type 3B-02 3 bed 6 person

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

MATERIALS

- 3 No development shall take place above foundation level until details of the external finishing materials to be used including sample panels, 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.

4. No fans, louvres, ducts, meter boxes or other similar apparatus shall be installed externally on any building without the prior written approval of the Local Planning Authority.

Reason: In the interests of visual amenity.

SUSTAINABILITY

5. No development shall take place above foundation level until details of the measures to be undertaken to achieve 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) for the development of the 20 new dwellings has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

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

6. No residential units shall be occupied until details of measures to achieve a water consumption rate of no more than 110 litres per person per day, the rate for that unit(s) have been implemented in accordance with details submitted to and approved in writing by the Local Planning Authority. The measures shall be retained thereafter.

Reason: In the interests of water conservation and sustainability.

7. Prior to occupation of the development details of electric Vehicle charging points shall be submitted to an approved in writing by the Local Planning Authority. The charging points shall be installed in accordance with the approved details prior to the first use of the development hereby granted. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wi-Fi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved charge point model list:
<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: In the interest of sustainable transport and address climate change.

BREEAM

8. The non-residential units hereby approved shall achieve a Very Good BREEAM UK New Construction Version 6.1 rating including maximising energy and water efficiencies under the mandatory energy and water credits. A final certificate shall be issued to the Local Planning Authority for approval in writing within 6 months of the first occupation of the building(s) to certify that at a Very Good BREEAM UK New Construction Version 6.1 rating has been achieved.

Reason: To ensure a sustainable form of development

SECURED BY DESIGN

9. Prior to first occupation of the dwellings, the development hereby permitted shall incorporate measures to minimise the risk of crime and details of such measures to accord with the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) following the guidance set out in the Secured by Design in accordance with details submitted

to and approved in writing by the Local Planning Authority. They shall be thereafter retained.

Reason: In the interest of security, crime prevention and community safety

REFUSE

10. Prior to first occupation of the development, details of refuse storage arrangements including provision for the storage of recyclable materials for the site shall be submitted to and approved in writing by the Local Planning Authority. Refuse storage arrangements shall thereafter be provided on site in accordance with the approved details prior to occupation of the non-residential unit or residential building to which they relate and shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling.

COMMERCIAL

11. No deliveries shall be taken at or despatched from the commercial units outside of the hours of 9.00 and 18.00 and not at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers.

12. No activities in connection with the commercial units hereby permitted shall be carried out outside the hours of 07.00 and 23.00.

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers.

13. No plant (including ventilation, refrigeration, and air conditioning) shall be installed unless details 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. The scheme shall include an acoustic assessment which demonstrates that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever it's operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority

Reason: In the interests of visual and aural amenity.

14. All musical equipment and/or electrically amplified sound associated with non-residential uses shall be installed, maintained and operated so as to prevent the transmission of noise and/or vibration to any adjacent premises.

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers.

SUDS

15. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate appropriate management of surface water (minimum attenuation for climate adjusted 30 year event) against the climate adjusted 200 year tide locking events.

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

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

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

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

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

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

FLOOD RISK

17. No development shall take place until details of the proposed flood wall showing a plan of the alignment of the wall, confirmation of the height in mAOD, and a selection of cross sections through the wall / site has been submitted to an approved in writing by the Local Planning Authority.

The submission shall include details of how the wall will tie into high ground / flood defences at the site boundaries, and how the proposed wall will prevent 'back door' flooding where the wall could be outflanked by flood water. The proposed flood wall should have no openings or doors / gates within it which would introduce unacceptable risk of breach and could result in flooding to the site.

Development shall only be carried out in accordance with the approved details and retained as such thereafter.

Reasons: Required prior to commencement of development to ensure adequate flood defences are designed in and implemented within the site.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

18. No development or site clearance shall take place until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP will be based on the recommendations in sections 5 and 8 of the EclA report (Logika, 2022) and include the following:

- Risk assessment of potentially damaging construction activities;
- Identification of 'biodiversity protection zones'
- Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person, and;
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall thereafter be adhered to and implemented throughout the construction period.

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard biodiversity.

REPTILE MITIGATION STRATEGY

19. No development or site clearance shall take place until a reptile mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. The mitigation strategy shall provide the following information:

- a) Translocation methodology and timing;
- b) Location of the reptile receptor site;
- c) Details of any ecological enhancements to improve the receptor site and timing;
- d) Management prescriptions to maintain the receptor site long term.

All works must be carried out in accordance with the approved mitigation strategy.

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard biodiversity.

LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

20. No development or site clearance shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP will be based on the recommendations on sections 5.1.1.1 of the EclA report (Logika, 2022) and include the following:

- Description of habitats and features to be created, managed and enhanced
- Constraints on site that might influence management;
- Aims and objectives of management;
- Appropriate management prescriptions for achieving aims and objectives;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- Details of the body or organisation responsible for implementation of the plan, and;
- Ongoing monitoring and remedial measures, including reference to BNG targets.

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

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard biodiversity.

LANDSCAPING

21. No development shall take place above foundation level until a landscape scheme to align with the approved Landscape Masterplan (Ref D3182 FAB 00 xx DRL 1001 PL01) and the details shown in the Design & Access statement has been submitted to and approved in writing by the Local Planning Authority. The scheme shall use predominantly native or near-native species as appropriate and include a plant specification, implementation details including timetable for delivery, a maintenance schedule and a 5-year management plan.

All landscaping shown in the submitted scheme (to include the Area of Ecological Enhancement, play areas, pocket parks, growing and outdoor workshop area) shall be implemented and maintained as approved.

Reason: To ensure the provision of sufficient open space and in the interests of visual impact and amenity of the area and to ensure a satisfactory appearance to the development

HARD LANDSCAPING

22. No development shall take place above foundation level until details of hard landscaping to be used across the site (to reflect the details in the Design & Access statement) and a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be maintained thereafter.

Reason: To ensure a satisfactory external appearance and provision for landscaping.

MANAGEMENT OF OPEN SPACE

23. Prior to first occupation of any part of the development herein approved, a plan for the management and maintenance of the on site open space shall be submitted to and approved in writing by the Local Planning Authority. This shall detail the ongoing management of the site including identified roles, responsibilities and financial accountability. The management and maintenance of the open space shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure the management and maintenance of the site.

HERITAGE

24. No development shall take place above foundation level until a scheme to maximise placemaking opportunities relating to the maritime heritage of the site are submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to:

- Details of a heritage trail including heritage information boards.
- Preservation and treatment of the crane tramway track.
- The provision of mooring posts.
- A timetable for delivery.

The development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity and the heritage of the site.

ARCHAEOLOGY

25. To assess and mitigate the impacts of development on significant archaeological remains:

- A) Prior to any development works the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
- B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
- C) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
- D) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:
 - a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
 - b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
 - c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.
- E) The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

The evaluation works outlined Part A of the above condition should involve an initial stage of more detailed desk-based impact assessment taking account of any geotechnical information available. Any geotechnical works should be monitored if undertaken prior to archaeological evaluation. Evaluation should include a programme of archaeological trial trenching, test pit excavation and potentially bore hole works. More detailed walkover survey and recording of any historic features that survive on the site should also be undertaken.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on any archaeological interest and in the interests of the preservation of archaeological remains

PLAY AREA

26. Prior to the installation of any play equipment (as detailed in the Design & Access statement), full details of its location, surfacing, equipment and boundary treatment and a timetable for its delivery shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be implemented in accordance with the approved details and retained thereafter.

Reason: To ensure the provision of appropriate recreational facilities.

LIGHTING DESIGN STRATEGY

27. No development shall take place above foundation level until a lighting design strategy for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy will show how and where external lighting will be installed, as well as the expected light spill in lux levels, so that it can be clearly demonstrated that areas to be lit will not impact biodiversity. All external lighting shall be installed in accordance with the approved specifications and locations set out in the strategy and be maintained thereafter.

Reason: In the interests of biodiversity.

NOISE MITIGATION MEASURES

28. The noise mitigation measures as detailed in report 'Noise Impact Assessment' by Hann Tucker Ltd dated 25 July 2022 Ref 29667/NIA1 (The Report) shall be implemented by competent persons.

Prior to operation a post completion noise survey must be undertaken by a suitably qualified acoustic consultant, and a report submitted to and approved in writing by the Local Planning Authority. The post completion testing shall assess performance of the noise mitigation measures against the noise levels as set in the Report.

If the mitigation measures tested in the post-completion report prove to be insufficient, additional noise mitigation measures (where necessary to ensure the appropriate noise levels can be met), shall be submitted to and approved in writing by the Local Planning Authority and installed and tested prior to occupation.

The mitigation measures must be retained thereafter.

Reason: In the interests of residential amenity.

AIR QUALITY

29. No development shall take place until the developer has submitted a scheme detailing and where possible quantifying/costing what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The scheme should reference the sums calculated in the Emissions Mitigation Statement undertaken and detailed in section 9 of the Air Quality Assessment undertaken by Miller Goodhall Ltd dated 7th September 2023, Report No 102834-2.

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

Reason: Required prior to commencement of development to ensure adequate mitigation measures can be implemented against air quality impacts.

CONTAMINATION

30. No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the Local Planning Authority:
- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and to ensure any land contamination is adequately dealt with.

CONTAMINATION CLOSURE REPORT

31. Prior to first occupation of the development, a Closure Report shall be submitted to and approved by the Local Planning Authority. The closure report shall include full verification details as set out in condition 30. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

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

UNEXPECTED CONTAMINATION

32. 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.

PILING

33. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with the National Planning Policy Framework.

CONSTRUCTION MANAGEMENT PLAN

34. No development, site clearance or preparation shall take place until a Construction and Traffic Management Plan has been submitted to and approved by the Local Planning Authority.

The CTMP shall include details (text, maps and drawings as appropriate) of the scale, timing and mitigation of all construction related aspects of the development. It will include, but is not limited to:

- An indicative programme for carrying out the works.
- Site hours of operation.
- Numbers, frequency, routing and type of vehicles visiting the site.
- Travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries.

- Sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway (and means to remove if it occurs).
- Temporary traffic management / signage.
- Design and provision of site hoardings.
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s).
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s).
- Measures to manage the production of waste and to maximise the re-use of Materials.
- Measures to minimise the potential for pollution of groundwater and surface water.
- The location and design of site office(s) and storage compounds.
- The arrangements for public consultation and liaison during the construction works.
- Details of how the skate park and its users will be protected from construction and traffic impact.

Thereafter the construction of the development shall proceed in strict accordance with the approved Construction Traffic Management Plan.

Reason: Required prior to commencement of development to ensure that the A249 and M2 Trunk Roads continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety and the National Planning Policy Framework (December 2023) and to protect the amenity of nearby users.

PARKING

35. No part of the development shall be occupied until a timetable for the delivery of visitor parking across the site and parking for the Barge Museum has been submitted to and approved in writing by the Local Planning Authority. The provision of these parking spaces shall thereafter be delivered in accordance with the approved timetable and the site plan herein approved and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to it.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

36. No residential dwelling, community space unit or commercial unit, shall be occupied until the vehicle parking related to the associated residential block, community space unit or commercial unit has been provided in accordance with

the drawings herein approved. The parking shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to it.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

CYCLE PARKING

37. Prior to first occupation of the development hereby approved full details of the location and type of facilities for parking of cycles and a timetable for implementation (including any phasing) shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the Swale Parking SPD (or most recent relevant standard). The cycle parking shall be implemented in accordance with the approved details prior to first occupation and thereafter maintained.

Reason: To promote sustainable travel options

HIGHWAY INFRASTRUCTURE

38. No development shall take place above foundation level until details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture has been submitted to and approved by the Local Planning Authority. The works shall thereafter be laid out and constructed in accordance with approved details.

Reason: To ensure the provision of satisfactory highways infrastructure.

TRAVEL PLAN

39. Prior to occupation of the development, a Travel Plan, to reduce dependency on the private car shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

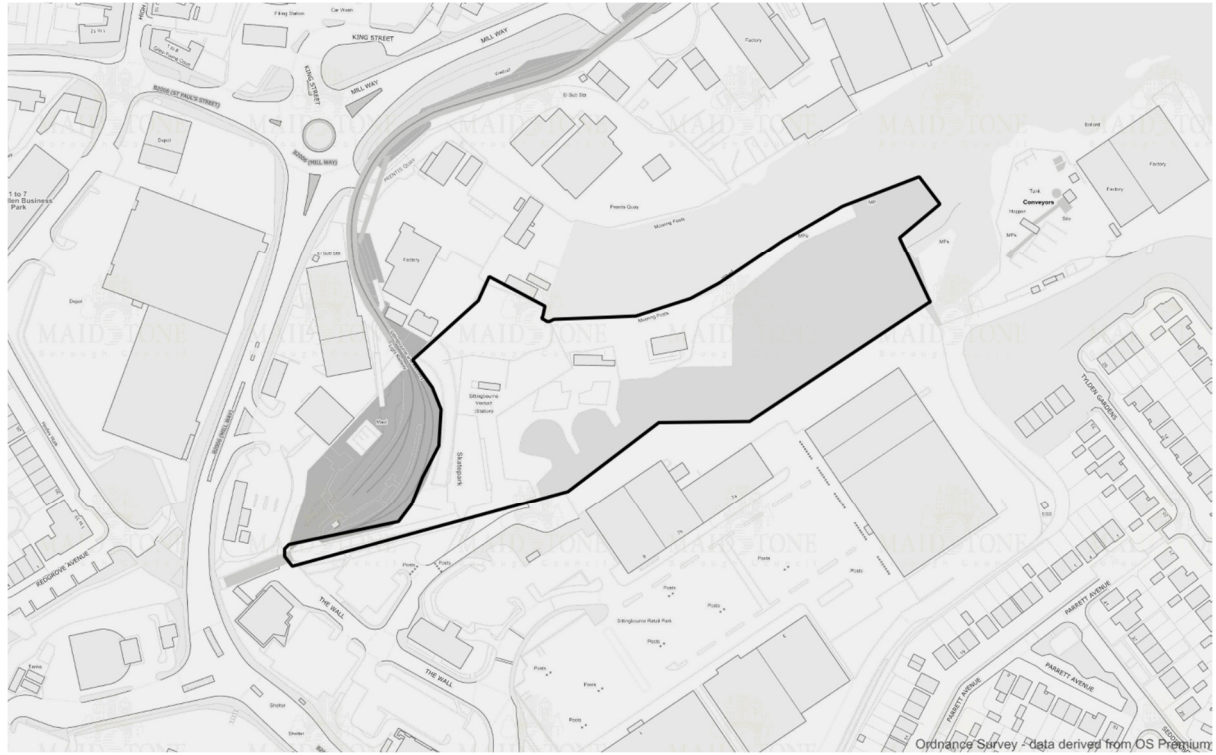
Reason: To promote sustainable travel options

BROADBAND PROVISION

40. No development shall take place above foundation level until details have been submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure shall be installed in accordance with the

approved details during the construction phase of the development and prior to occupation, be capable of connection to commercial broadband providers and maintained in accordance with approved details.

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



2.4 REFERENCE NO - 24/501182/FULL		
PROPOSAL Replacement of existing permanent mobile home with a 2-bedroom bungalow		
SITE LOCATION Bell Grove Stud Farm, Halstow Lane, Upchurch, Kent, ME9 7AB		
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 as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE The recommendation of Officers is contrary to an objection received from Upchurch Parish Council.		
Case Officer Graham Parkinson		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Mr Tye Simms AGENT DHA Planning
DATE REGISTERED 06/03/24		TARGET DATE 22/05/24
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted All representations received Design and Access Statement dated 28/02/24 (uploaded 01/03/24) Additional Supporting Information dated 26/04/24 (uploaded 26/04/24) The full suite of documents submitted pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SAJAHQTYGLT00		

1 SITE LOCATION AND DESCRIPTION

- 1.1 The application site is located to the north of Halstow Lane. The site measures 0.2 hectares but is part of a wider site that is shown to extend to 2.5 hectares. The site is located in open countryside, outside of the village of Lower Halstow. The site is currently occupied by a mobile home which serves the wider commercial stud farm that is shown to be within the applicant's control.
- 1.2 The mobile home at the site was permitted under planning permission ref: SW/10/0485. That permission was subject to 7 conditions, with condition 4 being of particular relevance to the subsequent planning history as it limited the number of

caravans at the site to one, the occupiers of that caravan and the number of nights when it could be accommodated. Planning permission ref: 18/503080/FULL subsequently allowed unrestricted overnight use of that mobile home by the applicant, employees and customers of the stud farm.

- 1.3 The applicant's submissions set out that the stud farm comprises three birthing stables, an insemination laboratory, 7 stables, paddocks and a sand school.

2 PLANNING HISTORY

- 2.1 19/504375/FULL: Erection of building to house laboratory, equine stock and welfare unit and the erection of 3no. birthing stables. Approved. Decision Date: 28.07.2020
- 2.2 18/503080/FULL: Variation to condition 4 of application SW/10/0485 (change of use from stabling for private use to commercial stud farming and livery) to allow unrestricted overnight use of an existing caravan/mobile home by the applicant, employees and customers of the stud farm. Approved. Decision Date: 07.05.2019.
- 2.3 SW/13/1563: Variation of condition 4 of SW/10/0485 to allow unrestricted overnight use of the caravan/mobile home by employees and customers of the stud farm. Refused. Decision Date: 21.02.2014
- 2.4 SW/10/0485: Change of use from stabling for private use to commercial stud farming and livery to site a caravan on site for use of permanent staff and owners of pregnant mares for 4 nights in any week and all day time use. Approved. Decision Date: 28.05.2010

3 PROPOSED DEVELOPMENT

- 3.1 The application seeks planning permission for a single storey 2 bedroom dwelling to replace a mobile home on the same site.
- 3.2 The proposed dwelling would measure 8.6 metres deep and 16.5 metres wide, with a pitched roof built to an eaves height of 2.5 metres and a ridge height of 6.7 metres. A single storey porch projection is proposed to the front of the dwelling. The submissions set out that the dwelling would feature timber cladding to the elevations and plain tiles to the roof. The application site includes an access to the dwelling from Halstow Lane.
- 3.3 Supporting information has been provided which is summarised below:
- Activities at the site now principally comprise a commercial stud farm which has been commercially viable for some time.
 - The planning permission granted under ref: 18/503080/FULL allowed in effect a permanent residential presence on site in support of the commercial stud farm use.
 - Replacing the mobile home with a house will have no material impact on activities carried out at the site.
 - The proposed house will only be slightly larger than a mobile home that could be stationed on site, being 142 square metres compared to the maximum size of a caravan which is 120 square metres.
 - In visual terms the proposed dwelling having a steeply pitched roof with timber cladding will give it a barn like appearance more in keeping with nearby buildings compared to the mobile home it would replace.
 - Surrounding the area where the proposed house is to be sited is a native species tree screen planted to screen the mobile home from the rest of the site.
 - The above trees screen is to be retained and supplemented with additional planting.

4 CONSULTATION

- 4.1 One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers and a site notice was displayed at the application site. No comments have been received. Cllr Richard Palmer initially called-in the planning application for determination by the Planning Committee but subsequently retracted this request.

5 REPRESENTATIONS

- 5.1 **Upchurch PC:** The Parish Council has objected on the following grounds (Full details of representations are available online):

Comment	Report reference
The Parish Council do not want a permanent dwelling erected at the site.	See paragraphs 7.2 to 7.15
The proposed dwelling would have an unacceptable impact on the rural character and the established boundary between the villages of Upchurch and Lower Halstow.	See paragraphs 7.16 to 7.24
The development would set a precedent for further developments.	See paragraph 7.48
A commentary of the history of the site has been provided and it is set out that conditions restricting the occupation of the dwelling are imposed to align with the previous permissions at the site and, if the stud farm ceases operating, the dwelling should not be occupied.	See paragraph 7.49

- 5.2 **Natural England:** No HRA assessment provided. Before granting planning permission on development that which is likely to have a significant effect on a European Protected Site a HRA must be carried out.
- 5.3 **KCC Minerals and Waste:** No objections or comments to make.
- 5.4 **Health And Safety Executive:** No comment.
- 5.5 **Agricultural Consultant:** The dwelling will meet the established and continuing accepted essential needs of the equine enterprise and ensure that the management and welfare of all the horses kept on site is not compromised. The details provided demonstrate that the business is well established, viable and sustainable presently and likely to remain so in the long term.

6 DEVELOPMENT PLAN POLICIES

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

ST 1 Delivering sustainable development in Swale

ST 3	The Swale settlement strategy
CP 2	Promoting sustainable transport
CP 3	Delivering a wide choice of high-quality homes
CP 4	Requiring good design
DM 3	Rural Economy
DM 7	Vehicle Parking
DM 12	Dwellings for rural workers
DM 14	General Development Criteria
DM 19	Sustainable design and construction
DM 24	Conserving and enhancing valued landscapes
DM 28	Biodiversity

6.2 **Supplementary Planning Guidance/Documents – Swale Borough Council Parking Standards SPD 2020**

7 **ASSESSMENT**

7.1 This application is reported to the Committee due to the objection received from Upchurch Parish Council. The committee is recommended to carefully consider the following main points:

- The Principle of Development
- Character and appearance
- Living Conditions
- Transport and Highways
- Ecology
- Other Matters

The Principle of Development

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 Paragraph 84 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless, amongst other things, there is an essential need for a rural worker.

7.5 Paragraph 88 of the NPPF states that planning policies and decisions should enable amongst other things, the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings, the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside.

7.6 Policy DM3 of the local plan states, amongst other things, that planning permission will be granted for the sustainable growth and expansion of business and enterprise in rural areas. For all proposals there is a requirement to firstly consider the appropriate

re-use of existing buildings or the development of other previously developed land, unless such sites are not available or it is demonstrated that a particular location is necessary to support the needs of rural communities or the active and sustainable management of the countryside.

- 7.7 Policy DM12 of the local plan states that planning permission will be granted for new, permanent, rural worker dwellings in the countryside subject to:
1. There being a clearly established, existing, essential need for the proper functioning of the enterprise for a full-time worker to be readily available at most times;
 2. There being no suitable existing dwelling available nearby or in a nearby settlement;
 3. The location, scale and design of the dwelling maintaining or enhancing landscape and countryside character; and
 4. The siting of the dwelling should, firstly, explore whether there are suitable buildings available for conversion at the enterprise, or secondly, in the case of a demonstrated need for a new building, that it is located as close as possible to existing buildings on previously developed land at the enterprise, or if this is not possible, within the immediate locality on an acceptable site.
- 7.8 In relation to the first criteria, the case of the applicant is that the operations of the stud farm and the presence of valuable items at the site require a permanent presence. Moreover, it has been demonstrated that a full-time presence is required with many of the tasks undertaken by the occupiers of the site listed within the Planning Statement.
- 7.9 In general, the need for a dwelling at the site has previously been accepted by the Council, through the granting of the previous planning permissions at the site. The case of the applicant has been independently assessed on behalf of the Council and it has been concluded that there remains a requirement for a permanent residential presence at the site in the interests of animal welfare and security. The review undertaken for the Council has also found that the applicant's business is well-established and financially sound with a clear prospect of remaining so. The proposal is therefore compliant with national and local planning policy in this regard.
- 7.10 In terms of criteria 2 and the availability of other dwellings, it is considered that the animal welfare requirements significantly reduce the catchment area that is appropriate to be assessed, noting that the dwelling is required to be in close proximity to the animals kept at the site. The test appears to have been complied with before. Moreover, as the dwelling is to replace an existing caravan that is able to be occupied on a full-time and permanent basis, it is considered that the applicable test falls away in this instance.
- 7.11 The third element of Policy DM 12 relates to visual, character and landscape requirements, which are assessed in full below. However, it is relevant to note that the assessment below concluded that the development is acceptable and, therefore, this criteria is complied with.
- 7.12 With respect to the fourth criteria and the requirement to explore whether there are suitable buildings available for conversion at the enterprise, it is considered that there are not. Moreover, as the proposed dwelling is replacing an existing caravan it is considered that it would be illogical to require an alternative building to be converted, particularly as this could leave a redundant caravan at the site. In addition, in relation to the second part of the fourth criteria, it is considered that the dwelling would be

located as close as is appropriate to existing buildings within the immediate locality on an acceptable site.

- 7.13 For the reasons given, the proposal accords with Policy DM12. For similar reasons, the proposal accords with the above mentioned elements of the NPPF which allow for rural workers dwellings in locations where residential development might otherwise be discouraged.
- 7.14 Whilst residential development in this location would otherwise conflict with policies ST1 and ST3, as a result of the exception set out at Policy DM12 being applicable, the principle of development is acceptable in this case. A condition can and should be imposed to ensure that the dwelling is occupied in the manner that is expected and in such a way that the exception set out within Policy DM12 remains applicable.
- 7.15 This is compounded by the fallback position which exists as a result of a caravan already being present at the site. Whilst there are inherent differences between a caravan and a dwelling, the planning permission that exists allows for a full time and permanent residential presence at the site, subject to an occupancy restriction. In terms of land use, the replacement of the caravan with a dwelling represents a status quo.

Character and appearance

- 7.16 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.
- 7.17 Policy CP 4 of the Local Plan requires development proposals to be of high quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals. Similar requirements are set out within policy DM 14 of the Local Plan.
- 7.18 The environmental elements of policy DM12 require the location, scale and design of the dwelling to maintain or enhance the landscape and countryside character of the area.
- 7.19 As set out above, the application site currently hosts a caravan. Trees and other soft landscaping exist at the site and within the immediate locality and, as a result, the caravan has a limited impact on the character and appearance of the area and the landscape in general. This is also aided by the presence of other buildings upon land within the applicant's control and within the wider area which add to the screening of the application site.
- 7.20 As a result of its increased footprint but particularly due to its greater height, the proposed dwelling would have a substantially greater visual impact than the existing caravan at the site. However, as a result of its permanence and the elevational treatment of the dwelling, it is considered that the provision of a dwelling at the site represents an enhancement compared to the existing situation.
- 7.21 Whilst larger, the building would continue to be reasonably well-screened from the surrounding public domain by other buildings and landscaping and, from where fleeting views of the building would be possible, it is considered that the dwelling would be visually acceptable and appropriate to its rural surroundings. The dwellings within the

surrounding area have a varied appearance and, as such, it is considered that the dwelling would sit comfortably within its setting.

- 7.22 Whilst the impact of a dwelling is more permanent than that of a caravan, it is noted that the caravan has permission to be at the site full-time, with no requirement for it to be moved within the site or removed even if the Stud Farm were to cease operation. Therefore, it can be expected that the caravan would be at the site in perpetuity and, as such, no objection is raised on visual grounds to the greater permanence that would result from this proposal.
- 7.23 It is noted that the dwelling at the site could be extended significantly under the terms of permitted development rights, realistically amounting to 8 metre deep extensions to the rear and 8 metre wide extensions to each side of the dwelling. The dwelling could also be extended within the roof space. All or any of these developments could cause the dwelling to have a far greater visual impact, to the extent that the dwelling could become harmful to the character and appearance of the site and the locality. To avoid this, it is considered that some permitted development rights should be removed. This does not prevent applications coming forward, but it also helps to ensure that the dwelling remains of a size that is commensurate to the functional need that has been established above.
- 7.24 Overall, the development is considered to be visually acceptable and in accordance with the abovementioned policies of the development plan, including policy DM12 which is of relevance to the acceptance of the principle of development. The proposal would also accord with the NPPF in respect of this matter.

Living Conditions

- 7.25 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM 14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 7.26 The proposed dwelling would be set well away from all nearby dwellings. As a result, it would not give rise to any unacceptable impacts in relation to the light, outlook or privacy of existing occupiers. Moreover, the living conditions for future occupiers would be acceptable in these respects for the same reason.
- 7.27 As a caravan can lawfully be occupied at the site, with all the associated activity that can arise from that occupation, there is no reason to conclude that the provision of a dwelling would cause any greater impacts in those respects.
- 7.28 For these reasons, the proposal is considered to be acceptable and in accordance with the abovementioned Local Plan policy and the NPPF in terms of the acceptability of living conditions for future and existing residents. Although not determinative, it is noted that no objections from neighbouring residents have been received and it is considered that this supports the assessment that the proposal is acceptable in relation to this matter.

Transport and Highways

- 7.29 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.”
- 7.30 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.”
- 7.31 Local Plan policy DM6 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. Moreover, Policy DM 7 states that parking requirements in respect of any new proposed developments should be in accordance the Councils vehicle parking standards SPD.
- 7.32 Although poorly located relative to shops, facilities and services, the dwelling would be appropriately located with respect to the functional purpose that it serves. It is considered that a more sustainable location would not be practical and, therefore, no objection is raised on that ground. Moreover, noting that the application relates to a single dwelling which would use an existing access, that is already used in conjunction with the stud farm at the wider site and the caravan at the application site, it is not considered that the proposal would cause an increase of vehicle movements relative to the existing situation.
- 7.33 Parking is not shown on the submitted plans, but it is considered that there is ample space at the site for vehicles to park. Further details of parking provision can be required by condition in this case with it being reasonably certain that the dwelling would not lead to on-street parking.
- 7.34 For these reasons, the proposal is considered to be acceptable and in accordance with the abovementioned Local Plan policy and the NPPF in terms of the acceptability of the transport and highways arrangements.

Ecology

- 7.35 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.
- 7.36 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 furthering the general biodiversity objective of conserving and enhancing biodiversity in England. 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.'

- 7.37 Policy DM28 of the Local Plan requires amongst other things, that development will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.38 Paragraph 186 of the NPPF states, amongst other things, that when determining planning applications if significant harm to biodiversity 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.
- 7.39 The nature of the immediate site area means it is highly unlikely that protected species or their habitats are present. However, policy DM28 brings with it a requirement for wildlife mitigation or enhancements. Given the small scale of the proposed development a requirement for bird and bat boxes is considered a proportionate response to satisfying the requirements of policy DM28. A condition is recommended below.
- 7.40 A Biodiversity Net Gain (BNG) assessment has not been submitted with this application as it predated the requirement to do so and introduction of the mandatory requirement to achieve a 10% net gain.

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

- 7.41 This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.
- 7.42 The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 7.43 SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 7.44 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.
- 7.45 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.

- 7.46 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.
- 7.47 As the proposal involves replacing a mobile home (which has permission to be occupied on a permanent and full time basis), with a permanent dwelling there is no net gain in terms of the number of residential units at the site and no increase in residential activity. Therefore, as no additional housing is involved, there is no requirement to secure a SAMMS payment. Even without such a contribution, the proposed development is of small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA.

Other Matters

- 7.48 The objection of Upchurch Parish Council in relation to the provision of a dwelling at the site is noted but, for the reasons given above, the principle of development is considered acceptable. Moreover, whilst the concerns of the Parish Council are noted, granting planning permission would not set a precedent for other developments within the vicinity as all developments are required to be considered on their own planning merits, and any decision in respect of this application would not be binding on the assessment of other applications.
- 7.49 The comments of the Parish Council in relation to the retention of previously imposed conditions are noted. The previous condition in relation to the occupancy of the accommodation at the site can be replicated. It would be unreasonable to impose a condition requiring the dwelling to not be occupied if the stud farm is not operational. The conditions recommended below are reflective of this.
- 7.50 The position of the proposed dwelling, the access to the site and the majority of the garden area fall within Flood Zone 1 as defined by the Environment Agency mapping. Whilst the northeastern most corner of the site falls within Flood Zone 2, it is considered appropriate to take a pragmatic approach to the sequential test in this instance. This is on the basis that the key elements of the development would be outside the flood zone, the requirement to live at the site and the fact that the dwelling is to replace an existing caravan, it is considered that the proposal should be found acceptable in relation to the sequential test. The siting of the dwelling also means that the exception test is passed and in this regard it is considered that the content of the applicant's Planning Statement is sufficient to meet the requirements of a Flood Risk Assessment in this case.
- 7.51 It is considered that a condition can be imposed to address the requirements of Policy DM 19 of the Local Plan which relates to sustainable construction. A condition has also been imposed in relation to water usage in order to comply with policy DM21 and an electric vehicle charging point as required by the Council's Parking SPD.

8 Conclusion

- 8.1 The key conclusions are considered to be that, whilst a dwelling might not conventionally be accepted in this location, the criteria of Policy DM 12 has been met and therefore the exception set out within that policy is applicable. There is, therefore, no objection to the principle of development. The dwelling is considered to be

acceptable in all other respects and therefore, subject to appropriate conditions, it is recommended that planning permission is granted.

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 strictly in accordance with the details shown on drawing nos: 23/3643, 21/2550A, 23/3642 and amended site location plan received on the 4th July 2024.

Reason: To ensure the development is carried out in accordance with the approved plans in the interests of amenity.

3. Occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working at the Bell Grove Stud Farm, Halstow Lane, Upchurch, Kent, ME9 7AB or a widow or widower of such a person, and to any resident dependants.

Reason: The site is in an area where new residential development is not normally permitted unless essentially required for the proper functioning of the enterprise concerned.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class(es) A, B, C and E to that Order shall be carried out without the permission of the Local Planning Authority.

Reason: To safeguard the character, appearance and functioning of the surrounding area.

5. Prior to construction of any part of the roof of the dwelling hereby permitted details of the size, design and siting of one bird and one bat box shall be submitted for prior approval in writing by the Local Planning Authority. The approved bird and bat boxes shall be installed prior to first occupation of the dwelling hereby permitted and retained in good condition for the life of the development.

Reason: In the interests of achieving a biodiversity net gain at the site.

6. Prior to the first occupation of the dwelling hereby approved a scheme of hard and soft landscaping at the site (including car parking for at least 2 cars) shall be submitted to and approved in writing along with a timetable for the provision of that hard and soft landscaping. All hard and soft landscaping detailed within the approved scheme shall then be implemented in accordance with the approved timetable.

Reason: In the interests of protecting the character and appearance of the site and the surrounding area and ensuring the provision of adequate car parking.

7. Prior to the commencement of the development hereby approved, an Energy Strategy shall be submitted to and approved by the Local Planning Authority. The Energy Strategy shall demonstrate that the dwelling will achieve a minimum 50% reduction in

Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended). The development shall be carried out in accordance with the approved details.

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

8. Prior to their use within the development hereby approved, details of the plain roof tiles used within the development shall be submitted to and approved in writing by the Local Planning Authority. No other roof materials shall be used in the construction of the roof and the elevations of the dwelling shall be constructed with materials as set out within the application form that has accompanied the application hereby approved.

Reason: In the interests of protecting the character and appearance of the site and the surrounding area.

9. Prior to the occupation of the dwelling hereby permitted, one electric vehicle charging point (EVCP) shall be installed at the site.

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

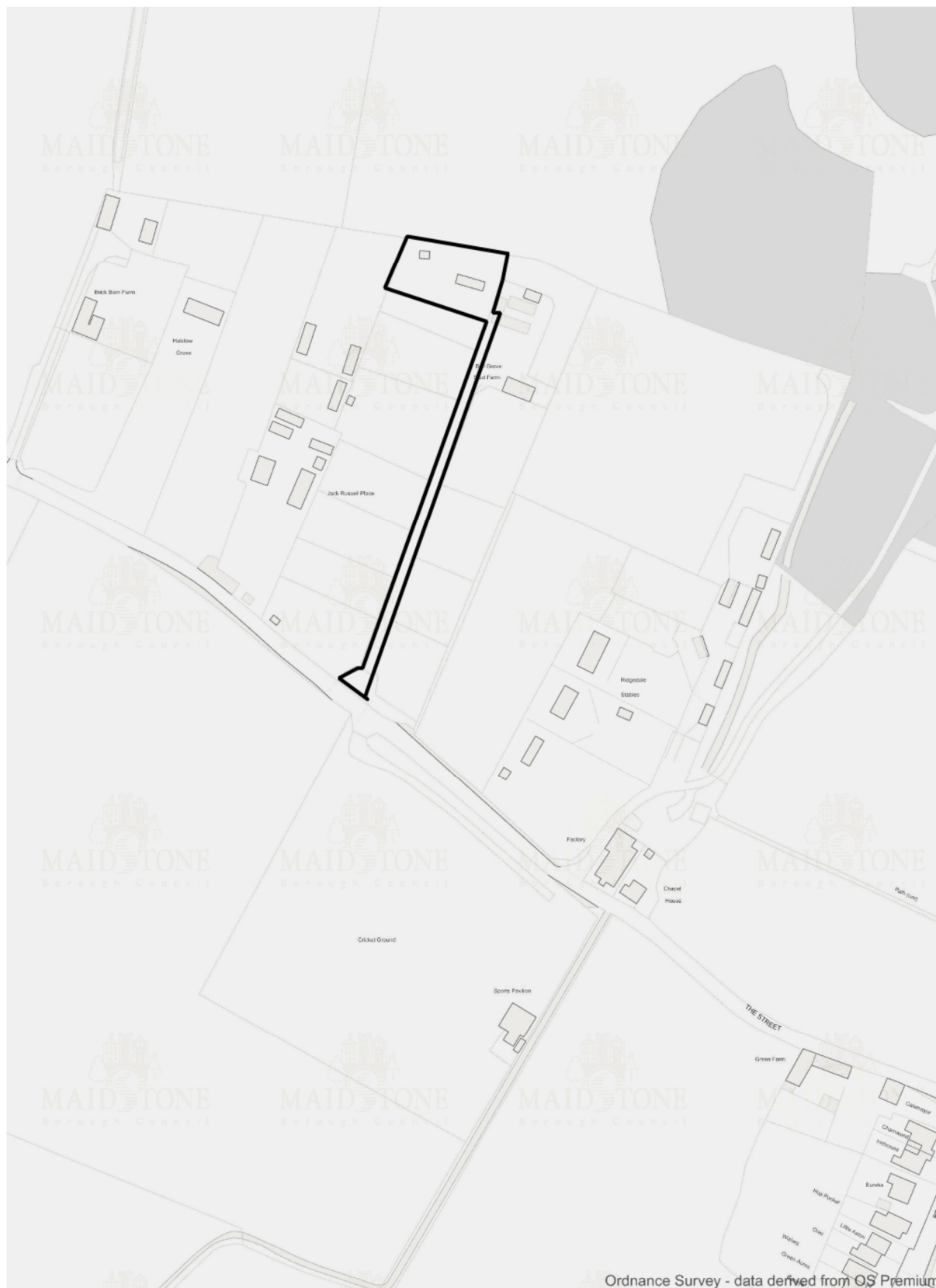
10. The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling shall not be occupied unless the notice for the dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), 2023 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.



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2.5 REFERENCE NO. 22/505076/OUT		
PROPOSAL Outline application for the erection of up to 42no. residential dwellings, including open space, drainage, infrastructure and other associated works (Access being sought).		
SITE LOCATION Land at Pheasant Farm, Bramblefield Lane, West of Iwade Bypass, Sittingbourne Kent ME9 8QX		
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 / 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 Major (Outline)		
REASON FOR REFERRAL TO COMMITTEE Recommendation of Head of Planning conflicts with written representation received from Parish Council		
Case Officer Simon Greenwood		
WARD Bobbing, Iwade and Lower Halstow	PARISH/TOWN COUNCIL Bobbing	APPLICANT E. H. Nicholls Holdings Ltd AGENT DHA Planning
DATE REGISTERED 21 November 2022		TARGET DATE 20 December 2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - 60624620-04001 Rev. C Parameter Plan Land Use 60624620-04003 Rev. D Indicative Layout Design Principles 17161-DP01 All drawings submitted All representations received The full suite of documents submitted pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RK3ZBOTYFGU00		

1. SITE LOCATION AND DESCRIPTION

1.1. The approx. 1.8ha irregular (but roughly rectangular) shaped application site is located on Sheppey Way within Howt Green.

- 1.2. The site is relatively flat and comprises a combination of hard surfacing, grass and scrub. There is fencing to the western and southern boundaries and mature trees along the eastern boundary which separate the site from the A249. There is hedging along the northern boundary which separates the site from an agricultural field which is also within the applicant's ownership.
- 1.3. The site has accommodated various temporary uses over the last 25 years or so and has not been in agricultural use during this time. It has been used as a contractor's compound in relation to the construction of A249 and more recently used in relation to overhead power line works. The application also indicates that the site has been in use as a depot and for open storage. The site is currently predominantly disused; however, there is a portacabin, water tank, vehicle parking and some open air storage within the southern part of the site adjacent to the access. However, the lawful use of the site is agriculture.
- 1.4. The surrounding area is characterised by sporadic residential, agricultural, commercial and community uses and buildings of varying forms.
- 1.5. Immediately to the south of the site, running past the site's entrance, is Bramblefield Lane, a designated cycle/footpath which leads to a footbridge over the A249 and connects with the B2005, and which forms part of National Cycle Route Network Route 1.
- 1.6. Kemsley train station is located 800m away (to the south-east), over the A249 footbridge.
- 1.7. The site falls entirely within Flood Zone 1 where a low probability of flooding from rivers and the sea is anticipated.
- 1.8. There is a Grade II listed building (Pheasants Farmhouse) which fronts Sheppey Way directly opposite the site.
- 1.9. The site is located outside any defined settlement boundary. The site is not subject to any landscape designation; however, it is designated within the Local Plan as part of the Important Local Countryside Gap (ILCG).

2. PLANNING HISTORY

- 2.1. Outline planning permission was refused in February 2021, a time when the Council was able to demonstrate a 5 year housing land supply, for the erection of up to 51 residential dwellings including a minimum 40% affordable housing, open space, drainage infrastructure and other associated works on grounds (ref. 20/504794/OUT). The first 3 grounds of refusal, which are repeated in full as this decision is an important consideration in assessing the current application, were as follows:
 - The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside and rural context - together with harm to the open character of the Important Local Countryside Gap - by virtue of its location outside any well-defined urban boundary and within the defined Important Local Countryside Gap. The proposal would also result in the

creeping coalescence of adjoining settlements and the permanent loss of open countryside. This harm both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). The development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 and DM25 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National Planning Policy Framework.

- The lack of the prospect of residents being able to integrate with the existing communities and the limited public transport to service the site, which will result in a car dependent population, means that the proposed development represents unsustainable development and, therefore, fails to comply with the requirements of paragraph 8 and 79 of the National Planning Policy Framework 2019. This harm both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). The development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 and DM25 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National Planning Policy Framework.
 - It has not been demonstrated that the proposal would not result in harm to the setting or significance of Grade II listed Pheasants Farmhouse. The proposal would not comply with paragraphs 193 and 194 of the National Planning Policy Framework which states that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. As such the proposal would be contrary to policy DM32 of "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and paragraph 193-194 of the National Planning Policy Framework (2019).
- 2.2. The application was also refused on grounds relating to insufficient information to ensure that visibility splays always remain clear and the lack of a legal agreement to secure relevant planning obligations.
- 2.3. Planning permission was granted in October 2024 for the change of use of the adjacent land to the north-east of the application site to equestrian use for a commercial livery yard. The scheme comprised the erection of a stable and therapy barn, a storage barn, and the creation of an all-weather riding arena, with associated access, landscaping and other works (ref. 23/502305/FULL).
- 2.4. An application for a lawful development certificate for an existing use for the stationing of portable office buildings was refused in October 2009 (ref. SW/09/0759). It was considered that the applicant had failed to demonstrate, on the balance of probabilities, that the use of the site had taken place for a continuous period of 10 years prior to the application.

- 2.5. An application for a lawful development certificate for a road contractors depot and storage was refused in March 2008 (ref. SW/08/0090). It was considered that the applicant had failed to demonstrate, on the balance of probabilities, that the use of the site had taken place for a continuous period of 10 years prior to the application. A similar application for the same use had been previously refused on the same grounds in December 2007 (ref. SW/07/1179). The decisions noted that the use had benefitted from deemed planning permission for the period 2003-2007 and the use of the site for this time did not contribute to the period after which such an unauthorised use would become lawful.
- 2.6. Outline planning permission was refused in November 1997 for a distribution and transport facility with associated offices (ref. SW/97/0621). The reason for refusal is not known as the decision notice is not available.

Appeal History

- 2.7. A joint appeal relating to applications refs. SW/08/0090 and SW/07/1179 which sought a lawful development certificate for a road contractors depot and storage was dismissed in April 2009 (refs. APP/V2255/X/08/2077462 and APP/V2255/X/08/2076431). The inspector agreed with the Council that the appellant had not demonstrated that, on the balance of probabilities, the use had taken place for a continuous period of 10 years prior to the applications.

Nearby Sites

- 2.8. Planning permission was granted in December 2020 for 155 dwellings with associated development at land adjacent to Quinton Farm House, Quinton Road, Sittingbourne (ref. 18/500257/EIFUL). The consent relates to part of the site allocated under Local Plan MU1.
- 2.9. The Council resolved to grant hybrid planning permission in March 2021 for the erection of 1,190 dwellings (348 in detail), secondary school, primary school, mixed use centre, open space and other associated works at land north of Quinton Road, Sittingbourne (ref. 18/502190/EIHYB). A decision notice has not yet been issued as negotiations relating to the Section 106 legal agreement remain ongoing; however, it is understood that the agreement is nearing completion. The application relates to part of the site allocated under Local Plan policy MU1.
- 2.10. Outline planning permission was granted in July 2021 for up to 115 dwellings and supporting infrastructure at land at Great Grovehurst Farm, Grovehurst Road, Sittingbourne (ref. 18/502372/EIOUT). The consent relates to part of the site allocated under Local Plan policy MU1.
- 2.11. A hybrid planning application was approved in September 2021 which included outline planning permission for 19 residential dwellings at Halfway Egg Farm, Featherbed Lane, Sittingbourne (ref. 18/506677/HYBRID). It is noted that the site was located in open countryside and within the Important Local Countryside Gap.

- 2.12. Planning permission was granted in July 2022 for the erection of 69 dwellings with associated works at land at Pond Farm, Grovehurst Road, Iwade (19/501332/FULL).
- 2.13. A hybrid planning application was approved in July 2022 which included outline planning permission for up to 466 dwellings and a community hall at land east of Iwade, Iwade, Kent (ref. 19/503974/HYBRID).
- 2.14. An outline planning application was received November 2022 for a mixed use development comprising up to 2,500 dwellings, a 4.99ha commercial employment zone including doctors surgery, a 4.2ha sports hub, primary school, community facilities, local retail provision, public open space, children's play areas and associated development at land west of Bobbing, Sittingbourne (ref. 22/503654/EIOU). The application is currently under consideration. The indicative Masterplan proposes development close to the site on the opposite side of Sheppey Way.
- 2.15. Outline planning permission was granted in November 2023 for up to 16 residential units at Bobbing Car Breakers, Sheppey Way, Bobbing (ref. 20/502715/OUT).

Other relevant cases

- 2.16. Outline planning permission was granted at appeal for up to 135 dwellings at Land off Swanstree Avenue in May 2023 (LPA ref. 21/505498/OUT; PINS ref. APP/V2255/W/22/3311224). The site was located within the ILCG and the Inspector noted that the development would undermine two purposes of the ILCG in that it would neither safeguard the open and undeveloped character of the area, nor would it prevent encroachment or piecemeal erosion or changes to the rural open character. In assessing the planning balance the Inspector attached moderate weight to the conflict with the ILCG designation and moderate weight to the conflict with the Swale Settlement Strategy.
- 2.17. Outline planning permission was granted at appeal for up to 290 dwellings at Land at Ufton Court Farm in July 2024 (LPA ref. 22/505646/OUT; PINS ref. APP/V2255/W/23/3333811). The site was located within the ILCG and the Inspector identified that the development would result in modest harm in terms of the ILCG purposes to safeguard the open and undeveloped character of the area and to prevent encroachment or piecemeal erosion or changes to the rural open character. In assessing the planning balance the Inspector attached limited weight to the conflict with the ILCG designation and limited weight to the conflict with the Swale Settlement Strategy.

3. PROPOSED DEVELOPMENT

- 3.1. Outline planning permission is sought for the for the erection of up to 42 residential dwellings, including open space, drainage, infrastructure and other associated works. Approval of access to the site is sought with all other matters reserved.

3.2. The application is accompanied by an indicative layout plan which shows 42 houses sited within and around a roughly rectangular shaped road. The layout shows a mixture of detached, semi-detached and terraced properties with open space to the eastern part of the site. Access to the site would be via Bramblefield Lane. Approval of layout is not being sought at this stage and the applicant has submitted a Design Principles document which is intended to inform a revised layout of development at Reserved Matters stage. However, the indicative layout is considered to satisfactorily demonstrate that the site can accommodate 42 residential units.

4. CONSULTATION

4.1. One round of consultation has 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 in accordance with statutory requirements.

4.2. One letter of representation was received in relation to the consultation. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Increased traffic on Sheppey Way	Paras. 7.97-7.101
Increased pressure on local infrastructure and services including schools and doctors.	Paras. 7.120-7.122
Increased noise and pollution; Noise and pollution mitigation should be provided.	Para. 7.136
Roads are in a poor state and increased traffic will worsen the situation.	Paras. 7.97-7.101

4.3. Iwade Parish Council objected to the application on the following grounds: -

Comment	Report reference/ clarification
Increased pressure on inadequate local infrastructure and services including healthcare and water.	Paras. 7.120-7.122
Loss of agricultural land.	Paras. 7.31-7.35
Land currently drains onto A249 and Highways England may have concerns.	Para. 7.99 and condition 32

Application indicates that a larger adjacent area is under their control and applicant may intend to submit a further application on this land, further eroding the countryside gap.	Para. 7.151
Appeal decision relating to land at Church Farm, Sheppey Way (ref. APP/V2255/W/16/3153537) identified importance of maintaining a local countryside gap in this area.	Paras. 7.20-7.21

- 4.4. Bobbing Parish Council raised concerns in relation to the application which are summarised as follows: -

Comment	Report reference
Site is within the Local Countryside Gap	Paras. 7.20-7.21
Concern regarding comments made by statutory bodies.	Paras. 5.3-5.19

5. REPRESENTATIONS

- 5.1. **Climate Change Officer**:- No objections raised subject to conditions.
- 5.2. **Kent Police**: - No objections raised subject to informatives.
- 5.3. **KCC Ecology**: - Sufficient information has been provided and no objections are raised. Ecological mitigation and enhancements should be secured by condition. Developer Contributions should be secured due to the increase in dwellings within the zone of influence of a Special Protection Area.
- 5.4. **KCC Minerals**:- The probability of any useable mineral deposits being present on the site are limited, though it is not proven that there are no useable safeguarded minerals. However, it is likely that the past development of the land has compromised any viable brickearth extraction. On that basis, KCC raise no objections on land won mineral safeguarding grounds.
- 5.5. **KCC Drainage**:- No objections raised subject to conditions.
- 5.6. **National Highways**:- The proposal would be acceptable in terms of the safety, reliability and operational efficiency of the SRN in the vicinity of the site (A249), subject to conditions. Accordingly, no objections are raised.
- 5.7. **KCC Highways**:- No objections raised subject to conditions and informatives.

- 5.8. **Natural England**:- No objections raised subject to securing appropriate mitigation for recreational pressure impacts on European designated habitat sites.
- 5.9. **Trees Officer**:- No objections raised subject to conditions.
- 5.10. **SBC Conservation**: - The proposal is considered to result in a medium level of less than substantial harm to the agricultural setting of the Grade II listed Pheasant Farmhouse which is located on the opposite side of Sheppey Way.
- 5.11. **SBC Urban Design**: - Concerns were initially raised in relation to the design and layout of the scheme. The applicant submitted details of design principles in response which, noting that approval of layout is not being sought at this time, provides sufficient comfort that a well designed scheme could be secured at reserved matters stage.
- 5.12. **KCC Archaeology**: - The main archaeological potential of the site arises from its location alongside the key route through to the Sheppey crossing and the extensive prehistoric landscapes that are being discovered around Iwade, Bobbing and Kemsley on development sites in recent years. There is potential for archaeological remains from the prehistoric to medieval periods. A programme of archaeological works should be secured by condition.
- 5.13. **Mid Kent Environmental Health**: - No objections raised subject to conditions securing details of noise mitigation measures, a Phase 2 intrusive land contamination investigation and a Code of Construction Practice.
- 5.14. **SBC Housing**: - The 40% (17 units) affordable housing should comprise 90% affordable/social rented tenure housing and 10% shared ownership tenure housing. Swale's Housing Register demonstrates a need for all types and sizes of accommodation for those in housing need in the Sittingbourne area. The number of applications to the Housing Register has significantly increased in the last year and there are now more than 1,800 households in need of affordable rented homes in Swale, with more than 300 households living in temporary accommodation for significant periods of time. Accordingly, the proposed affordable housing would be welcomed.
- 5.15. **Southern Water**: - No objections raised subject to informatives.
- 5.16. **Lower Medway Internal Drainage Board**:- The site is located outside the Board's District; however, it is within catchments which ultimately drain into the Board's district. Discharge of surface water from the site into a watercourse will be subject to a land drainage consent for which a Surface Water Development Contribution fee will be payable. Consent will be subject to the suitability of the receiving drainage network in terms of continuity, capacity and condition.
- 5.17. The Board welcomes the proposals for utilising infiltration techniques and SUDS features for surface water storage such as swales and porous paving
- 5.18. Conditions are requested to secure the following:

- Full scheme for surface water disposal based on SUDS principles and including climate change;
- Verification of surface water drainage scheme once constructed;
- A maintenance schedule for the surface water scheme;
- Management of surface water during the construction phase.

5.19. **Integrated Care Board**:- Financial contribution of £36,228 requested towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.

6. DEVELOPMENT PLAN POLICIES

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

- ST 1 Delivering sustainable development.
- ST 2 Development targets for jobs and homes 2014- 2031
- ST 3 The Swale settlement strategy
- ST 4 Meeting the Local Plan development targets
- ST 5 The Sittingbourne area strategy
- CP 2 Promoting sustainable transport
- CP 3 Delivering a wide choice of high-quality homes
- CP 4 Requiring good design
- CP 5 Health and wellbeing
- CP 6 Community facilities and services to meet local needs
- CP 7 Conserving and enhancing the natural environment
- CP 8 Conserving and enhancing the historic environment
- DM 6 Managing transport demand and impact
- DM 7 Vehicle parking
- DM 8 Affordable Housing
- DM 14 General development criteria
- DM 17 Open space, sport and recreation provision
- DM 19 Sustainable design and construction
- DM 21 Water, flooding and drainage
- DM 24 Conserving and enhancing valued landscapes
- DM 25 Local Countryside Gap
- DM 28 Biodiversity and geological conservation
- DM 29 Woodland, trees and hedges
- DM 31 Agricultural land
- DM 31 Development involving listed buildings.

6.2. **Supplementary Planning Guidance/Documents –**

- Landscape Character and Biodiversity Appraisal (2011);
- Swale Borough Council's Noise and Vibration Planning Technical Guidance (2020);
- KCC Developer Contributions Guide;
- Developer contributions SPD (2009);
- Swale Landscape Character and Biodiversity Appraisal SPD (2011);

- Parking Standards SPD (2020);
- Planting on New Developments: A Guide for Developers;
- Air Quality Technical Guidance (2021);
- A Heritage Strategy for Swale;
- Guidance for complying with the climate change planning condition to reduce operational carbon of new dwellings in Swale by 50% (2020);
- Kent Design – A Guide to Sustainable Development (2000);
- National Design Guide: Planning practice guidance for beautiful, enduring and successful places (2021);
- Renewable Energy Guide (2014);
- Housing Supply Statement (2022 -2023);
- Open Spaces and Play Area Strategy (2018-2022);
- A Heritage Strategy for Swale (2020).

6.3 Strategic Housing Land Availability Assessment

- 6.4 The site was considered under the Council's Strategic Housing Land Availability Assessment (SHLAA) (April 2020) as follows:

The site is not subject to any high level constraints but is separated from any existing built-up area boundary or settlement. It falls within a minerals safeguarding area and there is a listed building opposite. The site is previously developed land but is now vacant, containing the remnants of fire damaged buildings and hardstanding. There is a public house close to the site but no convenience shops, schools or doctor's surgeries within a reasonable walking distance. Similarly, given the sporadic nature of development here, there are also extremely limited employment opportunities within a reasonable walking distance of the site. As such, travel would be required into Iwade, Sittingbourne and onwards for almost all everyday services and facilities. Cycling is unlikely to be used as a significant means of transport due to the fast moving Sheppey Way which does not have dedicated cycling lanes at this location. There are bus stops on either side of the road here, but this alone does not make a location sustainable. The site is considered unsuitable.

The landowner has promoted the site through the 'call for sites' exercise and there is no record of any unimplemented permissions. The site is considered to be available.

Subject to further consideration of any utility/infrastructure requirements, there is a reasonable prospect that the site could be developed over a certain period of time. The site is considered to be achievable.

- 6.5 The site is being considered under the call for sites as part of the emerging Local Plan process and is also being assessed under the next iteration of the SHLAA.

7. ASSESSMENT

- 7.1. This application is reported to the Committee because a Parish Council has objected to the proposal.

- 7.2. 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
- Noise.

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.

Local Plan Policy

- 7.5. Local Plan Policy ST1 (4) states that to deliver sustainable development in Swale, all development proposals will, as appropriate, accord with the Local Plan settlement strategy. Local Plan Policy ST3 (5) relates to the settlement strategy and states that at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.6. The supporting text to Policy ST3 states in part that the primary objective of the strategy outside the built-up boundaries will be to protect it from isolated and/or large scales of development. The site lies outside of the built-up area boundaries identified on the Proposals Map and accordingly the proposed development is in conflict with Policies ST 1 and ST 3.

- 7.7. Local Plan Policy ST 5 sets out the Sittingbourne area strategy and states at Part 6 that development proposals will, as appropriate, maintain the individual character and separation of ILCGs around Sittingbourne in accordance with Policy DM 25.
- 7.8. Local Plan Policy CP 2 is concerned with promoting sustainable transport and states, inter alia, that new development will be located in accordance with Policies ST 1 to ST 7 to minimise the need to travel for employment and services and facilitate sustainable transport. It should be noted that the policy is principally concerned with the delivery, improvement and safety of transport infrastructure.
- 7.9. Local Plan Policy CP 3 is concerned with delivering a wide choice of high quality homes and states that development proposals will, as appropriate, be steered to locations in accordance with Policy ST 3. ns which accord with policy ST 3; however, these policies have a wider scope. It should be noted that the policy has a wider scope and is principally concerned with the quality and choice of new housing.
- 7.10. Local Plan policy DM25 is concerned with ILCGs which are identified within the Local Plan and are intended to retain the individual character and setting of settlements. The ICLG is defined, inter alia, as a gap between Sittingbourne and the satellite villages of Bobbing and Iwade. The policy states that within these gaps, unless allocated for development by the Local Plan, planning permission will not be granted for development that would undermine one or more of their purposes. It is noted that Howt Green is not specifically identified as a settlement for which the policy seeks to retain an individual character and setting.
- 7.11. The supporting text to the policy states, inter alia, that:

With the settlement strategy of the Local Plan focusing development pressures at the major settlements in the Borough, there is a need to prevent the coalescence and the erosion of the intrinsic character of settlements close by.

The identity, character, and setting of settlements are formed, in part, by their physical separation from one another. Whilst the use of Landscape Character Assessments assist in safeguarding the intrinsic character and beauty of the countryside, in areas where development pressures could lead to coalescence or erosion of settlement separation, the definition of those gaps provides additional emphasis when considering allocations and development management issues...

The purposes of ILCGs (and Policy DM 25) are to:

- *maintain the separate identities and character of settlements by preventing their merging;*
- *safeguard the open and undeveloped character of the areas;*
- *prevent encroachment and piecemeal erosion by built development or changes to the rural open character; and*
- *influence decisions on the longer-term development of settlements through the preparation and review of Local Plans...*

Background – Policy MU1 (Land at North West Sittingbourne) and Swale Urban Extensions Landscape Capacity Study

- 7.12. Local Plan Policy MU1 allocates Land at North-west Sittingbourne for development comprising a minimum of 1,500 dwellings, community facilities, structural landscaping and open space. The allocation site lies on the opposite side of the A249 from the application site and is identified in the supporting text as part of an ILCG between Sittingbourne and the villages of Iwade and Bobbing, which indicates that this part of the ILCG previously comprised a much wider gap. The supporting text to Policy MU1 at paragraph 6.6.23 references a need to maintain separation between settlements and cites the Swale Urban Extensions Landscape Capacity Study (2010) (SUELC) which formed part of the evidence base for the Local Plan. The Study advises that north of the footbridge crossing the A249 it would be appropriate to conserve the open character of the landscape between settlements. Relevant excerpts are provided for context, transparency and completeness to inform an assessment of the principle of development within this part of the ILCG.
- 7.13. The MU1 site allocation includes a substantial linear park between the new housing and schools and the A249 and paragraph 6.6.5 of the Local Plan notes, inter alia, that:
- Whilst it is a sustainable choice for an extension to the Sittingbourne area, the landscape setting and separate identity of the settlements remains an important consideration for this development. The substantial area of natural and semi natural green space proposed for the western boundary of the site is therefore intended to enable the long term functioning of this land to continue to act as part of the countryside gap.*
- 7.14. The site allocation includes Land at Pheasant Farm, Grovehurst Road/Bramblefield Lane which was the subject of planning application ref. 18/502190/EIHYB and which is addressed in the supporting text to Policy MU1. The commentary notes that the western part of the site is not suitable for development due to the significant adverse landscape impacts that would accompany the erosion of settlement separation between Sittingbourne and Iwade and the small settlements located along the old Sheppey Way. It further notes that this view is endorsed in the Urban Extensions study, which advises that north of the footbridge crossing the A249 it would be appropriate to conserve the open character of the landscape between settlements.
- 7.15. It is therefore noted that a substantial landscape buffer will be provided along the eastern side of the A249 which is intended to reinforce the countryside gap, whilst the application site is located immediately to the north of the footbridge crossing the A249 where the Local Plan identifies that openness should be maintained.
- 7.16. The SUELC identified the site within Study Area 17 which is assessed as having a moderate local landscape sensitivity, a low landscape value and a high capacity to accommodate change. The Study notes that:

...north of the footbridge which crosses the A249, the landscape forms part of the open space between the separate settlements of Iwade and Sittingbourne. Therefore whilst this landscape relates well to existing development within Sittingbourne and large scale industrial buildings at Kemsley it would perhaps be appropriate to conserve the open character of the landscape between settlements. Retaining this area as open landscape would be particularly important if the boundary of Iwade is extended closer towards the A249...Development would be particularly undesirable west of the A249, in order to retain the rural character, and prevent continuous ribbon development, along the road which passes through Bobbing and Howt Green.

- 7.17. The SUELC underpins the intent of the Local Plan that the site forms part of a landscape where it may be appropriate to maintain openness. However, it should also be noted that the site and adjoining open land to the north was identified within in Study Area 17 as a potential employment site within the Employment Land Review. The Review dismissed the site for employment use primarily on grounds that it occupied a remote location with no services in the immediate vicinity, rather than impacts on open, rural character.

Reappraisal of previous refusal

- 7.18. As noted above, planning permission was previously refused for a larger scheme comprising 51 dwellings on grounds including the loss of Important Local Countryside Gap, conflict with the Swale Settlement Strategy, the unsustainable location of the site, and a lack of information to relating to heritage impacts. The planning history relating to a site is a relevant material consideration in the assessment of any planning application therefore due regard should be had to this previous decision in assessing the current application. The current proposal involves a 9 unit reduction in the quantum of development and increased landscape buffers to the western and northern boundaries of the site which are intended to better integrate the scheme into the rural context and represent a partial response to the previous grounds of refusal. The application is also accompanied by a Heritage Assessment which seeks to address the heritage ground of refusal, and this is considered in the Heritage section of this report.

- 7.19. The Council's present lack of a 5 Year Housing Land Supply (5YHLS) alters the assessment of the current proposal, as covered later in this section. Furthermore, the applicant challenges the Council's assessment of the previous application and makes some pertinent observations. Accordingly, there is merit in re-appraisal of the key issues.

Important Local Countryside Gap

- 7.20. The applicant notes that the site has not been in agricultural use for over 25 years and recent historic uses of the site have undermined the open character of the site and its role supporting the purpose of the ILCG. It is noted that these uses were temporary and included storage uses, depots and compounds to support infrastructure projects in the locality. These uses have involved around two thirds of the site being covered by concrete and hardstanding which is likely to have

compromised the soil structure and resulted in potential contamination. Whilst the lawful use of the site is agriculture, the site bears many characteristics of previously developed land. There is some doubt that the site would be returned to agricultural use and there is a likelihood that the site could continue to accommodate temporary uses which would impact upon the open character of the site and undermine the purpose of the ILCG.

- 7.21. The officer's report for the previous scheme identified that the proposal would undermine the principles of the ILCG where residential development would be keenly felt due to the narrowness of the ILCG at this point. The ILCG appears to have previously included the land to the east of the A249 and, prior to the removal of this land from ILCG, would have provided a more substantial rural separation between the built-up areas of Sittingbourne and Iwade and Bobbing. A key consideration is whether the narrowness of the gap and the limited degree of separation it provides between settlements makes it critical that the remaining gap is retained, or whether the function of this part of the gap is already compromised, and the harm arising from the proposed development would be limited. The former view was reached in determining the previous application (ref. 20/504794/OUT), whilst the SUELC and the Local Plan identified merit in maintaining the open character of the land to the west of the A249 and to the north of the Bramblefield Lane footbridge. However, this part of the ILCG lies between two busy roads (the A249 and Sheppey Way) and is characterised by a mixture of residential, commercial and industrial development, particularly to the south of the site, which do not contribute towards the purposes of the gap. The site itself is or potentially will be surrounded by development, including through the development anticipated to come forward under application ref. 18/502190/EIHYB and the livery scheme granted planning permission under application ref. 23/502305/FULL. The site will therefore perform a limited function in terms of the ILCG purpose of safeguarding the open and undeveloped character of the area. The application is accompanied by a Landscape and Visual Impact Assessment (considered later in this report) which identifies that the development would result in a beneficial landscape impact in the longer term. In view of the location of the site in relation to Iwade and Bobbing the proposal would not contribute to the coalescence of these villages with Sittingbourne and would not undermine the purposes of the gap in this regard. It is also noted that the A249 and the cutting it sits within creates a clear separation between the built-up area of Sittingbourne and the villages and smaller settlements to the west such that they would never be viewed as part of Sittingbourne. This sense of physical separation will be enhanced through the development anticipated under application ref. 18/502190/EIHYB which will include a substantial landscape buffer along the A249. Having regard to these considerations, it is considered that there will be a moderate degree of harm arising from development within this part of the ILCG contrary to Local Plan Policies DM 25 and ST 5.

Sustainability of site location

- 7.22. The previous application was also refused on grounds that the site occupied an unsustainable location in view of distances to local settlements and amenities,

limited public transport options and impractical walking conditions. Accordingly, it was considered that the proposed development was likely to give rise to a car dependent population.

7.23. The accessibility of the site to nearby settlements and amenities on foot or by bicycle is summarised as follows:

- Approx 1.8km (1.1 miles) to the primary school and local centre at Iwade with no footway along part of route (albeit a new footway for this part of the route has been secured under planning permission ref. 19/503974/HYBRID and partly duplicated under planning permission ref. 20/502715/OUT). The local centre provides a GP's surgery, pharmacy, village hall, pub, primary school, convenience store and nursery;
- Approx. 1.3km (0.8miles) to Bobbing via Sheppey Way with no footway along part of the route;
- Approx. 0.5km (0.3miles) to the edge of north-west Sittingbourne via the footbridge over the A249;
- Approx 1km (0.6 miles) to Kemsley Station, pharmacy, GP's surgery and convenience store via the footbridge over the A249. There is also a primary school, community centre and industrial area providing employment within approx. 2.1km (1.3 miles);
- Approx 0.8km (0.5 miles) to the bus stops on Sheppey Way with no footway along part of route. The bus stops provide access to half hourly services between Sittingbourne and Sheppey;
- Approx 4km (2.5 miles) from Sittingbourne Town Centre.

7.24. In view of the above distances, it is acknowledged that there is some validity to the previous officer's assessment. However, Bramblefield Lane, which forms part of the National Cycle Network Route 1, provides a safe pedestrian/cycle route over the A249 to Kemsley and onward to Sittingbourne. The land north of Quinton Road development proposed under application ref. (18/502190/EIHYB) would straddle Bramblefield Lane on the eastern side of the A249 a short distance from the site and would include a secondary school, primary school, mixed use local centre, land for a convenience store, public open space and children's play areas. The officer's report relating to the previous application identified that the application site is not sufficiently close to the land north of Quinton Road site to realise the benefits of this development without the use of the car. The Bramblefield Lane public footpath/cycle path was assessed as an isolated path with poor levels of surveillance which would discourage its use resulting in some residents opting to make trips by car. It is acknowledged that the footpath/cycleway is not lit which will discourage its use at night and particularly during the winter months. However, it is noted that the footway/cycleway will provide an approx. 0.5km (0.3 mile) route to the new schools and other proposed facilities and amenities whilst the equivalent journey by car will be 4.4km (2.7 miles) to 5.3km (3.3 miles) dependent upon the route. It is therefore considered that walking and cycling will represent an attractive option and the application site will be reasonably sustainably located, particularly when the land north of Quinton Road scheme is brought forward.

7.25. It should also be noted that the Council has accepted residential development on nearby sites. In considering application ref. 20/502715/OUT at Bobbing Car Breakers, located around 50m to the north-west of the site, the planning officer considered travel distances to the settlements of Iwade, Bobbing, Sittingbourne and Kemsley along with the amenities proposed under application ref. 18/502190EIHBYB and concluded that these could be accessed by non-car modes, albeit the proposal would result in a degree of reliance on private car use. The Council's Planning Committee resolved to approve an application for the erection of 42 dwellings on land immediately south of the site under application ref. 14/506167/OUT. The officer's report advised '...whilst the site could be more ideally located in terms of integration with existing settlements, I consider it to be a reasonably sustainable location for residential development.' This application was withdrawn prior to the completion of a legal agreement.

7.26. In terms of the SHLAA (detailed above) which identified the site as unsuitable for residential development on the basis that it is not sustainably located, it should be noted that it omits the pedestrian/cycle connection to Kemsley via Bramblefield Lane, and accordingly misrepresents the sustainability of the site's location.

7.27. Having re-considered this proposal in light of other decisions and officer recommendations within the vicinity of the site, it is considered that there are grounds to re-assess the locational sustainability of the site relative to the previous decision of the Council. It is considered that, whilst the distances to amenities and services and the opportunities for sustainable transport choices are less than ideal, the site does not occupy an isolated location. Therefore, whilst it remains the case that the proposal does not accord with the Council's Settlement Strategy and, as such, the proposal is contrary to Local Plan Policies ST 1, ST3 and CP 2, the harm arising in terms of locations sustainability is considered to be limited.

5 Year Housing Land Supply

7.28. As noted above, the proposal conflicts with the settlement strategy set out under Local Plan policy ST 3 and supported by policy ST 1. It would also be contrary to Policy DM 25 which restricts development in the ILCG. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and for decision-taking this means:

- approving development proposals that accord with the Development Plan without delay; or,
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - I. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,

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

7.29. The Council cannot demonstrate a 5 year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the ‘Tilted Balance’ in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused.

7.30. The site is not allocated for residential development. It is located in the countryside and, as set out above, residential development conflicts with the Local Plan settlement strategy. Harm is identified in sustainable transport terms and harm is considered to arise from development in the ILCG, having regard to the characteristics of the site and the purposes of the ILCG. However, given the Council’s lack of a 5 YHLS, the ‘Tilted Balance’ is applied and the most important policies for determining the application are not afforded full weight. The erection of 42 dwellings including 40% affordable housing would contribute meaningfully towards addressing the borough’s lack of a 5-year housing land supply and would represent a substantial benefit. The subsequent sections of this report make an assessment of the impacts of the development and consideration of whether these would significantly and demonstrably outweigh the benefits. This is considered in the Planning Balance section of this report.

Loss of agricultural land

7.31. Policy DM 31 of the Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile (BMV) agricultural land (identified as Grades 1, 2, and 3a) will not be permitted unless three criteria have been met.

7.32. NPPF paragraph 175 is concerned with allocating land for development which has the least environmental or amenity value where consistent with other policies in the Framework. Footnote 58 to this paragraph advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer land should be preferred to those of a higher quality.

7.33. The applicant advises that the site has not been used for agricultural purposes for over 25 years. The site has been used as a contractor’s compound for significant periods of time over recent years and around two thirds of the site is covered by concrete hardstanding. The recent use of the site is anticipated to have compromised the soil structure on the site to the extent that it would no longer comprise best and most versatile land. Soil quality would normally be assessed through an Agricultural Land Classification (ALC) but this is not possible in this case due to the extensive coverage of the site with concrete and hardstanding. It is noted that Defra’s Magic Map site which details the results of ALC studies undertaken locally indicates considerable local variation in soil

quality with grades ranging from 1 to 3b. It is also noted that the application is accompanied by a Geo-Environmental Desk Study which indicates that the site may be contaminated which would further compromise agricultural use of the site.

- 7.34. In view of the above it is considered unreasonable to refuse the application on the grounds of the loss of Best and Most Versatile Agricultural Land, and this would be consistent with the approach taken under the previous application.
- 7.35. It is therefore considered that the proposal is acceptable in terms of loss of agricultural land and is in accordance with Local Plan policy DM 31 and the NPPF.

Size and Type of Housing

- 7.36. Paragraph 9 of the NPPF states that sustainable development involves seeking positive improvements in the quality of the built environment, including widening the choice of high-quality homes. The NPPF recognises that in order to create sustainable, inclusive and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 7.37. Local Plan Policy CP 3 requires the mix of tenures and sizes of homes provided in any development to reflect local needs and the Strategic Housing Market Assessment. The supporting text to Local Plan policy CP 3 identifies an aspiration to deliver good quality family housing in this part of the borough. In 2020 the Council carried out a Housing Market Assessment (HMA) based upon a standard method for calculating the objectively assessed need.
- 7.38. The application seeks outline planning permission with all matters reserved except access. The Design and Access Statement provides an indicative mix of housing; however, the applicant has agreed that the proposed layout of the development will be revised to demonstrate an improved standard of design at reserved matters stage. Accordingly, the proposed mix of housing may be subject to change. The application indicates that the development will deliver 25 market units and 17 affordable units. The indicative Masterplan demonstrates that 42 family sized dwellings could be satisfactorily accommodated on the site. It is considered that the proposed development provides adequate scope to deliver a suitable mix of market and affordable dwellings to contribute to meeting local need and the specific unit mix can be assessed at reserved matters stage.
- 7.39. Having regard to the above officers consider that there is adequate scope to secure a scheme at reserved matters stage which satisfactorily complies with Local Plan Policy CP3.

Affordable Housing

- 7.40. The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Local Plan policy DM

8 sets out that 40% affordable housing would be required from a residential development of this site.

- 7.41. The application proposes 40% affordable housing which equates to 17 units and meets the requirement of Local Plan policy DM 8. The Council's Affordable Housing Officer welcomes the proposed affordable housing and notes that delivery of 17 family sized units (40% of the proposed housing) will address a significant need in the borough. 90% of the affordable housing should be delivered as affordable rented/social rented tenure with the remaining 10% delivered as shared ownership tenure. The affordable housing should be well integrated into the development and should not be visually distinguishable from the market housing. The unit mix for the overall scheme including the affordable housing remains to be determined and this is a matter which can be addressed at reserved matters stage.

Accessible and Adaptable Homes

- 7.42. In line with policies DM8 and CP3 of the Local Plan the affordable homes should be designed for use by disabled persons and made available for a variety of groups including families, vulnerable and older persons. As such, there should be a number of accessible and wheelchair adaptable homes provided. It is required that at least 10% of the social rented homes be built to Building Regulations Part M4(3) standard (wheelchair user dwelling) with the remaining affordable homes provided to Part M4(2) standard (accessible and adaptable dwellings). It is recommended that the accessible and adaptable homes are secured by planning condition (No. 35).
- 7.43. The proposals are considered consistent with policies DM8 and CP3 of the Local Plan and the NPPF and are therefore acceptable in terms of affordable housing.

Landscape and Visual Considerations

- 7.44. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*' whilst paragraph 174 criterion b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 7.45. Local Plan policy DM24 states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced, and, where appropriate, managed. The policy further states at Part B that non-designated landscapes will be protected and enhanced, and planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts. When significant adverse impacts remain, the social and or economic benefits of the proposal need to significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.46. The application is accompanied by a Landscape Visual Impact Assessment (LVIA) which provides an assessment of the landscape and visual effects of the development. The application site is not within a designated landscape area and is not noted for its special quality or character. The site is currently mostly disused

and comprises areas of hardstanding and areas of rough grass and developing scrub, with security fencing to the western and southern boundaries.

- 7.47. The Landscape Assessment of Kent (2004) identifies the site within the 'Fruit Belt' character area. The condition of this character area is identified as very poor, with an 'incoherent landscape pattern which has many detracting suburban and industrial influences, and main transport corridors'. The landscape sensitivity is assessed as low, with moderate visibility. The overall recommended landscape actions are to 'create' new landscape character and features.
- 7.48. The Swale Landscape Character and Biodiversity Appraisal identifies the site within the eastern part of Character Area 24, 'Iwade Arable Farmlands'. The appraisal identifies that residential and commercial development, the A249 and overhead power lines have had a major impact upon the landscape. The character area is identified as being in a poor condition with a moderate degree of sensitivity. The landscape guidelines are to 'restore and create'.
- 7.49. The Swale Landscape Sensitivity Assessment (SLSA) was produced in 2019 to assist with the development of the new Local Plan and consider the relative sensitivity of land around the main settlements in the borough to residential and employment development. The site is identified as lying within Area IE1/SE7 which includes the land to the west of the Sittingbourne urban area/ Kemsley and south and east of Iwade. The area is identified as being of low to moderate sensitivity to residential development and is the joint lowest level of sensitivity (along with 2 areas on the Isle of Sheppey) of any areas considered within the borough. The LVIA notes that Area IE1/ SE7 is quite varied and is largely rural to the west of Sheppey Way and therefore, given the characteristics of the application site, it is reasonable to assume that it would be of a lower level of sensitivity than the average for the area as a whole.
- 7.50. The LVIA identifies that the landscape around the site has a partly developed character as opposed to a rural one and the site does not have a rural character or tranquillity, including by reason of its location adjacent to the A249. There is limited visibility of the site from the surrounding landscape as it is contained by the domed landform of the adjacent field to the north, as well as hedges and trees further to the north, the dense planting alongside the A249 to the east, the large scale industrial buildings to the south and vegetation alongside Sheppey Way to the west. The LVIA identifies that whilst the development would be visible in short distance views it would not be unsightly or intrusive in the context of the existing buildings to the south and the containment which would be provided by the landscape buffers. There would be a high degree of landscape change within the site as a result of the proposed development but given the current disused and unsightly nature of the overall impact is assessed as positive. In terms of the wider landscape, the degree of change is assessed as medium with a number of positive elements such as the removal of unsightly features and the proposed landscape buffers along with negative effects arising from additional built form. Overall, the effect on the wider landscape is assessed as marginally negative. Balancing these effects the LVIA concludes that the development would result in

a neutral effect in the first year on the landscape on and around the site and, over time, the effects would be beneficial as the proposed landscaping and planting is established. It should be noted that, due to the contained nature of the site the landscape effects would not be experienced much beyond the site boundary in any case.

- 7.51. The LVIA notes that, in terms of visual impact, as the site is generally well contained and presently disused and unsightly, the proposed development would not result in significant visual effects for the adjacent property of Pheasants Farmhouse, Public Rights of Way or local roads. Consequently, where there are low level adverse effects they would decline over time to become neutral.
- 7.52. It is noted that, in the absence of development of the site, there is the prospect for the continuation of temporary uses of the land as have occurred over recent years, over which the Council may have limited control, and which would be likely to have adverse impacts in landscape and visual terms. The proposed development of the site would provide the opportunity to secure a scheme of landscaping which represents an opportunity to improve the current appearance of the site.
- 7.53. It is considered that, overall, the proposed development would not result in significant adverse impacts in landscape and visual terms. As such, the proposed development would be in accordance with the NPPF and Local Plan policy DM24.

Heritage

- 7.54. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("PLBCAA") provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.55. 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.
- 7.56. Local Plan Policy CP 8 states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Policy DM32 relates to listed buildings and is clear that proposals affecting listed building must preserve the buildings setting and any features of special architectural or historic interest.
- 7.57. The previous application for residential development of the site (ref. 20/504794/OUT) was refused on grounds that it had not been demonstrated that

the proposal would not result in harm to the setting or significance of Grade II listed Pheasant Farmhouse. In response to this ground of refusal the applicant has submitted a Heritage Statement which concludes that the proposed development would result in a low level of less than substantial harm to the significance of Pheasant Farmhouse as a result of a change within the asset's setting and the resultant effect on the asset's sense of historic interest as a rural farmstead.

- 7.58. The Council's Heritage Manager has reviewed the Heritage Statement and agrees that harm would arise from the loss of the agricultural character of the setting of the farmhouse. However, there is disagreement with its conclusions that the proposed development would result in a low level of less than substantial harm and it is considered that the proposed development would give rise to a medium level of less than substantial harm. The Heritage Manager advises that the visually degraded character of the application site should not justify the proposed development. Furthermore, whilst the listed building sits behind a dense road frontage screening, its relative invisibility in its wider rural context should not justify the proposed development.
- 7.59. As noted earlier in this report it is considered unlikely that the application site would be returned to agricultural use and there is potential for it to be put to uses which would be harmful in visual terms and therefore harmful to the setting of Pheasant Farmhouse, as has occurred previously. Accordingly, the identified medium level of less than substantial should be balanced against the public benefits of the proposal in accordance with paragraph 208 of the NPPF.
- 7.60. The decision-maker needs to ensure that they give considerable importance and weight to any harm to the significance of a designated heritage asset, and ensure that the more important the asset, the more the weight that is given to the harm in the balancing exercise.
- 7.61. A public benefit can be anything that delivers economic, social or environmental objectives, which are the three overarching objectives of the planning system as set out in the NPPF. Benefits are discussed in the Planning Balance section of this report, where the heritage harm is weighed against benefits and an assessment made of whether the application complies with Local Plan policies CP8 and DM32 and the provisions of the NPPF.
- 7.62. 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.

Archaeology

- 7.63. 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.
- 7.64. Policy DM34 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.

- 7.65. The KCC archaeologist advises that the main archaeological potential of the site arises from its location alongside the key route through to the Sheppey crossing and the extensive prehistoric landscapes that are being discovered around Iwade, Bobbing and Kemsley on development sites in recent years. There are also mapped defences of the WW1 Chatham Land Front which cross Bramblefield Lane to the east. The KCC archaeologist advises that the potential impacts of the scheme on archaeology can be appropriately addressed through further assessment, evaluation and mitigation that can be secured through a condition on a consent for the present scheme.
- 7.66. Subject to such a condition, no objection is raised in relation to compliance with policy DM34 of the Local Plan which requires archaeological mitigation or the preservation of important archaeological features in situ.

Character and Appearance

- 7.67. 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.
- 7.68. The National Design Guide illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Kent Design Guide seeks to provide a starting point for good design while retaining scope for creative, individual approaches to different buildings and different areas and provides criteria necessary for assessing planning applications.
- 7.69. The layout, appearance, scale and landscaping of the development are reserved for future consideration. The Council's Design Officer reviewed the indicative Masterplan which accompanied the application and advised that there was scope to improve the pattern and layout of streets, blocks and plots, whilst the scheme would benefit from the provision of open space to the centre of the development. The arrangement of car parking was also identified as an opportunity for improvement whilst the scheme would benefit from the provision of street trees. Noting that all matters other than access are reserved the applicant submitted a Design Principles Document which is intended to inform a revised proposal at reserved matters stage. The Design Officer has confirmed that the Design Principles provide sufficient comfort that a revised scheme could be secured which represents a high standard of design. Should planning permission be granted an informative will be included on the decision notice to note the requirement for a revised proposal.
- 7.70. It is anticipated that the reserved matters of scale and appearance could indicate dwellings that are sympathetically designed to be in keeping with local typologies that would assimilate well with the existing context. Any future reserved matters application that includes scale and appearance would need to set out the extent to which the development is consistent with the National Design Guide and Kent Design Guide (condition 5).

7.71. It is considered that appropriate details can be secured at reserved matters stage in order to ensure that the siting, scale, design, appearance and detail of the scheme represents a high-quality design that is appropriate to its surroundings in accordance with Local Plan policies CP 4 and DM 14.

Trees

7.72. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.

7.73. The application is accompanied by an Arboricultural Impact Assessment which identifies that there is one category C (low quality) tree within the application site and that this will require removal in order to facilitate the development. Some minor pruning of one group of trees outside of the site may also be required to facilitate security fencing, garage buildings or driveways; however, these works will not negatively impact the health or amenity of this tree group.

7.74. The Arboricultural Impact Assessment has been reviewed by the Council's Trees Officer who raises no objections to the proposals subject to conditions securing an Arboricultural Method Statement and details of protective fencing around areas identified for new planting in order to ensure that the soil structure is not damaged by machinery or the storage and mixing of materials.

7.75. It is anticipated that a good quality landscaping scheme including new tree planting can be secured at reserved matters stage. A landscaping condition (No. 6) is recommended which secures the proposed landscape and open space design principles.

7.76. The proposed development is considered acceptable in terms of trees and in accordance with Local Plan policy DM 29.

Ecology

7.77. 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 CP7 and DM28 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.

7.78. 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.'

7.79. 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".

7.80. The application is accompanied by a Preliminary Ecological Appraisal (PEA) which identifies the presence or potential for protected and priority habitats and species within and around the application site and the potential for these features to be adversely affected without appropriate avoidance and mitigation measures. The application is also accompanied by a reptile survey. The findings of the reports are summarised as follows:

- A small population of reptiles have been recorded on site (1 x common lizard). A proposed reptile receptor site has been included within the north-east of the site and a proposed reptile translocation through habitat manipulation.
- An on-site ephemeral waterbody was found to be dry therefore it is not considered that it is suitable for great crested newts during the breeding period.
- A rabbit warren has been identified in the Site and the brash piles are suitable for resting and hibernating hedgehog. Precautionary methods for the clearance of the earth mound and brash piles have been recommended.
- With regard to breeding birds, it is recommended that clearance of the brash piles and vegetation is undertaken outside the core bird breeding season.
- Biodiversity enhancements are recommended which include generous native and nectar rich planting, installation of bird boxes, retention and creation of bird habitat and enhancements for hedgehogs.

7.81. The KCC Ecologist has reviewed the PEA and reptile survey and raises no objections to the proposals subject to conditions to secure a biodiversity method statement, biodiversity enhancements and a lighting design which follows best practice in relation to bats (Nos.16-18). The ecological mitigation strategy should include 13 x 13 cm holes cut into the base of fences to ensure connectivity is retained for hedgehogs. An informative is also recommended to address potential impacts upon breeding birds.

Biodiversity

7.82. The application was submitted before Biodiversity Net Gain became a mandatory requirement. The KCC Ecology Officer notes that the proposals identify the potential to create new habitats around the site boundaries which could significantly improve the biodiversity value of the application site from its current predominantly low value arable use. It is advised that details of how the proposed development will compensate for the loss of important habitats such as

hedgerows and deliver the required biodiversity net gain should be sought. A condition securing a Biodiversity Enhancement Plan is recommended.

7.83. Accordingly, it is considered that the proposal accords with Local Plan Policy DM 28 which requires 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.

Habitat Regulations

7.84. The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA, and Wetland of International Importance under the Ramsar Convention (Ramsar Site) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

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

7.86. The Habitat Regulation was changed in 2019 to reflect the fact that the U.K. has left the EU. However, the obligations of a competent authority in the 2017 Regulations for the protection of sites or species did not change.

7.87. As a Competent Authority, the Borough has a statutory duty to:

- Help protect, conserve and restore the designated features of the site to meet their conservation objectives;
- Prevent the deterioration of the site's habitats from human activity or natural changes, including habitats that support designated species;
- Prevent significant disturbance of the site's designated species from human activity or natural changes.

7.88. The duty applies when taking a decision (including a planning decision) that might affect the integrity of a protected site.

7.89. The Habitat Regulations state that a competent authority, before deciding to give any consent for a project must make an appropriate assessment (also known as a Habitat Regulation Assessment (HRA)) of the implications of the project in view of the conservation objectives for protected sites, if:

- The proposal is likely to have a significant effect on a protected site (either alone or in combination with other plans or projects), and
- Is not directly connected with or necessary to the management of that site.

7.90. The Council may agree to the application only after having ascertained that it will not adversely affect the integrity of the protected sites.

- 7.91. A shadow Habitat Regulations Assessment (HRA) accompanied the previous application on the site (ref. 20/504794/OUT) and the KCC Ecologist has advised that the conclusions of the document are still valid. The HRA took disturbance/recreational pressure and water quality through to the Appropriate Assessment (AA) stage. This assessment mirrors the legal process that the Council must follow under Regulation 63 of the Habitats Regulations in completing an HRA. The assessment submitted with application ref. 20/504794/OUT follows the relevant case law associated with the Habitats Regulation. In order to mitigate impacts upon protected sites the applicant has agreed to contributions towards the Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) (£328.27 per dwelling). Furthermore, the proposals incorporate measures to address contaminated land and groundwater risks in order to mitigate any adverse effect on the water environment.
- 7.92. A review of the HRA and Appropriate Assessment (AA) was undertaken, and officers are satisfied with the conclusion that the proposal would not result in an adverse impact on the designated sites if the proposed mitigation measures were implemented. This view was also agreed by the KCC Ecological Service whilst Natural England raise no objections subject to securing measures to mitigate recreational impacts on the designated sites. The HRA and AA and their conclusion (i.e., that there would be no harm to the integrity of protected sites) has been adopted by the Council as the competent authority.
- 7.93. In conclusion, an AA has been carried out. This accords with the Habitat Regulations and subject to the proposed mitigation measures being secured and delivered, there would not be any no adverse impact on the integrity of designated sites and the proposal would accord with Policies CP7 and DM28 of the Local Plan.

Transport and Highways

- 7.94. 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.”

- 7.95. 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.”

- 7.96. 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.

- 7.97. The access to the site will take the form of an improved priority junction with Sheppey Way. The application is accompanied by a Transport Statement (TS) which identifies that the proposed development would result in approximately 205 vehicular movements across the 12-hour weekday period (0700-1900). In view of the site's accessibility to a range of primary routes the TS concludes that these vehicle trips will readily dissipate across the wider highway network with no significant impacts on highway capacity or amenity.
- 7.98. The sustainability of the proposed development in transport terms is considered above at paras. 7.22-7.27. Having regard to the location of the site in relation to amenities and services, public transport accessibility and the availability of pedestrian and cycling infrastructure, it is considered that there will be a degree of harm in sustainable transport terms.
- 7.99. National Highways raise no objections to the proposed development subject to conditions to secure restrictions on planting or boundary features oversailing highways land, details to address surface water run-off onto the highways, and a Construction Management Plan.
- 7.100. KCC Highways raise no objections to the proposal subject to conditions to secure the following:
- A Construction Management Plan (No. 24);
 - Details of car and cycle parking in accordance with Residential Parking SPD and Local Plan requirements (Nos. 26 and 27);
 - Electric Vehicle Charging Points to all dwellings (No. 25);
 - Details of roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture (No. 28);
 - Completion of highways works between dwellings and the adopted highway prior to the occupation of the dwellings (No. 29);
 - Provision and maintenance of visibility splays (No. 30);
 - Completion of highways works relating to proposed site access prior to first occupation (No. 30).
- 7.101. It has been demonstrated that the proposal would not result in unacceptable impacts on highway safety and the road network which the NPPF states would warrant refusal of planning permission. Accordingly, the proposal is considered acceptable in highways terms and is in accordance with the NPPF and the Local Plan.

Car and Cycle Parking

- 7.102. The Swale Car Parking SPD includes recommended residential car parking standards. Details of car parking to individual units will be assessed at reserved matters stage. However, the indicative Masterplan adequately demonstrates that a reserved matters scheme could be brought forward which provides car parking provision to comply with the recommended standards. Accordingly, the

proposal can comply with Local Plan Policy DM 7 requirement for compliance with the Swale Vehicle Parking SPD.

- 7.103. Cycle parking will be required to accord with policy requirements and this will be addressed at the detailed application stage. It is anticipated that cycle parking will be provided within sheds/stores to the houses. Accordingly, the proposal can comply with the requirement of Policy DM 7 to provide cycle parking facilities of an appropriate design and in a convenient, safe, secure and sheltered location.

Air Quality

- 7.104. 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.
- 7.105. 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.
- 7.106. 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.....”.*
- 7.107. Local Plan Policy DM6 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.
- 7.108. The application is accompanied by an Air Quality Assessment (AQA) which identifies a risk to air quality from dust during the construction phase and from vehicular emissions during the operational stage. The construction stage impacts can be mitigated through the implementation of best practice measures to minimise the impacts of dust from construction activity. The AQA proposes a series of mitigation measures in line with recommendations within the Swale Air Quality and Planning Technical Guidance (AQPT) as follows:-
- All gas-fired boilers to meet a minimum standard of <40mgNO_x/kWh;
 - 1 active electric vehicle charging point per dwelling;
 - Active and passive electric vehicle charging points to unallocated and visitor car parking spaces;

- Construction stage mitigation in accordance with the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'.

- 7.109. The applicant has calculated a total 5 year air quality damage cost of £14,659 in line with the AQPT and this sum will be secured through the Section 106 legal agreement. The costs of on-site air quality mitigation measures will be deducted from the sum payable, with any surplus allocated to the funding of wider air quality mitigation measures. Some of the identified mitigation measures are standard requirements which would otherwise be secured in line with Local Plan policy and guidance. Accordingly, it is recommended that a revised series of mitigation measures us secured by condition (No.42).
- 7.110. The Council's Environmental Health Public Protection Officer raises no objections to the proposal in terms of air quality subject to securing a Code of Construction Practice to address dust at construction stage (condition 25).
- 7.111. Subject to the recommended conditions the development would be acceptable in terms of air quality and would accord with Local Plan Policy DM6 and the NPPF.

Open Space

- 7.112. Local Plan Policy CP7 requires developments to promote the expansion of Swale's natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. Policy DM17 sets out various open space typologies and the amounts of space that would be required for residential development. The table below compares the proposal to the open space requirements.

Typology	Policy DM17 requirement (ha per 1,000 person)	Scheme requirement (ha)	Proposed (ha)	Difference (ha)
Parks and gardens	1.11	0.11	TBC	TBC
Natural and semi natural greenspace	4.36	0.44	0.28	-0.16
Formal outdoor sport	1.09	0.11	Nil	-0.11
Amenity Greenspace	0.45	0.04	TBC	TBC
Provision for children and young people	0.24	0.02	TBC	TBC
Formal Play facilities			on site	
Allotments	0.2	0.02	Nil	-0.02

Total		0.74		
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- 7.113. The scheme is in outline form with all matters reserved except means of access. In terms of open space provision, the application is accompanied by a parameter plan which identifies a residential area and open space. The identified area of open space is approx. 0.28ha and will primarily comprise accessible landscape buffer and public open space along the western and northern boundaries of the site. This open space can be considered to fall under the natural and semi-natural green space typology and there will remain an approx. 0.16ha shortfall of this typology. The remaining shortfalls are not known at this stage as layout and landscaping are reserved matters and it is anticipated that the design of the development will be revised at reserved matters stage.
- 7.114. It is anticipated that further open space will be provided within the identified residential development area and the Design Principles document identifies that a local area play will be incorporated on-site. The scheme would give rise to a requirement for a financial contribution towards off site play/fitness provision of £512.80 per dwelling in line with the Council's Open Spaces and Play Area Strategy. However, the Council's Open Space Officer has confirmed that this requirement would be waived subject to satisfactory on-site play provision. A play area would form part of a reserved matters submission and therefore the applicant has agreed that the Section 106 legal agreement will secure the financial contribution; however, the obligation will fall away if a suitably located play area of adequate size and standard is provided on-site.
- 7.115. The Design Principles document also indicates the proposed development will incorporate a central open space for play, recreation and amenity. It is anticipated that this provision will go some way to addressing the parks and gardens and amenity greenspace requirements of the development.
- 7.116. There will be a shortfall in formal outdoor sport. In line with the Council's Open Spaces and Play Area Strategy a financial contribution of £681.81 per dwelling will be payable towards off-site formal sports provision in the Sittingbourne area. In view of this contribution the shortfall in formal sports provision is considered acceptable.
- 7.117. There will be a shortfall in provision of allotments. In view of the location of the site there are no existing allotments within a reasonable distance of the site. Given the relatively modest (0.02ha) shortfall and the absence of local provision the shortfall can be accepted in this case.
- 7.118. It is noted that the Masterplan layout indicates family housing which benefit from private gardens which will provide some outdoor amenity space for future residents of the development. It is also noted that the scheme approved under application 18/502190/EIHYB includes substantial open space incorporating several typologies which will be readily accessible to residents of the proposed development via Bramblefield Lane.

7.119. Taking account of the on-site proposals and the future proximity of existing public open space and subject to a planning obligation to fund capacity enhancements sufficient to cater for the uplift in residents that would be living on the site, the proposal is acceptable in terms of open space and is therefore in accordance with Policy DM 17 of the Local Plan.

Community Infrastructure

7.120. The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. This is reflected in Policies CP5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

7.121. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind

7.122. The following planning obligations would be necessary to mitigate the impact of the development and make it acceptable in planning terms. The obligations have been identified and assessed by Officers to comply with the Regulations (as amended).

Requirement	Value	Towards
Ecology		
SAMMS payment	£328.27 per dwelling	North Kent Strategic Access Management and Monitoring Strategy.
Education		
Primary Education Contribution	£297,410.40 (£7,081.20 per applicable house)	The construction of a new primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or new primary school in Sittingbourne.
Secondary Education Contribution	£234,661.98 (£5,587.19 per applicable house)	Towards a new secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or a new secondary school in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning group areas.
Special Educational Needs and	£559.83 per applicable house	Special Education Needs (SEND) contribution to be applied towards additional places in Swale district.

Disabilities (SEND) Contribution		
Community Learning and Skills	£1,436.82 (£34.21 per dwelling)	Community Learning Project details contribution to be applied towards/ or additional equipment and resources for adult education centres serving the development, including outreach provision.
Community		
Integrated Children's Services	£3,110.10 (£74.05 per dwelling)	Financial contribution towards additional equipment and resources for the Integrated Children's Services in Sittingbourne including outreach provision.
Library, Registrations and Archives Service	£2,630.46 (£62.63 per dwelling)	Financial contribution towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Sittingbourne.
Adult Social Care	£7,596.96 (£180.88 per dwelling)	Financial contribution towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within Swale.
Waste		
Refuse	£8,153.46 (£194.13 per dwelling)	Financial contribution towards additional capacity at Sittingbourne Household Waste Recycling Centre and Sittingbourne Waste Transfer Station.
Refuse and Recycling Bins	<u>Each house</u> 180ltr green bin for refuse £51.20 240ltr blue bin for recycling £51.20 23ltr food bin £11.90 5ltr food caddy £6	Bin provision
Health care		
NHS (Integrated Care Board)	£36,288.00	Financial contribution towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the

		area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
Air Quality		
Air Quality Damage Cost contribution	£14,659	On-site or off-site air quality mitigation measures
Formal Sports and play/fitness provision		
Off-site formal sports provision	£28,636.02 (£681.81 per dwelling)	Fitness and formal sports facilities in Sittingbourne area.
On site play area or financial contribution towards off site play/fitness provision	£21,537.60 (£512.80 per dwelling) in the absence of satisfactory on-site provision	Children's play areas and outdoor fitness facilities in Sittingbourne area.
Monitoring		
Monitoring fee	£tbc	Contribution to cover the cost of monitoring the delivery of various planning obligations

7.123. Kent County Council in its capacity as education provider, has a duty to ensure that adequate school places are provided to accommodate current and future projections for primary school and secondary needs.

Flood Risk, Drainage and Surface Water

7.124. 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.

7.125. The application site lies within Flood Zone 1 and therefore has a low tidal and fluvial flood risk. The application is accompanied by a Flood Risk Assessment which identifies that the site has a low overall risk of flooding from all other sources.

7.126. Most of the site is classified as having a very low risk of surface water flooding; however, a part of the site at the north-west corner is identified as having a high risk. Surface water flood risk can give rise to a requirement for a Sequential Test which is intended to direct new development to areas with the lowest risk of flooding. However, the NPPG advises that a sequential test may not be required if development can be laid out so that only elements such as public open space, biodiversity and amenity areas are in areas at risk of any source of current or future flooding. The applicant has submitted a parameter plan which excludes all development from the area at high risk of surface water flooding and identifies this area for open space. On this basis, a Sequential Test has not been required to accompany the application.

- 7.127. Lower Medway Internal Drainage Board note that the site lies within catchments which ultimately drain into the Board's district and a land drainage consent will be required. The Board raise no objections to the proposed development subject to conditions to secure details of a surface water drainage scheme and its subsequent verification and maintenance as well as details of construction stage surface water drainage.
- 7.128. KCC Flood and Water Management raise no objections to the proposed development subject to conditions securing details of surface water drainage and subsequent verification.
- 7.129. Southern Water raise no objections to the proposals in terms of surface water drainage.
- 7.130. In view of the above it is anticipated that the proposals will satisfy the requirements of Local Plan policy DM21 to include sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, enhance biodiversity and amenity and increase the potential for grey water recycling. It is therefore considered that the proposals are in accordance with Policy DM 21 of the Local Plan and the NPPF.

Contamination

- 7.131. 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.
- 7.132. The application is accompanied by a Geo-environmental Desk Study which identifies potential sources of contamination at the site arising from previous land uses at the site. The Study recommends that a Phase 2 intrusive ground investigation is undertaken to establish the extent of ground contamination on the site.
- 7.133. The Council's Public Protection Officer has reviewed the Desk Study and agrees the recommendation. A contaminated land investigation, a programme of remediation and subsequent verification should be secured by condition (Nos. 14 and 15).
- 7.134. In view of the above the proposals are considered acceptable in relation to contamination and are therefore in accordance with the Local Plan and the NPPF.

Living Conditions

Existing residents

- 7.135. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.136. The nearest neighbouring residential dwellings are on the opposite side of Sheppey Way. The application seeks outline planning permission and

accordingly the masterplan layout is indicative only and subject to change at reserved matters stage. However, the indicative masterplan layout indicates that the proposed quantum of development could be accommodated within the site without any undue harm to the residential amenities of the occupants of nearby dwellings by reason of overlooking, loss of daylight and/or sunlight, visual impact and noise and disturbance.

7.137. *Future residents*

7.138. 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.

7.139. As noted above, the masterplan layout is indicative only and subject to revision. However, the layout demonstrates that 42 residential dwellings could be satisfactorily accommodated on the site whilst providing adequate separation between dwellings to ensure sufficient outlook and privacy for occupants of the dwellings.

7.140. Approval of the detailed internal layouts of the proposed accommodation is not sought at this stage. However, the indicative masterplan is considered to demonstrate adequate space to accommodate dwellings which would provide an appropriate standard of internal accommodation subject to details to be submitted at reserved matters stage.

7.141. The indicative masterplan layout demonstrates scope to provide adequate private amenity space in the form of rear gardens for the proposed houses.

7.142. The indicative masterplan indicates that the site could accommodate a development which is acceptable in terms of the living conditions of both future occupiers and the occupiers of existing nearby residential properties. The proposal is therefore considered to be in accordance with the Local Plan and the NPPF.

Sustainability / Energy

7.143. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change. Details of sustainable design and construction measures to minimise environmental impacts can be secured at detailed stage and may include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; and/or low NOx boilers as examples.

7.144. The application is accompanied by an Outline Energy Strategy which identifies air source heat pumps and photovoltaic panels as means of reducing the carbon emissions from the development in line with policy DM19.

7.145. The Council's Climate Change Officer has reviewed the Outline Energy Strategy and welcomes the proposed carbon reduction measures which can be secured by condition (No. 34). It is noted that there is no reference to

electric vehicle charging provision or measures to reduce domestic water consumption; however, these can be secured by condition (No. 35).

- 7.146. In view of the above it is considered that the proposals are acceptable in terms of sustainability and energy and will comply with Local Plan policy DM19.

Noise

- 7.147. The NPPF states that planning decisions should ensure that noise from new development is mitigated and potential adverse impacts are reduced to a minimum.

- 7.148. The application is accompanied by a Noise Impact Assessment which establishes that an acceptable an acceptable level of internal amenity can be achieved, provided the recommendations for glazing and ventilation are followed. The Council's Public Protection Officer advises that, as the details for the glazing and ventilation to be used are yet to be specified, these details are secured by condition (No. 36).

- 7.149. The Noise Impact Assessment identifies that the external noise will be around 10dB above the higher BS 8233 guideline for external amenity. The Assessment does not make any recommendations in terms of mitigation measures and suggests that these should be considered at the detailed design stage; however, the Planning Statement proposes the use of 1.8m acoustic fencing. The Council's Public Protection Officer recommends that details of acoustic fencing be secured by condition (No. 37).

- 7.150. In view of the above the proposed development is considered acceptable in terms of noise and in accordance with the provisions of the NPPF.

Other matters

- 7.151. Iwade Parish Council have raised concerns that the adjacent site to the north could be the subject of a planning application for further housing development. Any potential future planning application on the adjacent site is not a material consideration relevant to assessment of this application.

The Planning Balance

- 7.152. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.

- 7.153. The previous application on the site was refused on grounds including development within the ILCG and in an unsustainable location and failure to demonstrate that the proposal would not cause harm to heritage assets. The proposal has been revised to seek to address the previous grounds of refusal and the proposal has been re-appraised having regard to the previous

decision, as set out in the Principle section of this report. The two other previous reasons for refusal are capable of being addressed and will fall away.

- 7.154. The Council presently cannot demonstrate a 5YHLS Council can demonstrate a 4.1-year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is therefore necessary to consider the benefits and disbenefits of the proposal in order to determine whether there are adverse impacts which would justify a refusal of planning permission.
- 7.155. It is considered that the proposal will result in disbenefits arising from conflict with Policies case Local Plan Policies ST1, ST3, ST5, CP2 and DM25. As noted above, **moderate weight** is afforded to harm arising from development in the ILCG and **limited weight** is afforded to the harm arising from the locational sustainability of the site. Noting the 5YHLS and the appeal decisions detailed at paras. 2.16-2.17, **moderate weight** is afforded to the conflict with the Swale Settlement Strategy.
- 7.156. Officers consider that the proposed development would deliver the following benefits:
- Housing and affordable housing
 - Employment and economic activity
 - Ecology and biodiversity
 - Design and appearance
 - Sustainability and carbon reduction
 - Local finance considerations.

Housing and affordable housing

- 7.157. The erection of 42 dwellings, including 40% affordable housing to address a pressing need, would contribute towards addressing the lack of 5 YHLS within the borough Given the Framework's general imperative to boost the supply of housing, this is an important factor weighing in favour of the application. Overall, it is considered that the delivery of housing and affordable housing is a benefit which should be afforded **substantial weight**.

Employment and economic activity

- 7.158. New residents who will use local services and facilities and facilitate potential future growth opportunities which meet the economic and social objectives of sustainable development at paragraph 8 of the NPPF.
- 7.159. The development would bring forward jobs and spending during the construction phase. Paragraph 81 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity; however, this weight is moderated on the basis that these benefits will be limited to the construction phase. Overall, **moderate**

weight is afforded to the employment and economic activity benefits of the development.

Ecology and Biodiversity

7.160. Whilst landscaping is a reserved matter, the indicative plans and documents show that the emerging proposals would provide suitable landscaping and planting in and around the site (subject to details being secured at the reserved matters stage) which would provide ecological and biodiversity enhancements. This is a normal planning requirement and is therefore attributed **limited weight** in the planning balance.

Design and appearance

7.161. As an Outline application, matters of layout, scale, appearance and landscaping are not for determination. However, the application includes an indicative Masterplan layout and a Design and Access Statement which demonstrate how the site could be developed to deliver a high quality and distinctive development and **limited weight** is afforded to this benefit.

Sustainability and carbon reduction

7.162. The proposed development would comply with Local Plan policy and Building Regulations requirements in respect of sustainability and energy consumption which would be a normal planning and Building Regulation requirement. Accordingly, **limited weight** can be afforded to this benefit.

Local finance considerations

7.163. The Town and Country Planning Act 1990 sets out general considerations in the determination of applications states the following:

*“In dealing with an application the authority shall have regard to
(a) the provisions of the development plan, as far as material to the application,
(b) any local finance considerations, as far as material to the application, and
(c) any other material considerations.”*

7.164. The application proposes 42 new dwellings with associated Council tax being received from occupiers and able to be used by the Borough to carry out its statutory functions. The funding is needed to mitigate the impacts of the development and **limited weight** is afforded to this benefit in the planning balance.

Heritage impacts

7.165. As is set out in Section 7.9 of this report, the development would result in harm to the setting of the Grade II listed Pheasant Farmhouse. The level of harm is considered to amount to a medium level of ‘less than substantial’ harm. Even in cases where the heritage harm falls in the ‘less than substantial’ category, as is the case here, this still requires being given great weight and importance in the planning balance.

- 7.166. Officers have been mindful of the statutory duty and have placed great weight and importance on the fact that less than substantial harm would be caused to the designated heritage asset.
- 7.167. The proposal would bring forward public benefits identified in this section including the delivery of housing which is afforded substantial weight. The proposal would bring forward employment and economic benefits which are public benefits afforded moderate weight. The further benefits identified above are also considered to represent public benefits which would be afforded limited weight.
- 7.168. In light of the benefits identified, in particular the substantial benefit arising from the delivery of housing and given the medium degree of less than substantial harm to the Grade II listed Pheasant Farmhouse it is considered that the public benefits are sufficient to outweigh the heritage harm. Officers are therefore of the view that the proposals are in accordance with Local Plan policies CP8 and DM32 and the provisions of the NPPF.
- 7.169. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990.

Planning Balance – Conclusion

- 7.170. The above assessment identifies a series of benefits which weigh in favour of the proposal. In particular, the delivery of 42 units of housing including 40% affordable housing is considered to be a benefit which can be afforded substantial weight. The benefits identified above are considered to substantially outweigh the identified disbenefits arising from conflict with Local Plan policy. Accordingly, the proposal is considered acceptable, and it is recommended that planning permission be granted subject to conditions and the prior completion of a Section 106 agreement.

RECOMMEDATION – GRANT PLANNING PERMISSION subject to conditions and the prior completion of a Section 106 agreement

CONDITIONS

1. Reserved Matters

Details relating to the appearance, landscaping, layout, and scale of the proposed dwelling(s) (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

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

2. Time Limit – Reserved Matters

Application for approval of 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.

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

3. Reserved Matters

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

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

4. Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

60624620-04001 Rev. C Parameter Plan Land Use
Design Principles 17161-DP01

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

5. Reserved Matters

The application(s) for Reserved Matters of the development hereby permitted shall incorporate the measures set out in the Design Principles approved under this application and shall demonstrate the extent to which the proposals are consistent with the National Design Guide and Kent Design Guide..

Reason: In order to ensure the development delivers a high-quality design and place making.

6. Landscaping

Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, opens spaces, edges, boundary treatments, public rights of way and roads;

- Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas.
- An accessible landscape buffer and public open space along the western, northern and northeast boundaries.
- Landscaping which seeks to enhance the existing features and complement these with new planting by working with the existing landscape structure and retaining existing planting.
- A Local Area Play
- Planting across the developable residential area integrating trees and soft landscaping into streets.
- A central open space for play, recreation and amenity within the developable residential area.
- Roadside verges landscaped with amenity grass and a selection of native trees of varying scales.
- The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas.
- Details of the programme for implementing and completing the planting.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- A landscaping management and maintenance plan.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

7. Landscaping

All new planting, seeding or turfing comprised in the landscaping reserved matters shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

8. Arboricultural Method Statement

No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

9. Protection of New Areas of Structural Planting

No development shall commence until details of protection for ground designated for new structural planting in accordance with the current edition of BS 5837, have been submitted to and approved in writing by the local planning authority. All planting to be retained must be protected by barriers and/or ground protection.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

10. Secure by Design

The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.

Reason: In the interests of crime prevention and safety

11. Limits

The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 42 units.

Reason: To ensure that the development is carried out in accordance with the submitted with the application.

12. Archaeological Works

To assess and mitigate the impacts of development on significant archaeological remains:

- A. Prior to any development works the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
- B. Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
- C. The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
- D. Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in

writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
 - b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
 - c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.
- E. The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with Local Plan policies and the National Planning Policy Framework.

13. Contaminated Land

The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1. A site investigation, based upon the Aecom Geo-environmental Desk Study Report (April 2015) and Addendum (26 March 2020), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that any ground contamination on the site is identified and remediated and in the interests of the wellbeing of future occupants.

14. Contaminated Land Verification Report

Prior to the first occupation of the development a closure report shall be submitted for approval to the local planning authority. The closure report shall include full verification details as set out in the approved remediation strategy. This should include details of any post remediation sampling and analysis,

together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Reason: To ensure that any ground contamination on the site is identified and remediated and in the interests of the wellbeing of future occupants.

15. Biodiversity Method Statement

No development shall commence (including site clearance) until a Biodiversity Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall be based on the recommendations of an updated site visit, the Preliminary Ecological Appraisal and Reptile Survey Report by Corylus Ecology and shall provide detailed mitigation measures to be carried on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details.

Reason: Reason: In the interests of protecting any reptiles and other protected species present on the site.

16. Biodiversity Enhancement

With the submission of the reserved matters application details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of native species planting. The approved details will be implemented and thereafter retained.

Reason: To ensure that the losses of biodiversity can be compensated for and a net gain in biodiversity delivered in accordance with the requirements of the NPPF (September 2023), and that the proposed design, specification and planting can demonstrate this. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

17. Lighting Scheme

Prior to the installation of any external lighting, a lighting design strategy shall be submitted to and approved in writing by the Local Planning Authority. The lighting design shall follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of protecting bats foraging and commuting adjacent to the site.

18. Surface Water Drainage Scheme

Prior to the commencement of development a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Surface and Foul Water Drainage Strategies report prepared by AECOM (25 July 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 address the viability of infiltration SUDS, clarify the outfall arrangements, confirm no land raising and no loss of storage, and address the requirements for any easement for the surface water drain run/open ditch outside the red line boundary. 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.

19. Surface Water Drainage Scheme Verification Report

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

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 169 of the National Planning Policy Framework.

20. SUDS Maintenance

Prior to the commencement of development a maintenance schedule shall be submitted to and approved by the Local Planning Authority. The schedule shall specify ownership and any proposed arrangements for future adoption by a public body or statutory undertaker. The schedule shall specify a timetable for implementation, and it shall provide a management and maintenance plan for the lifetime of the development. All SuDS should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each SuDS feature based on guidance in the CIRIA SuDS Manual 2015 as well as details of who will carry out the maintenance. Any land drainage consent issued by the Lower Medway Internal Drainage Board will be suitably conditioned to include the proposed maintenance schedule.

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.

21. Construction Surface Water Management Plan

Prior to the commencement of development, a Construction Surface Water Management Plan (CSWMP) shall be submitted to and approved by the Local Planning Authority. The CSWMP shall detail how surface water and storm water will be managed on the site during construction is submitted to and agreed by the local planning authority. The plan should outline the phases of construction showing where and when drainage features will be installed and how runoff will be managed, to minimise flood risk and water quality impacts on site and to the surrounding areas.

Reason: In the interest of managing flood risk during the construction stage. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

22. Code of Construction Practice

Prior to the commencement of the development a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in

accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site
- Design and provision of site hoardings
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The arrangements for public consultation and liaison during the construction works

Reason: In the interests of the amenities of the area and highway safety and convenience

23. Construction Management Plan

Development shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with KCC Highways and National Highways. The approved plan shall be strictly adhered to throughout the construction period. The plan shall include as a minimum:

- Site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit delivery journeys on the SRN during highway peak hours such as the use vehicle booking systems etc);
- Measures to ensure that HGV loads are adequately secured;
- Travel Plan and guided access/egress and parking arrangements for site workers, visitors and deliveries;
- Sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway and details of contingency working protocol for action taken should the wheel washing be ineffective, and spoil is dragged onto the highway
- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

Reason: In the interests of the amenities of the area and highway safety and convenience and to mitigate any adverse impact from the development on the surrounding highways network in accordance with DfT Circular 01/2022 and section 10 of the Highways Act 1980. These details are required prior to commencement in order to ensure that satisfactory measures are in place prior to any construction activity.

24. Electrical vehicle charging

No dwelling shall be occupied until full details of the electric vehicle charging have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

[schemeapproved-chargepoint-model-list](#)

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

25. Cycle storage

No dwelling shall be occupied or the approved use commenced until space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site in accordance with details to be submitted to and approved in writing 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.

26. Car Parking

No dwelling shall be occupied until vehicle parking spaces has been provided, surfaced and drained to the satisfaction of the Local Planning Authority in accordance with the adopted parking standards, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

27. Highways Works

Prior to the commencement of relevant works details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture shall be submitted to and approved in writing by the Local Planning Authority and the development shall be laid out and constructed in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety, adequate drainage and convenience.

28. Highways Works

The following works between a dwelling and the adopted highway shall be completed prior to first occupation of the dwelling:

- a) Footways and/or footpaths, with the exception of the wearing course;
- b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highway and pedestrian safety, adequate drainage and convenience.

29. Highways Improvements and Visibility Splays

Prior to first use of the development hereby permitted the highways improvements and visibility splays indicated on plan references 14354-H-01 Rev. P3 and 14354-H-02 Rev. P4 shall be provided. The visibility splays shall thereafter be maintained with no obstructions over 1.05 metres above carriageway level within the splays.

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

30. Travel Plan

The development hereby permitted shall not be occupied unless and until a comprehensive Full Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Full Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;

- the mechanisms to secure variations to the Travel Plan following monitoring and reviews.

The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport.

31. Planting and Boundary Features

Any planting or boundary features must be located such that they do not require any trespass or oversailing of National Highways land or assets as part of their construction/planting, maintenance or replacement.

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

32. Surface Water Run-Off

No surface water shall be permitted to run off from the development hereby permitted on to the highway or into any drainage system connected to the highway. No works shall commence on the site until details of works providing the connection from the site to downstream riparian system have been submitted to and approved in writing by the local planning authority (who shall consult National Highways). The drainage details shall comply with DfT Circular 01/22 Paragraph 59. Thereafter the works shall be carried out in accordance with the approved details.

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

33. Energy

The details submitted pursuant to condition (1) (the reserved matters) shall include details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that 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) will be achieved.

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

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

34. Water Consumption

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

Reason: In the interests of water conservation and sustainability.

35. Accessible and Adaptable Dwellings

At least 10% of the affordable units hereby permitted shall be built to M4(3) of building regulations standards and all of the remaining units will be built to M4(2) of building regulations standards unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure accessible and adaptable dwellings.

36. Noise

Prior to the commencement of development details of noise mitigation measures which shall include acoustic fencing, suitable glazing and mechanical ventilation as appropriate. Upon approval by the Local Planning Authority the noise mitigation measures shall be implemented in full prior to occupation of the premises and retained thereafter.

Reason: To protect the amenities of any future residents and to ensure acceptable external and internal noise levels are specified and achieved. These details are required prior to the commencement of development in order to ensure that the development as built will provide satisfactory living conditions for future occupants.

37. Air Quality Assessment

Within 3 months of commencing development a scheme for the mitigation of poor air quality arising from the development shall be submitted to and approved in writing by the Local Planning Authority. The cost of mitigation measures shall at least equate to the amount calculated in the Damage Cost Assessment.

The approved scheme of mitigation shall be implemented prior to the first occupation of the development and maintained thereafter.

Reason: To mitigate air quality impacts. These details 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.



PLANNING COMMITTEE – 5 December 2024**PART 5**

Report of the Head of Planning

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

- **Item 5.1 – Fairmeadow, The Barn, Swanton Street, Bredgar, Kent ME9 8AT**

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

The application sought planning permission for the change of use of an “annexe barn” into a residential dwelling. The Planning Inspector identified that the main issues were whether the location of the development was appropriate, the effect on the character and appearance of the area, including the setting of the AONB, and the living conditions of future occupiers. Whilst the proposal was found to be acceptable in respect of its visual impact, the location of the site was considered to be inappropriate for residential development on the grounds that future residents would be dependent on the car and that the proposal is contrary to the spatial strategy. Moreover, the living conditions of future occupiers were deemed to be unacceptable on the grounds that residents would be unduly overlooked by a neighbouring property.

- **Item 5.2 – Land to the southeast of Beauvoir Drive and north of Newman Drive, Sittingbourne, Kent ME10 2TQ**

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

The application sought permission for three dwellings. The Planning Inspector identified that the main issues were the impact on the character and appearance of the area, in particular the existing open space, flood risk and the impact on habitat sites. In relation to the first main issue, it was found that the development would cause the loss of open space and the layout of the dwellings would be at odds with the surrounding area. Moreover, the dwellings would be prominent features within the street scene that would appear out of keeping with the prevailing pattern and character of development. The proposed development was found to fail the flood risk sequential test as inadequate attempts had been made to identify alternative sites and, in the absence of a SAMMS payment being paid or secured, it was found that the impact on habitat sites had not been adequately mitigated. The potential adverse impact on the habitat site meant that the approach set out at paragraph 11d) of the NPPF did not apply. Therefore, the conflict with the development plan lead to the appeal being dismissed.

- **Item 5.3 – Light Industrial Units (Disused) on Land Adjacent to Pebble Court Farm, Woodgate Lane, Borden ME9 7QB**

APPEAL DISMISSED**COMMITTEE DECISION****Observations**

The application sought planning permission for the conversion of one building at the site into a dwelling and another into a home office. The Inspector found that the main issue was the suitability of the site for the location of housing. The location of the site was considered to be inappropriate for residential development on the grounds that future residents would be dependent on the car and that the proposal is contrary to the spatial strategy. It was found that inadequate marketing had taken place to demonstrate that there was no demand for the building to be used for the purposes that are prioritised by Policy DM 3 or that the use of the building for those purposes would be undesirable or unsuitable. Various other matters, including the Council's housing land supply position, but overall any benefits arising from the proposal were considered to be significantly and demonstrably outweighed by the adverse impacts. Therefore, the appeal was dismissed.



Appeal Decision

Site visit made on 7 October 2024

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 November 2024

Appeal Ref: APP/V2255/W/23/3334756

Light Industrial Units (Disused) on Land Adjacent to Pebble Court Farm, Woodgate Lane, Borden ME9 7QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Michael Miller against the decision of Swale Borough Council.
 - The application Ref is 22/505870/FULL.
 - The development proposed is the conversion and change of use of existing detached disused and abandoned former light industrial workshop into a three bedroom dwelling (C3) and conversion and change of use of existing adjacent detached former associated office and store (previously hay barn) currently disused into a home office to be used for the dwelling occupier. Proposals include part demolition of existing commercial workshop and installation of a sewage treatment plant and EV charging point.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the suitability of the site for the proposal, having regard to local and national policy for the location of housing.

Reasons

3. The appeal site comprises two separate single storey buildings which have fallen into a state of disrepair and are not in active use. Policies ST1 and ST3 of the Bearing Fruits 2031: The Swale Borough Local Plan (LP) set out the settlement strategy for Swale in order to deliver sustainable development. The appeal site is outside of any settlement boundary and therefore it lies within the countryside for policy purposes.
4. LP Policies ST1 and ST3 set out that, for sites in the countryside outside the built-up area boundaries, development will not be permitted unless it meets particular criteria, including that the development would protect the vitality of rural communities.
5. The supporting text to LP Policy ST3 acknowledges that the lowest settlement tier includes hamlets, ribbon development and small clusters of development where there are limited or no facilities. The appeal site does not lie within, but is located on the edge of one such ribbon of development, Danaway, which contains limited services and facilities.
6. The proposed dwelling would be accessed via Woodgate Lane, which leads onto Maidstone Road, a tarmacked road with paving along one side. However,

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Woodgate Lane is a steep single-track lane which is unmade and unlit. Therefore, it does not provide an easy walking or cycling environment, nor would it be appropriately accessible to those with mobility issues, buggies or young children.

7. As such, it is unlikely that future occupants of the proposal would walk or cycle as a matter of routine. Although the nearest bus stops to the site are located on Maidstone Road, the distance that would need to be travelled along Woodgate Lane to reach them, together with the limited services offered, would be a disincentive to its use rather than the private car. Consequently, future occupants of the proposed dwelling would be reliant upon the private car for everyday trips such as access to shops, education, leisure or medical care. As such, the proposal would be unlikely to protect the vitality of rural communities.
8. Having regard to the situation on the ground, the site is in a fringe location and its context is one of woodland, open countryside and farmland with a markedly rural character. Indeed, the woodland separates the site and its adjoining neighbours from the more built-up area around Maidstone Road. As such, this does not alter my conclusion that the site is not in a suitable location for housing. A similar conclusion was reached by the Inspector¹ with regard to a previous application on this site.
9. I recognise that there is existing residential development in the area with poor access to services, and that people live in such locations by choice. Further, any person using the site for its current lawful use would likely rely on the same transport options as the future occupants of the proposed dwelling. However, this does not negate the Council's spatial strategy which seeks to direct new residential development towards urban areas with good quality transport options and wide range of services and facilities.
10. The proposal would provide one home office and the appellant advises their small business would be run from the site. Whereas this may be the case, the new dwelling is likely to remain long after the appellant's circumstances cease to be material and, additionally, there is no guarantee that any other future occupants would work from home. As such, I am not persuaded that the provision of a home office would reduce the potential vehicle movements to and from the site.
11. The appellant suggests that the proposal would constitute the development of previously developed land (PDL). Even if I were to agree that the proposal would make use of PDL, and while I recognise that there should generally be a strong presumption in favour of repurposing and reusing buildings as set out in the National Planning Policy Framework² (the Framework), this would not change my conclusion that the proposal would not be in a suitable location for housing.
12. LP Policy DM3 states that residential development will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. The supporting text to this policy sets out that even if the site or building is vacant, evidence

¹ PINS ref APP/V2255/W/20/3250611

² Secretary of State Decision, ref APP/X5990/N/3301508.

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will need to show that it is neither viable nor likely to become viable and that alternative employment uses have been robustly tested. This will also include the applicant having marketed the property for its commercial/community use for a reasonable period in a manner and at a price that reflects that use.

13. I understand that the site was on the market for sale for a long period of time and was put up for auction with no success. However, in the absence of robust marketing evidence, the appellant has failed to demonstrate that there is no demand for the building for the uses prioritised by LP Policy DM3, or that those uses of the buildings would be undesirable or unsuitable. Further, while it may be that the appellant's business would be run from the site and contribute to the rural economy, there is no compelling evidence before me to demonstrate that this would amount to a commercial use in its own right.
14. As such the proposed development would have poor access to day-to-day services by sustainable transport modes. It would not be a suitable site for housing with particular regard to its accessibility. Therefore, in this respect, it would be contrary to LP Policies ST1 and ST3, the aims of which are set out above. Further, the proposal would conflict with LP Policies DM3 and DM14, as it has failed to demonstrate that the site would not be suitable to accommodate rural employment and/or community facilities.

Other Matters

15. I note that the site lies within 6km of the Swale Special Protection Area (SPA) and the proposal has potential to increase the recreational disturbance within the SPA. Had I been in a position to otherwise allow this appeal, it would have been necessary to consider this matter within a separate Appropriate Assessment. As the appeal is being dismissed for other reasons, I have not done so.
16. I understand that the appellant has voluntarily offered to provide the means of securing a tarmac surface along the relevant section of Woodgate Lane. However, the appellant confirmed that this is a personal matter that does not form part of the planning submission. Indeed, it falls outside the red line boundary as shown on the site location plan and is not reflected in the description of development. On this basis, I have not considered this matter any further as there is no mechanism before me to do so.
17. The site at Woodgate Lane, Borden³ was granted planning consent prior to the adoption of the current LP. In addition, it delivered 11 dwellings to the housing stock and this site has a direct, paved access to Maidstone Road, which is not the case of the scheme before me. Therefore, the accessibility of this site differs from the appeal site. As such, I do not find that this neighbouring development represents a direct parallel to the appeal proposal.
18. The evidence indicates that the three residential units at The Field Barn⁴ were granted consent through the prior approval process, so this application would have been assessed under permitted development regulations. As such, this neighbouring development would not be directly comparable to the proposal before me. Reference is made to other residential developments around Danaway that have been granted planning permission by the Council.

³ LPA Ref 15/507804/FULL

⁴ LPA Ref 21/504972/PNQCLA

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However, in absence of full details relating to these cases, I am unable to draw any meaningful comparison with the appeal scheme.

19. The provision of a self-build house is mentioned. There is no evidence regarding the self-build register and the need to deliver this type of housing has not been demonstrated. Even if there is a deficit, the proposed development would make a minimal contribution and, in any event, there is no legal agreement securing its provision.
20. Borden Parish Council did not object to the proposal, and I note one comment in support of the scheme. However, for the reasons outlined above, I find that the site would not be in a suitable location for housing.

Planning Balance and Conclusion

21. The scheme conflicts with the development plan as a whole due to its location outside of settlement boundaries and failure to demonstrate that the site has been appropriately marketed. These policies are broadly consistent with the Framework, which supports development on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes and seeks to support a prosperous rural economy. As such, I afford this harm substantial weight.
22. The proposal would be acceptable in relation to other matters, including highway safety and the effect on character and appearance was not a reason for refusal. However, these are neutral factors that neither weigh for or against the development.
23. In terms of benefits, the proposal would meet the Framework's objectives of boosting the supply of housing. The scheme would develop a small site, would result in works to vacant buildings which are in a poor state of repair, would incorporate low energy consumption measures and would maximise the reuse of existing materials. These factors weigh in favour of the scheme but given that the proposal is for one new dwelling, these matters carry limited weight in my assessment.
24. The latest evidence provided by the Council sets out that it can currently demonstrate a 5 year housing land supply. This is disputed by the appellant, although it is not supported by robust evidence. Therefore, I am unable to reach a reliable conclusion on the Council's housing land supply position. However, even if I were to assume, for the purposes of this appeal, that the requisite housing land supply does not exist, the adverse impacts in this case would significantly and demonstrably outweigh the benefits associated with the delivery of one dwelling. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.
25. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

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INSPECTOR

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Appeal Decision

Site visit made on 16 October 2024

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/V2255/W/24/3337851

Land to the southeast of Beauvoir Drive and north of Newman Drive, Sittingbourne, Kent ME10 2TQ (Easting: 591278, Northing: 165814)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Birring against the decision of Swale Borough Council.
 - The application Ref is 23/502123/FULL.
 - The development proposed is the erection of a 3 two-storey dwellinghouses and subsequent landscaping, parking and garden space.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the area, having particular regard to the existing public open space; b) flood risk; and c) Habitats sites.

Reasons

Character and Appearance

3. The appeal site is an open area of grassed land which forms part of a wider area of open space situated between Beauvoir Drive and Newman Drive. As a whole, it clearly acts as a practical and visual buffer forming an important, established component to the wider setting of the houses in the area, and to the lake adjacent to Newman Drive.
4. Indeed, it was evident from my site visit that housing in the area has been positioned, as best as possible, so that it fronts onto areas of open space, such as the appeal site and the nearby lake, rather than turning its back on them. This is a distinctive element in the character and appearance of the area and contributes positively towards creating a sense of place.
5. With regard to the loss of the open space, the appellant draws my attention to the wording in the Local Plan as to how open space is defined. It seems to me that the wording on which the appellant relies is a reference to areas of water. Furthermore, I disagree that the use of the word 'and' means that there is a requirement for both sporting/recreational opportunities and visual amenity to have to apply to a site before it can be considered as open space of value to the public. To my mind, the appellant's approach leads to a narrow and unrealistic interpretation of the definition and is one with which I disagree.

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6. I see no reason why having undeveloped areas of green space adjacent to where people live cannot contribute to an overall sense of wellbeing, regardless of their use for other purposes. Being able to live and access an environment that has an element of tranquillity or openness such that it is a pleasant place to be, would clearly have benefits for many people. It seems to me that if such areas were not generally regarded as having beneficial effects on the living conditions of residents they would not be provided in and around housing estates such as this one.
7. In quantitative terms the amount of existing open space to be lost is small and other areas of open space would be retained. Nevertheless, the appeal site makes a practical, qualitative contribution to the environment in which it is located as well as to the living conditions of nearby residents. The retention of other areas of open space would not overcome this harm.
8. Notwithstanding the loss of the open space, the proposal would result in three houses positioned so that their rear elevations and gardens would face towards the adjacent open space. Their plots would extend noticeably into the open space and despite the nearby single storey garage, would very obviously appear as additional dwellings at odds with the established layout. They would be prominent features within the street scene that would appear out of keeping with the prevailing pattern and character of development.
9. The Council acknowledges that short terraces of houses are found locally and it has not objected to the design of the dwellings per se. Nonetheless, neither this, nor the provision of the suggested landscaping nor the topography of the adjacent land would overcome the very obvious harm that would arise.
10. I find that the proposal would result in the loss of beneficial public open space and would not integrate well into the receiving environment, thereby causing harm to the character and appearance of the area. This would be contrary to Policies ST1, CP4, CP5, DM14, and DM17 of the Swale Local Plan 2017 (SLP) which, amongst other things, seek to ensure that developments safeguard existing open space, reflect the positive characteristics of an area and strengthen local distinctiveness and a sense of place.

Flood Risk

11. For development proposals in areas known to be at risk from flooding, the National Planning Policy Framework (the Framework) requires the application of the sequential test. The aim of the test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Only if it is not possible for development to be located in lower flood risk areas should development be considered, subject to the exception test.
12. The submitted sequential test considered only sites that can accommodate between 2-4 units; factored into the assessment that it would not be viable for the applicant to purchase multiple smaller sites; and that it would not be viable for the applicant to develop a site for larger dwellings or more dwellings, thus, these sites would not be developable or deliverable in relation to this specific applicant and this case. Also excluded from the test were sites with extant planning permission that were for a single dwelling or 10 dwellings as they were not comparable with the proposal.

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13. In the Planning Policy Guidance (PPG), reasonably available sites are defined as those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. The PPG says that these could include a series of smaller sites and/or part of a larger site if these could accommodate the proposed development.
14. In this case, the proposed dwellings are individual dwellings. There is nothing to suggest that they could not in reality be delivered separately. On this basis, I therefore find that the appellant's approach of only searching for sites that could accommodate 2-4 dwellings, as opposed to delivering the proposal over three separate sites, potentially excludes sequentially better locations where the proposed development could be delivered. A series of separate small residential sites could still provide suitable alternative land for equivalent development at a lower risk of flooding.
15. Consideration of larger sites appears to have been discounted primarily on the basis that the appellant would only wish to purchase part of a larger site and thus it would not be financially viable to pursue this option. However, the PPG states that reasonably available sites could include part of a larger site if it would be capable of accommodating the proposed development, not whether an individual applicant has the finances to purchase the site.
16. Furthermore, discounting sites unaffordable to the appellant does not necessarily mean that these sites would be unavailable at a fair market price. Such sites could still have the effect of providing residential dwellings where there is a lower risk of flooding than the appeal site and therefore achieve the purpose of the sequential test.
17. The appellant's appeal submissions also refer to an alternative site with a lower risk of flooding which may be available, but this is yet to be ascertained. Therefore, given all of the above, the available evidence does not robustly demonstrate that there are no sequentially preferable sites available at a lower risk of flooding.
18. Therefore, I find that the proposed development would be contrary to Policy DM21 of the SLP insofar as it requires development to accord with the Framework and PPG and avoid areas that are at risk of flooding.

Habitats Sites

19. The appeal site falls within the zone of influence of the Swale Special Protection Area, the Medway Estuary and Marshes Special Protection Area and the Outer Thames Estuary Special Protection Area (SPAs). In brief, these sites are designated in order to safeguard habitats and the ecology they support. They can be disturbed by recreational activities arising from residents of new housing development within the zone of influence. Either on its own or in combination with other projects, the proposal could therefore have a significant effect upon these protected sites.
20. It appears that the impact on the SPAs could be monitored and managed to a satisfactory level through a tariff-based system that would fund mitigation measures. The appellant confirms that they are happy to pay the appropriate fee and will enter into the necessary legal agreement.

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21. However, as there is currently no planning obligation or other mechanism submitted to secure that contribution, I cannot be certain that the mitigation measures would be forthcoming or implemented in an effective and timely manner. Without the necessary evidence of mitigation at the decision stage, the Conservation of Habitats and Species Regulations 2017 prevents me from granting permission for the development.
22. I therefore find that the proposal would not accord with Policies ST1, DM14, and DM28 of the SLP, which seek to protect the natural environment and in particular that sites of international nature conservation importance must receive the highest levels of protection. Nor would it comply with the Framework which requires that significant harm to biodiversity is avoided.

Other Matters

23. It is suggested that planting and landscaping would provide a biodiversity net gain. Despite a lack of detail, even if I agreed and imposed appropriate conditions, the weight that I could attach to such benefits would be limited.
24. I was directed to an appeal decision for the development of a new bungalow on an area of open space elsewhere in the borough. Aside from having been presented with only limited information, the scale of development and so the considerations involved would not be comparable to the current appeal.
25. It is suggested that the remaining, undeveloped open space could be assigned to the Council. However, there is no legal agreement in place, and I cannot be sure that it would be fairly and reasonably related in scale and kind to the development. As such, it is not a matter which carries weight in my decision.
26. There were pre-application discussions and subsequent amendments to the scheme. However, the Council did not support the principle of the development and the amendments did not overcome this objection. Moreover, this does not affect my consideration of the planning merits of the case.

Conclusion

27. The site is located within the existing settlement and within walking distance of some limited facilities. Redeveloping sites in such locations accords with the general thrust of the Framework's objectives for boosting the supply of housing. More generally, the appellant raises concerns regarding the supply of housing in the borough. Whilst these are all matters which could weigh in favour of the scheme, the proposal would adversely affect the integrity of the SPAs, and this provides a clear reason for refusal. Therefore, the presumption in favour of sustainable development does not apply and the balancing exercise set out in Paragraph 11 d) ii) is not engaged.
28. I have found that the proposed development would conflict with the development plan taken as a whole. There are no material considerations that indicate that a decision should be made other than in accordance with the development plan. For this reason, and having regard to the other matters raised, I conclude that the appeal should be dismissed.

Stewart Glassar
INSPECTOR



Appeal Decision

Site visit made on 16 October 2024

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal Ref: APP/V2255/W/24/3344612

Fairmeadow, The Barn, Swanton Street, Bredgar, Kent ME9 8AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Edd Cheshire against the decision of Swale Borough Council.
 - The application Ref is 24/501118/FULL.
 - The development proposed is a change of use for existing annexe barn into residential dwelling including changes to fenestration.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have, like the Council, taken the site address from the initial planning application forms supplied by the appellant which contains reference to Fairmeadow. I have taken the address from the appellant's application forms. The description of development is taken from the Council's decision notice and appellant's appeal form as it more fully describes that for which permission is sought. I have omitted the reference to 'retrospective' as it is not an act of development.
3. The appellant draws my attention in their appeal submission to the property having been used as a dwelling for a number of years and relies heavily on this as a justification for allowing the appeal. The Council raises queries in respect of this issue. However, the appeal is not for a Lawful Development Certificate (LDC), which is the procedure used to help establish, on the balance of probability, when a development took place and thus how long a particular use may have subsisted at a building. Rather, this is an appeal against the refusal of an application for planning permission and therefore involves consideration of the planning merits of the proposal rather than an assessment of the length of time the use may have existed. My consideration of the issues in the current appeal does not prejudice the submission of a separate application for a LDC.
4. In November 2023, all designated Areas of Outstanding Natural Beauty became National Landscapes. However, the National Planning Policy Framework (the Framework) continues to refer to them as Areas of Outstanding Natural Beauty (AONBs). In this decision I have used the term AONB, consistent with the Framework. The legal designation and policy status of such areas is unaffected, whichever term is used.

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Main Issues

5. The main issues are a) whether the appeal site is an appropriate location for the proposed development having regard to policies for the distribution of housing and the effect on the character and appearance of the area including the setting of the Kent Downs Area of Outstanding Natural Beauty; and b) the living conditions of future occupiers.

Reasons

Location

6. The Council's spatial strategy seeks to focus development within the borough's main settlements, whilst allowing more limited growth in smaller rural centres and villages. This approach is designed, amongst other things, to ensure that development occurs close to existing services and facilities, which in turn reduces the need to travel and protects the open countryside from inappropriate sporadic development.
7. The appeal site falls within the Kent Downs Area of Outstanding Natural Beauty ('AONB'). Such areas are designated for their natural beauty and have the highest status of protection. Both national and local planning policies seek to limit development in AONBs to that which 'conserves and enhances the special qualities and distinctive character of the AONB'.
8. The appeal site comprises an existing timber clad barn like structure, located approximately 1.5km to the south-west of Bredgar. Although there is a dwelling immediately to the rear of the appeal building and there are others nearby, in planning policy terms the site is within the open countryside.
9. Swanston Street is not a particularly wide road and there is no dedicated footpath or street lighting to serve the appeal site. Thus, whilst it would be possible to cycle to Bredgar, or to Hollingbourne, it would not be a particularly attractive option for most people. The reality is that in most instances, and especially in winter months, after dusk or during inclement weather conditions, occupants would need the use of a private vehicle. Indeed, it would be highly likely that they would rely on it as the most convenient means of carrying out their day-to-day activities.
10. I therefore find that the proposal would not be close to services or facilities and would not offer sustainable transport options. The building would not be isolated within the terms of the Framework and so would not take advantage of any of the exceptions set out in paragraph 84. There are no other policies or exceptions that have been put forward in support of the appeal. This all counts against the proposal.
11. Despite there being other buildings in the vicinity, the area surrounding the site is generally rural in character. Given its size and position close to Swanston Street, the barn is visible from passing vehicles although it does not appear overly dominant or particularly out of keeping with the wider setting. Based on the appellant's submission, the building appears to have existed on the site for many years.
12. The proposal involves the addition of a new door on the northwestern, roadside, elevation. The door shown would give the building a more domestic

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appearance, but its final design could be made subject to a condition, to ensure that it better reflected the building's character.

13. The use of the barn as an independent dwelling, as opposed to say an annexe serving Victor House, could potentially lead to some intensification in use and domestication of the site, through additional comings and goings, domestic paraphernalia and cars parking in front of the barn.
14. However, the main garden serving the building is to the rear, away from Swanton Street, and so is likely to be more regularly and heavily used than the forecourt to the front of the building. The rear garden would also be adjacent to and seen within the context of the larger curtilage of Victor House, thereby dissipating much of its visual impact. Some additional cars parking in front of the building could arise but the area is currently laid out to enable car parking and so this could occur regardless of whether or not the appeal is allowed. An alternative front boundary treatment would potentially help soften any such visual impact and could be controlled through planning conditions.
15. On balance, I do not find the proposal harmful to the wider character and appearance of the area or the setting of the AONB. However, given the remoteness of the appeal site from services and facilities I conclude that it is not a suitable location for new housing and would undermine the provisions of the Council's spatial strategy.
16. It would therefore be contrary to the provisions of Policies ST1, ST3, CP2, CP3, and DM14 of the Swale Local Plan 2017 (SLP). These policies, when taken as a whole, seek to deliver sustainable development in appropriate places and to minimise the need to travel for employment and services, as well as to facilitate sustainable transport.

Living Conditions

17. Victor House lies some 18.7m metres to the rear of the appeal building. At the time of my site visit the replacement dwelling for Victor House appeared to have been largely completed but was unoccupied. At ground floor level it has a three-pane window and a glazed door with side window facing towards the appeal site. Despite the intervening area being occupied by parked cars and the appeal site being enclosed by a modest fence, some intervisibility between the properties was evident.
18. Within the roof of this replacement dwelling is a dormer with a three-pane window facing towards the appeal site. The view from the dormer would, given its height and position, have uninterrupted views into the garden and most of the windows serving the appeal building on its main, southeastern, elevation. It was flanked by two rooflights whose position and angle suggested direct views of the appeal site would be less likely, certainly when they were closed.
19. The dormer is said to serve a study. Whilst I accept that anyone using the room as a study, or even as a bedroom, would not spend all their time looking out of the window, it would nevertheless offer extensive views over and into the appeal site. It seems to me that occupants of the appeal site, either when in the building or when using the garden would be conscious of the neighbours in Victor House and would experience an unacceptable degree of overlooking and loss of privacy, both perceived and real.

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20. In some settings a degree of mutual overlooking might be expected and can often be a characteristic of a more urban setting. However, this is a rural area where such overlooking would be less anticipated or expected. Whilst a 2m high hedge might overcome some of the harm it would not reduce it to an acceptable level. I am also mindful that this would be a form of mitigation of harm rather than an enhancement of the landscape. The purpose of landscaping is to integrate a development into its surroundings, not to hide something which is otherwise unacceptable.
21. Consequently, I find the proposal to be harmful to the living conditions of future residents and so contrary to Policies DM14 and DM16 of the SLP which, amongst other things, seek to ensure developments protect and do not cause significant harm to amenity.

Other Matters

22. The appellant points to the support for the proposed development from the Parish Council. However, this in itself does not mean that the current scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issues of the case.
23. The proposal is said to not be a flood risk, would exceed the minimum space standards and would provide a well-designed garden and parking. However, these would generally represent compliance with development plan policies which would be an expectation rather than a benefit of the scheme. Furthermore, they do not signify that the proposal would be acceptable in terms of the harms I have identified.
24. The proposal is for a bungalow which are said to be in short supply nationally. It is also said to represent a lower cost, more affordable dwelling. However, I have no details or substantive information regarding such matters and so cannot be sure that they are benefits which can be weighed positively in favour of the proposal. Even if I were able to attribute them weight in my decision, they do not address or overcome the harms I have identified above.
25. Other approved developments in the vicinity of the appeal site have been identified. As such, I have had due regard to these as material considerations. However, in doing so, I do not have full details of these other schemes before me. Therefore, whilst I have taken the relevant points made into account, I have given only limited weight to these other schemes and decisions in my assessment of the appeal proposal. Notwithstanding this, and in any event, each proposal must be assessed and determined on its own individual merits and circumstances and I can confirm that this is the case with this appeal.

Conclusion

26. Whilst there may be some beneficial aspects of the scheme, considered overall the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar
INSPECTOR

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