

Agenda

Planning Committee Meeting

Date: Thursday, 6 March 2025

Time 7.00 pm

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

Membership:

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

Quorum = 6

Pages

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1. Emergency Evacuation Procedure

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- (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 6 February 2025 (Minute Nos. 629 – 640) as a correct record.

4. Declarations of Interest

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

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

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

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

Part B reports for the Planning Committee to decide

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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 5 March 2025.

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|----|---|-----------|
| 5. | 2.1 - 22/504598/FULL Land At Queenborough Road, Isle of Sheppey, Kent, ME12 3RJ | 9 - 64 |
| 6. | 2.2 - 23/505043/FULL Macknade Service Station, Canterbury Road, Faversham, Kent, ME13 8XA | 65 - 84 |
| 7. | 2.3 - 24/501929/REM Site A Land At Preston Fields Salters Lane Faversham Kent | 85 - 114 |
| 8. | 2.4 - 24/503858/FULL Oak Tree Cottage, South Street, Boughton Under Blean, Kent, ME13 9NR | 115 - 126 |

9. Part 5 applications

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Decisions by County Council and Secretary of State, reported for information.

Issued on Wednesday, 26 February 2025

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

6th March 2025

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 6th March 2025

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

PART 2

2.1	22/504598/FULL	SHEERNESS	Land at Queenborough Road
2.2	23/505043/FULL	FAVERSHAM	Macknade Service Station, Canterbury Rd
2.3	24/501929/REM	FAVERSHAM	Site A – Land at Preston Fields, Salters Lane
2.4	24/503858/FULL	BOUGHTON	Oak Tree Cottage, South Street

PART 5

5.1	22/50463/LAWPRO	MINSTER-ON-SEA	31 Brecon Chase. ME12 2HX
5.2	23/505840/FULL	HARTLIP	Digswell, Lower Hartlip Road

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PLANNING COMMITTEE – 6TH MARCH 2025**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 22/504598/FULL		
PROPOSAL Erection of Class E(a) retail store with associated parking, access, servicing and landscaping.		
SITE LOCATION Land At Queenborough Road, Isle of Sheppey, Kent, ME12 3RJ.		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions with further delegation to the Head of Planning) to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Large Major Retail Distribution/Serviceing		
REASON FOR REFERRAL TO COMMITTEE - Sheerness Town Council Objection		
WARD Queenborough and Halfway.	PARISH/TOWN COUNCIL Queenborough	APPLICANT Lidl Great Britain Ltd AGENT Carney Sweeney
DATE REGISTERED 14/10/2022	TARGET DATE 30/01/2023	CASE OFFICER Joanna Dymowska
BACKGROUND PAPERS AND INFORMATION: Documents referenced in the 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:-		

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RIKFCRTYI4800>

1. BACKGROUND

- 1.1 This application has been presented to Members on two previous occasions; first on the 17th of July 2023 and secondly on the 11th of January 2024, both at meetings of the Planning Committee. In both cases, the recommendation of the Officer was to grant planning permission subject to safeguarding conditions. Members resolved to grant planning permission subject to recommended conditions.
- 1.2 Following the issue of the decision notice, the Council received legal representations challenging the decision. The Council agreed to quash the permission (twice) on the ground that it had failed to properly apply the statutory test relating to the impact upon heritage assets and, more specifically, nearby listed buildings.
- 1.3 For completeness, Members are informed that challenges related to more than one ground, as set out below:-
- 1) The Council failed to apply the statutory test on the listed building nearby,
 - 2) The Council failed to take account of traffic counts,
 - 3) The Council took account of immaterial consideration relating to the 'non-existent fallback' position,
 - 4) The Council took into account immaterial considerations relating to biodiversity net gain,
 - 5) The Council misapplied the Habitats Regulations, and
 - 6) The Council stipulated unlawful planning conditions.
 - 7) The Council did not take account of the impacts if the Aldi store did not relocate from Sheerness Town Centre,
 - 8) The Council failed to have regard to Paragraph 122 of the NPPF relating to alternative use (now paragraph 127).
- 1.4 The High Court, by consent, quashed the most recent permission on 1st October 2024. Subsequently, the application is to be redetermined following thorough assessment.
- 1.5 This report and recommendation takes all material considerations into account and comprehensively reassess the application for planning permission, independently of the assessment set out in the previous reports.

SITE LOCATION AND DESCRIPTION

- 1.6 The application site measures 1.16 hectares and is comprised of undeveloped grassland. It is located between Queenborough Road and the A249, immediately to the west of the A2500 (Lower Road) roundabout and opposite Cowstead Cottages on Queenborough Road. The site is referred to in the planning history as Cowstead Corner. It is mainly flat and enclosed by a post-and-wire fence. Adjoining the site to the west is a recent development - a battery storage facility. To the north and east is the countryside and open landscape. Further beyond are the settlements of Minster (north-east) and, Eastchurch (east), Sheerness (north). To the south is Isle of Sheppey bridge and settlements of Iwade and Kemsley (although at a considerable distance from the application site).
- 1.7 The large Aldi Regional Distribution Centre is situated to the southwest of the application site and along the A249. Further to the west is Neats Court Retail Park.
- 1.8 The site is adjacent to, but falls outside of the Queenborough & Rushenden Regeneration Area. It is located within the eastern edge of the Sheerness built-up area and outside of the Important Countryside Gap. The site is currently allocated for a development for a hotel under policy A4 of the Swale Local Plan 2017. Neats Court, a Grade II Listed Building, together with the surrounding curtilage listed outbuildings, lie approximately 500m to the northwest of the site on Queenborough Road. Public Right of Way (PRoW ZS11) runs to the north of the site.

2. PLANNING HISTORY

Application site

- 2.1 **23/502916/ENVSCR**: Environmental Screening Opinion for 22/504598/FULL, where it was determined that EIA is not required.
- 2.2 **SW/09/0185**: Planning permission refused on 09.06.2009 for the use of trunk road service area, consisting of petrol filling station with petrol and heavy goods vehicle forecourts, carwash and single storey sales building, 44 bedroomed, two-storey hotel with restaurant. Car and heavy goods vehicle parking areas.

Neighbouring sites

- 2.3 **17/503032/FULL**: Planning permission granted on 30th October 2018 for the installation of an electricity battery storage facility within a new steel-framed portal building and ancillary infrastructure, including surface water attenuation. This permission has been implemented. It is noted that subsequently from grant

of permission for this site, there were other applications submitted (s.73 applications) that related to this permission.

- 2.4 **19/502969/FULL**: Planning permission granted on 22nd December 2023 for the erection of a new food store with associated parking, servicing, landscaping and new vehicular access (Aldi Store). This permission has been implemented and the store is now occupied and operational.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for a food store of 1,906 square meters comprising 1266 sqm sales area with a 423sqm warehouse (including freezers/chillers and storage) and 217sqm ancillary staff facilities including a bakery, entrance lobby and a disabled WC. The proposed store is to operate as 'LAD' - Limited Assortment Discounter shop, currently proposed for operation by Lidl.
- 3.2 The proposed building is roughly rectangular in shape and single-storey in nature. It would be of contemporary design and feature both curved and flat roof elements, measuring 8.8 meters in height at the highest curved point of the roof and 7 meters to the lower flat part to the rear (north). The materials proposed are a mixture of brickwork, glazing and timber-effect cladding. The building would be positioned close to the western boundary (near a battery storage building), whereas the parking court would be located at the eastern portion of the site. In the east and southern areas of the site, landscaped buffer areas are proposed to deliver biodiversity and ecological mitigation, as discussed later in the report.
- 3.3 A single vehicular access is proposed onto Queenborough Road, opposite Cowstead Cottages. The new junction will incorporate a new crossing with tactile paving and a small island at the vehicular access to ensure safe crossing point. The integral car park will include 119 parking spaces, 6 of which will be disabled spaces, 8 for parents with young children, 11 EV charging parking spaces, 7 motorcycle spaces, and 12 cycle stands. The delivery/service area is proposed to be at the rear (north) of the store elevation, facing the car park.
- 3.4 Off-site highway works are incorporated into the proposed development. These will include improvements to the footway along Queenborough Road, comprising the provision of a shared cycle/footway linking the existing footway near Cowstead Cottages up to the footway provided as part of Aldi planning permission, ref. **19/502969/FULL**. The off-site works proposed under current application will be secured by and delivered under an S.278 agreement, which includes a requirement for the detailed approval by the Highways Authority.

- 3.5 In terms of landscaping and boundary treatment, the application site would be surrounded by landscaped edges comprising tree planting, lawns, planting beds and hedges on the sides of the site facing Queenborough Road, B2231 and part of the site facing A249. Tree planting is also proposed within the car park. Hedging is also proposed to enclose the car park to the eastern edge and to the front of the store in the south. A public art feature is also proposed to the southern part of the site, adjacent to the A249 frontage, as indicated on the proposed site plan (ref. AD_110 rev. G) and would be secured by condition.
- 3.6 The proposed landscaping areas will be enclosed by a 1.1m high post and rail perimeter fence around the south-east boundaries of the site. This will enable the landscaped areas to be visible from the A249 and Lower Road. A 2m high 'paladin' metal fence borders the battery plant to the west, whereas a 3m high acoustic fence would be located to the northern boundary and screened by tall landscaping features.
- 3.7 The development will create 40 jobs, a mixture of full-time and part-time roles, equating to approximately 23 full-time equivalent jobs.

4. CONSULTATION

- 4.1 One round of consultation with neighbours has been undertaken in letters sent to neighbouring occupiers. Site notices were displayed twice at the site, and the application has been advertised twice in the local press in accordance with statutory requirements. The application was advertised as constituting a departure from the Local Plan.
- 4.2 Full details of all comments are available online. To date, 38 letters/online responses have been received. 29 support the application on the following grounds:-
- Retail shop with affordable prices will be an asset for residents,
 - More workplaces for the area,
 - Lidl on the Island will reduce trip generation to Sittingbourne,
 - Accessible location,
 - Competition will contribute to economic growth.
- 4.3 9 objections have been received, raising the following concerns: -

Comment	Reference in the report
Adverse traffic impact and road safety concerns	6.54 – 6.61
A2500 should be made a dual	6.57

carriageway	
Aesthetic/Visual Impact, as the design is boring	6.33
Pedestrian safety with limited footway in Queenborough Road	6.55
Traffic assessment, and collision data inadequate	6.56, 6.59
Non-car accessibility is poor and the current footways are insufficient	6.27
Retail impact on the town centre	6.23
Conflict with site allocation	6.29 – 6.30, 7.2 – 7.5
Harm to heritage asset – Neats Court	6.72 – 6.79
Disabled parking should be closer to the entrance	6.62
Transport Assessment does not mention National Highway or their policies	6.59 – 6.61

4.4 **Minster-on-Sea Parish Council** supports the proposal, acknowledges the benefits of the scheme, and supports the creation of jobs. The Parish Council comments that: -

- Keen to ensure that the proposal meets the strategy criteria laid down by the Local Plan policy and National Planning Policy relating to the location of retail and impact upon the viability of town centers (Sheerness) and the design and landscaping to create a gateway site.
- The site is subject to a Sequential Test.
- Off-site improvement works also provide a safe environment for pedestrians and cyclists from nearby housing in Queenborough Road, Rushenden, Thistle Hill/Barton Hill Drive. A footpath on the north side of Queenborough Road from Cowstead Cottages to Neats Court Cottages should be carried out under a S278 Agreement.

4.5 **Sheerness Town Council** have objected to the application on the following grounds:

Comment	Reference in the report
No benefit to the population with no proposed public transport	6.27, 7.2-7.4
Contrary to site allocation	6.29 – 6.30, 7.2 – 7.5
No provision for active travel from Sheerness or Rushenden	6.27, 7.3-7.4
No mitigation for social and economic impact on Sheerness	6.23
Traffic congestion and impact on highway safety	6.54 – 6.61
Sheerness will lose out on job opportunities and low paid worker options	7.4

4.6 **Queenborough Parish Council** have been formally consulted, but no reply has been received to date.

REPRESENTATIONS

4.7 **Heritage Advisors:** No objections on the basis that the proposal is considered to have no harmful impact on listed buildings.

4.8 **SBC Tree Officer (Landscaping):** No objections.

4.9 **SBC Climate Change Officer:** No objection subject to a condition to achieving BREEAM 'very good' accreditation.

4.10 **Air Quality Officer:** No objections raised, the documents demonstrate that the proposed development would mitigate its impact upon air quality. Mitigation should be secured through planning.

4.11 **Mid Kent Environmental Health:** No objection subject to conditions on land contamination, noise mitigation and construction method statement.

4.12 **KCC Ecology:** No objection subject to safeguarding condition requiring ecological mitigation strategy, details of lighting, landscape environment management plan detailing BNG, details of ecological enhancements.

- 4.13 **KCC SUDs:** No objection subject to conditions
- 4.14 **KCC Archaeology:** No objection subject to condition
- 4.15 **KCC Highways:** No objection raised, subject to safeguarding conditions requiring submission of Construction Management Plan, provision of car parking spaces, vehicle loading/unloading facilities, cycle parking, provision and retention of EV charging, provision of off-site improvements including footway/cycleway along Queenborough Road, as indicated on SCP/21-746/D05 in accordance with details submitted for approval in writing. Confirms that the Highways Authority is in agreement with the methodology and data gathering used within the Transport Assessment and considers that this is representative of the highway conditions and is suitable for the use in the assessment; the data provided is robust and appropriate.
- 4.16 **National Highways:** No objection subject to conditions
- 4.17 **Natural England:** No objection
- 4.18 **Environment Agency:** No comments to make.
- 4.19 **Lower Medway Internal Drainage Board:** No objection to principle of discharging of both surface water and treated foul water into the LMIDB drainage district and to consent these discharges subject to further detail including the location of the discharge point. The developer will need to make an application for land drainage consent to the Board after the detailed drainage design has been undertaken and there is a high degree of certainty that the scheme will remain unchanged.
- 4.20 **Kent Police (Design Advisor):** No objection.
- 4.21 **Southern Water:** No objection.

5. DEVELOPMENT PLAN POLICIES

National Planning Policy Framework (NPPF)

Development Plan: Bearing Fruits 2031: The Swale Borough 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);
- **A4** (Land At Cowstead Corner, Queensborough)
- **CP 1** (Building a strong, competitive economy);
- **CP 4** (Requiring good design);
- **CP 8** (Conserving and enhancing the historic environment);
- **DM 1** (Maintaining and enhancing the vitality and viability of town centres and other areas)
- **DM 2** (Proposals for main town centre uses);
- **DM 6** (Managing transport demand and impact);
- **DM 7** (Vehicle parking);
- **DM 14** (General development criteria);
- **DM 19** (Sustainable design and construction);
- **DM 21** (Water, flooding and drainage);
- **DM24** (landscape)
- **DM 28** (Biodiversity and geological conservation);
- **DM29** Woodlands, Trees and Hedges
- **DM 32** (Development involving listed buildings).
- **DM 34** (Scheduled ancient monuments and archaeological sites)

Supplementary Planning Guidance/Document:

- Swale Landscape Character and Biodiversity Appraisals SPD,
- Swale Parking Standards SPD,
- Developer Contribution SPD.
- Queenborough and Rushenden Regeneration Masterplan SPD

Other material considerations:

- Air Quality and Planning Technical Guidance
- National Planning Policy Guidance
- Swale Retail & Leisure Needs Assessment (2021) and Swale Retail & Leisure Needs Assessment 2023 Capacity Update
- Local Plan Panel March 2019 – adoption of 500sqm local impact assessment threshold for retail and leisure uses.

6. ASSESSMENT

6.1 This application is reported to the Committee due to Sheerness Parish Council's objection being contrary to the Officer's recommendation. Considering these comments and the proposal that has been submitted, the main considerations in the assessment of the application are:-

- **Principle**
- **Design**
- **Landscape**

- **Living conditions**
- **Highways**
- **Impact on heritage**
- **Archaeology**
- **Biodiversity**
- **Drainage and Flood Risk**
- **Sustainable Construction**
- **Air Quality**
- **Contamination**

Principle

- 6.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The site is the subject of a specific allocation policy in the Local Plan, namely policy A4. This is policy and its application is addressed further below.
- 6.3 The National Planning Policy Framework (NPPF) states that new applications should be considered in the context of the presumption of sustainable development. Section 7 of the NPPF seeks to ensure the vitality of town centres. Paragraphs 90-95 set out the requirements for both a sequential test and impact assessments where a main town centre use (such as food retail) would be located out of the centre and where the floorspace involved exceeds 2500 m². The Swale Borough Council adopted a material consideration for the local threshold of 500 sqm to be applied to planning applications on 20 March 2019, so this lower threshold is to be applied instead. Consequently, the Retail Impact Assessment is required for this application.
- 6.4 The NPPF confirms that permission should be refused where an application fails to satisfy the sequential test or would likely significantly adversely impact investment or vitality and viability in nearby town centers.
- 6.5 Paragraph 127 of the NPPF states that planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:
- a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

6.6 Policy ST3 of the Local Plan sets out the settlement strategy for the district, prioritising the use of previously developed land within defined built up area boundaries and on sites allocated by the Local Plan in accordance with the hierarchy set out. The policy goes on to identify that the main urban centre of Sittingbourne is the primary urban focus for growth. Criteria ST3(2) is considered to be of some relevance to the location of this site. ST3(2) provides as follows:

'The other borough urban centres of Faversham and Sheerness will provide the secondary urban focus for growth at a scale and form compatible to their historic and natural assets and where it can support their roles as local centres serving their hinterland. Additionally, at Sheerness, its role and functioning will be supported by the other urban local centres within the West Sheppey Triangle to meet the Island's development needs on previously developed sites or at existing committed locations and allocation well related to the urban framework and strategic transport network.'

6.7 The application site lies within the built-up area of Sheerness, as identified on the adopted Local Plan 2017 map. Policy ST3 (2) identifies the urban centres of Sheerness as a secondary urban focus for growth which accords with the considerations set out in that paragraph. As such, new development within the built up area of Sheerness of a scale and form which meets ST3(2) would accord with the settlement strategy set out in the Local Plan. However, as is plain from the first sentence of policy ST3, that policy and the strategy which is introduced is seeking to prioritise new development to previously developed land and to sites allocated by other policies of the Local Plan. The application site is not previously developed land and, although allocated for development (by policy A4), that allocation is not for retail development but for a hotel (as is addressed in detail below). As such, policy ST3 does not provide support for the proposals, albeit it is reasonable to have some regard to the fact that the application site is within the built up area of Sheerness and is thus within tier 2 of the hierarchy of settlements within ST3. As such the application site is in a general location where some new development is envisaged to take place in accordance with the settlement hierarchy and as provided by policy ST3.

6.8 As per the Local Plan Proposals Map and the masterplan contained within the Queenborough and Rushenden Masterplan SPD (2010), the site is situated outside but is immediately adjacent to the boundary of the designated

Queenborough and Rushenden Regeneration Area. The Queenborough and Rushenden Regeneration Area is designated through Local Plan policy Regen 2, which sets out a policy framework for regenerative development within that designated area, in particular new residential, employment and community uses. The Queenborough and Rushenden Masterplan SPD (2010) and accompanying Masterplan Addendum (2014) both pre-date the adoption of the Local Plan 2017, but nonetheless set out indicative parameters and aspirations for the masterplan area. Whilst the proposals are located outside of the designated Regeneration Area as shown in the proposals map, their immediate proximity to the area are such that the economic benefits arising from the proposals would be complementary to and supportive of the regeneration that policy Regen 2 of the Local Plan is actively seeking to deliver in the designated Area.

- 6.9 The policy A4 of the Local Plan 2017 is applicable to this application, as it allocates the land subject to this application as it follows:-

Planning permission will be granted for employment uses on sites north and south of the A249 at Cowstead Corner, as shown of the Proposals Map. The northern site [application site] is allocated for a hotel (use class C1), whilst the southern site is for use classes B1, B2 and B8. Development proposals will

1. North of the A249 [this application], satisfy the Council that the design and landscape framework for the site and buildings reflect their prominent gateway location and does not include facilities associated with roadside services;

2. South of the A24, secure vehicle access from the adjacent employment land and achieve significant landscaping reflecting the sit's prominent gateway location;
3. Undertake archaeological evaluation and mitigation of impacts prior to development of either site; and
4. Be complementary to the provisions of the Queenborough/Rushehnden Masterplan SPD.

- 6.10 Given that the proposal is for retail use, it is clear that the proposed use conflicts with the allocation A4 in that the application does not propose a hotel use. A hotel marketing assessment, which surveyed 27 hotel operators, has been submitted with the application. None of the major or minor hotel operators have expressed any interest in the site, as they require town centers or more affluent locations or did not see a demand for a hotel in this location. Certain of the operators who were approached did not respond to the Applicant's enquiries and so it can reasonably be accepted that these operators are not interested in bringing forward the site for hotel use.

- 6.11 Some concerns were raised during public consultation, suggesting the content of the Applicant's letter was insufficient. Whilst the lack of copies of correspondence from operators who were contacted is noted, the information provided, although concise, is generally consistent with the lack of any applications or expressions of interest coming forward to the local planning authority for the provision of the hotel in this location, either through pre-application, formal applications, or call for sites process, through emerging local plan preparation work.
- 6.12 In light of the information provided, together with the lack of any application coming forward or interest being expressed since the adoption of the Local Plan (which has now been in excess of seven years), Officers consider it reasonable to conclude that there is no reasonable prospect of a hotel development coming forward on the application site. Officers consider that this significantly reduces the weight to be attached to the conflict with policy A4.
- 6.13 Turning to criteria 4 of policy A4, the proposed development, by virtue of its commercial nature and provision of services to a wider locality, can be considered to support broader objectives and a long-term vision for the area covered by the Queenborough/Rushenden Masterplan SPD in that it would contribute to providing services necessary for the creation of sustainable communities. Criteria 3 of policy A4 is complied with and further assessed in the archaeology section of this report.
- 6.14 At the next round of local plan making, the allocation for the site will need to be reconsidered and revised, as advised by NPPF para.127(a). In respect of para.127(b), for reasons set out in the report, the proposal is for a new retail store rather than housing or other development for which there is a demonstrable unmet need. As such, the proposal is not fully aligned with or in conformity with the approach set out in NPPF para.127(b). The proposal will nonetheless bring forward several benefits which, together with the lack of prospect of delivery of a hotel, are matters which weigh in favour of the grant of planning permission. The conflict with NPPG 129(b) is considered against the benefits that the proposal delivers within the overall planning balance later in this report.

Retail Impact and Sequential Test

- 6.15 The NPPF and policy ST1 of the Local Plan 2017 seek in effect to protect the vitality and viability of existing centres. In terms of the process for assessing this, proposals for main town centre uses should first follow a sequential test to assess potential town centre or edge-of-centre sites. As explained in policy DM2, part 4 of the Swale Local Plan 2017, where it is demonstrated that there are no suitable sites available at the sequentially preferable locations referred

to above, proposals elsewhere within built-up areas would be permitted if:-

- It is demonstrated by an impact assessment (when the proposal is above the defined floorspace threshold in NPPF) that it would not, individually or cumulatively, undermine the vitality and viability of existing town centres or other local centres and facilities and services of other locations;
- It does not materially prejudice the provision of other land uses, particularly the supply for land for 'B' uses, housing, community use and open space;
- It is well located in relation to the main road network and easily accessible by public transport, pedestrians and cyclists;

6.16 The NPPF, at paragraph 94, sets out that the Retail Impact Assessment to be 2,500 sqm, if there is no local threshold set. The assessment should include an assessment of:

- The impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres within the catchment area of the proposal; and
- The impact on town centre vitality and viability, including local consumer choice and trade in the centre and wider area.

6.17 Policy DM2 requires a retail impact assessment for proposals elsewhere outside of the defined town centres, in accordance with the nationally set thresholds. Whilst there is not a local planning policy requiring a lower threshold, the Local Plan Panel adopted, as a material consideration, a local threshold of 500 square metres for retail/leisure floorspace proposals outside of designated centres in March 2019. Taking this material consideration into account, despite the scheme being below the 2,500 sqm threshold as required in the currently adopted local plan policy DM2, a RIA has been submitted in support of the scheme.

6.18 The application proposes retail use outside of the designated Town Centre boundaries and is not on the edge of the town centre and it is not allocated for retail use (as set out above, the site is allocated for hotel use through policy A4 of the Swale Local Plan 2017). The supporting text of the Local Plan, at paragraph 6.2.4 recognises that recent development has seen the emergence of a retail centre that complements Sheerness Town Centre at Neats Court Retail Park, located in close proximity and to the east of the application site, but acknowledges that any further proposals for retail uses should not undermine the role and retail functioning of the town and other local centres or the role of this site in meeting the Island's (and Swale's) industrial floorspace

needs for the plan period. The proposed development would appear as an extension to that commercial park. Notwithstanding, it is important and necessary to ensure that future retail proposals do not undermine the role and retail function of Sheerness Town Centre and other local centres. This is an important factor in the consideration of this application, and the impact on the vibrancy and vitality of the Sheerness Town Centre and other local centres needs to be thoroughly assessed. Therefore, notwithstanding the emergence of the Neats Court Retail Park nearby, the requirements of policy DM2 and of the NPPF concerning new retail development must be considered and applied to the current proposal.

6.19 A 'Planning and Retail Statement' (the Retail Impact Assessment - RIA) was submitted in support of the proposal, which includes the following: -

- Sequential Test
- Retail Impact Assessment reviewing the impact on Sheerness Town Centre, Neats Court Retail Park and wider catchment areas of Minster-on-Sea, Sittingbourne Town Centre, Halfway House and Iwade Local Centres.

6.20 Independent retail consultants Lambert Smith Hampton were engaged to review the submitted assessments and advise the Council on the validity and robustness of the findings. This independent review is available online and concludes that the site search parameters were in line with the NPPF and Policy DM2. It is noted that the RIA report and update letter considered two scenarios, one with Aldi store trading from town centre and a second scenario with the Aldi relocating to Queenborough Road and Home Bargains occupying the existing town centre unit.

6.21 Since the time of the assessment, the Aldi shop has already relocated and opened its new premises. Furthermore, a Town Centre former Aldi shop has now been fully occupied by Home Bargains and opened for trading. As stated above, this scenario has been considered as part of the Retail Impact Assessment submitted and as such, despite passage of time, Officers are of the view that the conclusion of the retail assessment and its independent review remain up-to-date and valid. The conclusions of the assessment can be summarised as follows:-

- The proposed development passes the sequential test, in line with the NPPF and Policy DM2 of the Local Plan.
- The level of impact upon existing, committed and planning public/private investment is acceptable;

6.22 The applicant submitted a Sequential Test which has considered six alternative sites that were also considered as part of the assessment of the previous Aldi

permission, including the previously vacant Aldi site (that is now in operation as Home Bargains so is no longer available). The applicant's Sequential Test was appraised by independent retail consultants Lambert Smith Hampton who agree with the conclusions of the Sequential Test that none of the alternative sites are suitable and/or available. Officers concur with the view of the independent retail consultants and therefore conclude that the Sequential Test is passed.

- 6.23 Turning to the impact of the proposed development on town centre viability and vitality, including consumer choice and the wider retail catchment area, the submitted independent review of the Retail Impact Assessment concludes that the solus impact on convenience turnover for Sheppey's smaller centres and for Sittingbourne is within an acceptable range and is unlikely to lead to the closure of key foodstores and convenience stores in any of the assessed centres. Officers are satisfied that the impact assessment considered the range of impacts on any relevant local centres in a sufficiently comprehensive way.
- 6.24 Regarding the cumulative impact upon the vibrancy and vitality of town centres (arising from Lidl and Aldi together), the review concluded that the proposed Lidl store will add to the overall trade diversion from Sheerness (and other centres) that will be established from the Aldi scheme. The majority of the impact upon Sheerness Town Centre has resulted from an already consented retail scheme for the new Aldi store and any adverse impacts would be driven by the relocation of Aldi rather than the uplift in cumulative impact associated with the proposed additional retail unit.
- 6.25 An updated health check of Sheerness Town Centre confirms that the town is vital and viable. Both RIAs concluded that the town centre can absorb the impact associated with the Lidl store which will mainly draw trade from the relocated Aldi store, located also on Queenborough Road and outside of town centre. For cumulative impact arising from both stores, whilst there would be an impact upon the Sheerness Town Centre, the impact principally relates to the existing out-of-centre Aldi shop, rather than the significant uplift in cumulative impact and additional diversion of trade from Sheerness to the proposed site.
- 6.26 On the basis of the above and given that the main impact relates to the already consented Aldi out-of-centre retail store, the proposed development is considered to have an acceptable impact upon the vibrancy and vitality of the Sheerness Town Centre as well as that of other local centres and thus, would comply with the policy DM2 (4)(a) of the Local Plan and the NPPF. Officers are satisfied also that the proposed development would not undermine the vitality and vibrancy of facilities and services of other locations, in line with policy DM2 of the Swale Local Plan 2017.

- 6.27 Turning to the consideration of policy DM2(4)(b), the proposed development is not allocated for housing, employment, community use or open space nor has there been any interest in development of the site for such uses. Consequently, the proposed retail use would not prejudice the provision of other uses either on the site or indeed elsewhere. For completeness and as explained above, it is not considered that a hotel development on the site is likely to come forward for the reasons stated. The site is very well located to the main road network, at the junction within of a transport corridor. With the proposed off-site improvements, it would allow and encourage sustainable movement and will result in the proposals being easily accessible by those walking or cycling, thereby complying with that part of policy DM2(4)(c) which concerns pedestrian and cycle access. However, the site and therefore the proposals will not be easily accessible by public transport. As such, that part of policy DM2(4)(c) which provides that new retail development on sites such as the application site will only be permitted if the proposals is “easily accessible” by public transport, will not be met. In terms of public transport accessibility, the NPPF recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural locations, and this should be taken into account in the decision making process. The application site is not a rural location but is an out of town centre location on the very edge of the built-up area of Sheerness. As such, opportunities of public transport can be expected to be and will be limited. However, and be that as it may, it is the case that the proposals are not fully in accordance with DM2(4). This is considered further in the planning balance section below.
- 6.28 If the Council are minded to grant planning permission, the Independent Assessment strongly advises that appropriate planning conditions are put in place that restricts the occupation of the foodstore for a LAD (Limited Assortment Discounter), as this is basis of the appraisal of the retail planning merits of the proposal and a different form of retailing (including a different form of convenience retailing) may give rise to different impacts, not assessed in the retail assessment. The store size, including the split between convenience and comparison goods sales area proposed should also be secured by condition. The proposed conditions are necessary, enforceable and are considered to pass conditions tests and consequently have been included in the recommendation.
- 6.29 It is acknowledged that a retail store would be a departure from the Local Plan allocation policy A4 for the site as it does not propose a hotel use. As such, conflict with policy A4 is identified as well as with NPPF para.127(b), and it has to be considered whether there are other material planning considerations that would outweigh the conflict with these policies. However, as advised above, it is considered that there is currently no apparent or likely demand for hotel use

in this location and no application or enquiry has been put forward for such use since the adoption of the development plan. As such, the conflict with policy A4 should be given limited weight. Set against this, the proposed development would have positive economic and other impacts, in terms of job creation and expenditure, as it would provide 40 jobs at the store with associated additional employment generation. e.g., delivery drivers, cleaners, building and grounds maintenance, construction workers. The need for additional workplaces on the Island has been widely reported in the public consultation as well as in the aims and objectives of the Local Plan, for example, in policy ST6, which aims at bringing forward economic development on allocated sites as available on the Island. An assessment of overall compliance with the development plan and the application of the s.38(6) test is addressed below.

- 6.30 In conclusions, the submitted documents, concurred with by independent retail assessment, demonstrate that there are no other alternative sites that could accommodate the proposed development and the Sequential Test is therefore passed. Furthermore, following the independent assessment of the Planning and Retail Assessment, it has been successfully demonstrated that the introduction of retail use in this location will not unacceptably undermine the vitality and viability of the nearby town and local centres and will allow healthy competition between some retail providers. On this basis, the proposed development complies with policy DM2 of the Local Plan 2017. On the basis of the information available, it is accepted that the prospect of a hotel coming forward in the foreseeable future since the Local Plan allocation is unlikely, and there is no evidence to demonstrate to the contrary. Moreover, the proposed development would contribute in a positive way to creating sustainable communities and allowing retail provision within accessible distance to Minster-on-Sea and surrounding settlements. There are also additional benefits arising from the proposed development in the form of permanent employment opportunities and short-term construction employment, as discussed above. The economic benefits of the scheme are afforded significant weight and discussed further in the planning balance.

Design and Visual Impact

- 6.31 Policies CP4 and DM14 of the Local Plan require that development proposals should be of high-quality design, appropriate to their surroundings and to deliver safe, attractive places, promote / reinforce local distinctiveness, make safe connections, and provide a high standards of planting and trees.
- 6.32 The NPPF also states that the creation of high-quality, sustainable buildings and places is fundamental to what the planning and development process should achieve, as set out in chapter 12. Paragraph 135 sets out that planning decisions should ensure that developments will function well and add to the

overall quality of the area, are visually attractive, are sympathetic to local character and establish or maintain a strong sense of place.

- 6.33 The site is prominent from the surrounding roads and forms a 'gateway location' as set out in policy A4. Upon review of the originally submitted scheme, the proposal fell short of the overarching aims of policy CP4, A4 and the NPPF. Whilst the proposed architectural detailing incorporates typical branding designed required by a discount retailer requirements, the revised design incorporated some elements of high-quality development, such as a unique public art feature adjacent to the south elevation of the building and a generous landscaping scheme that adds to the quality of the area. During the lifetime of the application, a series of design discussions took place with the applicant to refine the proposal resulting in the introduction through amendment to the proposal of brick piers in a contrasting engineering brick to provide texture and profile to the elevations, larger window openings to the staff facilities facing the car park to the east, with additional planting within the car park and frontages and appropriate boundary treatment. The final design approach pursued, following amendments, is considered to represent high-quality design, compliant with local and national planning policies. The proposed development, its scale and layout is considered designed appropriately for its gateway location. Details of the public art feature and its installation is recommended to be dealt with by means of a planning condition.
- 6.34 It is also noted that several amendments have also been made to the landscaping proposals and the Swale Tree Officer and KCC Ecology concerns for native planting have been addressed satisfactorily. The planting in many parts of the site has been well considered and will provide benefits in respect of both visual amenity and biodiversity.
- 6.35 Overall, the design of the building in its final form is considered to achieve a sufficiently high standard that is compliant with the requirements of policies CP4 and DM14 and Chapter 12 of the NPPF.

Landscape Impact

- 6.36 Policy CP7 of the Local Plan states that the Council will work with partners and developers to ensure the protection, enhancement, and delivery, as appropriate, of the Swale natural assets and green infrastructure network. This includes strengthening green infrastructure and biodiversity.
- 6.37 Policy DM24 of the Local Plan states that the value, character, amenity, and tranquility of the Borough's landscapes will be protected, enhanced, and, where

appropriate, managed. The policy requires the scale, layout, build, and landscape design of development to be informed by landscape and visual impact assessments. Part B of this policy, applicable to proposals, states that non-designated landscapes will be protected and enhanced, and planning permission will be granted subject to:

1. The minimisation and mitigation of adverse landscape impacts,
2. When significant adverse impacts remain, the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

6.38 The application site is not located within or immediately adjacent to any designated landscape of national or local importance. It is, however, within a currently undeveloped plot of land on the edge of Queenborough and Minster-on-Sea and in majority forms part of the low-lying landscape character area 'LCA Central Sheppey Farmlands' on the western fringe, as defined within the Swale Landscape Character and Biodiversity Appraisal SPD (2011). Due to the proximity of the existing and proposed commercial development, it has a closer relationship with the character of the urban landscape. To the north, there is an Important Countryside Gap designation, but it is confirmed that the site is outside it and falls within the boundary of the built-up area.

6.39 The Swale Landscape Character and Biodiversity Appraisal states that the condition of the LCA is poor as the landscape has *"an exposed and denuded character, with fragmented shelterbelts and hedgerows scattered across the open arable fields."* It also states that the landscape character is moderately sensitive, though the rural character is *"affected by insensitive and very prominent development"*. It suggests that *"further limited development could be absorbed but should be well integrated and make a positive contribution to the coherence of the landscape"*.

6.40 In terms of the impact of the proposed development, the submitted LVIA assesses the landscape value of the site to be low to medium. It goes on to explain that its value mainly arises by providing a rural setting to the existing commercial development. Officers agree that the spacious and open qualities of the plot positively contribute to the rural setting of the surrounding area, but equally the site has character of the settlement fringe. For these reasons, the LVIA concludes that the landscape impacts would not be significant.

6.41 Officers agree with the above conclusions and it is considered that the proposed development would have a low impact on the local landscape character, given the commercial context of the surroundings. It is therefore considered that the proposal, which involves the development of a currently undeveloped site (albeit one which is allocated for development in the Local Plan), would be seen as an extension to development under construction and

would therefore have a neutral impact upon the landscape setting. The proposed layout, sensitive scale and footprint of the proposed building (in context of the size of the plot of land), is considered to be well thought-through and to reinforce the open qualities of the site and its open character, through retaining generous landscaping strips and locating buildings close to existing buildings. The proposed landscape strategy will ensure that it would be seen as in keeping with the area, thus not resulting in harm to the landscape, in line with policies CP4, DM24 and CP7 of the Local Plan 2017 and the National Planning Policy Framework.

Living conditions

- 6.42 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight.
- 6.43 The site sits opposite Cowstead Cottages, on the north side of Queenborough Road which are the nearest neighbours located approximately 25m from the site boundary (56m from the nearest point to the rear of the store). Given the sufficient separation, the proposal would not result in any harmful impact in relation to overshadowing, overbearing, overlooking, enclosing effects or loss of light/privacy. Loss of view is not a material planning consideration, and as identified above, these properties would continue to benefit from sufficient light and an unenclosed outlook.
- 6.44 Turning to other residential properties, it is noted that Neats Court is situated to the west, but given the substantial separation distance of approximately 500m, there would be no adverse impact on the living conditions of these properties.
- 6.45 Turning to the potential noise and disturbance impacts, the application is accompanied by a Noise Impact Assessment, which has been reviewed by the SBC Environmental Health Team. The submitted NIA assessed the impacts upon potential sensitive receptors, including residential properties to the north of the site at Cowstead Cottages. Given their distance to the plant area, the NIA recommendation is to incorporate a 3-meter-high wooden and acoustic fence along the northern boundary, that is formally part of the proposed development. With this mitigation, the noise impacts associated with the

proposed development would not be clearly distinguishable over the residual noise climate. Consequently, it is therefore considered that with mitigation measures, the proposed development would not result in any adverse noise levels and would comply with the noise levels as set out in British Standards. The proposed fence would be located behind a landscaping strip along the road edge to ensure its visual impact is softened so as to be acceptable. It's installation will be secured via condition.

- 6.46 The proposed opening hours are 07:00-22:00 Monday to Saturday and Bank Holidays and either 10:00-16:00 or 11:00-17:00 on Sundays). The proposed opening hours are considered reasonable, and the SBC Environmental Health Officer considers this acceptable when combined with the mitigation measures identified above.
- 6.47 Consequently, subject to conditions controlling construction hours, implementation of acoustic measures, control over the timing of deliveries, details of mechanical ventilation and a Delivery Management Plan, the proposed development is considered acceptable on noise grounds, and the existing dwellings would not be subject to any unacceptable harmful noise impacts arising from the proposal.
- 6.48 In view of the above, it is considered that the proposal, would not give rise to significant harm to living conditions of nearby dwellings and as such would accord with Policy DM14.and Chapter 12 of the NPPF.

Highways Impacts

- 6.49 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. The NPPF sets out that development proposals should identify and pursue opportunities to promote walking, cycling and public transport use. 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, following mitigation, would be severe, taking into account all reasonable future scenarios” .

- 6.50 Local Plan policies CP2 and DM6 promote sustainable transport through utilising good design principles. Policy DM6 sets out that proposals will need to mitigate harm where highway capacity is exceeded and/ or safety standards are compromised.

- 6.51 Policy DM6 of the Local Plan requires developments that generate significant traffic to include a Transport Assessment with any application. Where impacts from development on traffic generation would be more than the capacity of the highway network, improvements to the network as agreed by the Borough Council and Highway Authority will be expected. If cumulative impacts of development are severe, then the development will be refused.
- 6.52 Policy DM6 also requires developments to demonstrate that opportunities for sustainable transport modes have been taken up. Developments should include provision for cyclists and pedestrians and facilities for low-emission vehicles. The applicant has submitted a Transport Assessment with a Travel Plan and updated technical notes for additional clarification to both KCC and National Highways.
- 6.53 The application proposes new vehicular access (priority junction) to the site off Queenborough Road and to the west of Lower Road (A2500). The access point would be 13m wide to facilitate two lanes and a 2m pedestrian refuge centrally. In addition, the application demonstrates that sufficient visibility splays will be achieved. The submission has also been accompanied by the swept path analysis of a 16.5m long articulated lorry entering the servicing area from the access road, turning within the dedicated area, reversing into the service area and then exiting the site in a forward gear back onto the access road. Pedestrian links will also be provided within the site and from the site to the surrounding areas, to improve existing footway network and provide better connection. Both KCC Highways and National Highway are satisfied with the proposed access arrangement.
- 6.54 Due to the site's location, the proposal has the potential to impact both the local and strategic highway networks and this needs to be thoroughly examined. KCC Highways and National Highways (NH) have been consulted on this application.
- 6.55 In terms of the local road network, KCC Highways considers that the net effect of the development on the assessed junctions is marginal compared with background growth and committed development. KCC initially challenged the trip generation rates reported within the Transport Assessment, but this Assessment has been updated in the Highways Technical Note to reflect the criteria required by KCC Highways and subsequently considered robust and appropriate by KCC Highways. The Highways Authority has sought off-site improvements to extend the footway on Queenborough Road from Cowstead Cottages to Neats Court. Approximately 190m in length of new or improved footway on the north side of Queenborough Road is to be secured via a S.278 agreement and its implementation will be secured via planning condition. The

applicant has agreed to the off-site highway works and confirmed with KCC Highways that they will be delivered prior to the first use of the retail unit. This would address the concerns expressed by Minster-on-Sea Town Council as referred to above and accessibility concerns raised by Sheerness Town Council and during the public consultation process.

- 6.56 During the public consultation, officers' attention was drawn to conflicting traffic data between the surveys submitted in support of other planning applications in the area (Aldi store) and the details submitted currently, as well as lack of references to relevant planning policies. The Transport Assessment (TA) submitted with this application included traffic surveys in November 2021, which showed lower flows during all peaks in the post-pandemic era. The evidence shows that traffic flows are less in the post-pandemic era. The data collected for the same junctions for residential development applications submitted around February 2022 is almost identical to the traffic counts of 2021. KCC Highways have been requested to thoroughly consider the traffic count and whether the application is robustly identifying the likely impact arising from this development. KCC Highways is satisfied that the methodology and data gathering used within the submitted Transport Assessment are representative of the highway conditions and suitable for use in the assessment. Consequently, the submitted information is considered robust, reliable and appropriate.
- 6.57 It is noted that some of the representations received suggest the upgrade of A2500 to dual carriageway. Such a measure would go significantly beyond the scope of impacts generated by this specific development and was not identified as necessary, related in scale and kind to the development in question and was not required as part of consultation with KCC Highways and National Highways. As such, it would be unreasonable to require applicant to provide such mitigation.
- 6.58 KCC Highways have also confirmed that the additional information submitted by the applicant, including revised plans to demonstrate turning areas and the provision of 11 EV charging parking spaces, is satisfactory and would not adversely impact highway safety. No objection is raised to the proposal subject to the conditions requiring submission of Construction Management Plan, provision of car parking spaces, vehicle loading/unloading facilities, cycle parking, provision and retention of EV charging, provision of off-site improvements including footway/cycleway along Queenborough Road, as indicated on SCP/21-746/D05 in accordance with details submitted for approval in writing.
- 6.59 National Highway (NH) have also considered the transport and highway impact of the proposal on the strategic road network, in this case relating to the impact

upon A249. National Highways initially raised further questions relating to the traffic data, method of calculation of trip distribution, and the list of committed developments and provided critiquing commentary about methodology and trip generation rates. Whilst National Highways did express some underlying concerns, they have considered the scheme and decided to raise no objections on the basis of the evidence available. National Highways therefore concluded as per below:-

- *The A249/A2500 junctions are close to **but not quite yet** at a state of capacity where we could confidently recommend a refusal;*
- *The likely trip generation/distribution from the proposed Lidl is unlikely to tip the junction into definite overcapacity.*
- *These proposals of themselves do not warrant the need for a specific form of mitigation, subject to the successful implementation of a Travel Plan covering staff, visitors/customers and deliveries.*
- *Given the site's location adjacent to the SRN various other conditions are required to avoid the risk of unacceptable impacts on the safety, reliability and/or operational efficiency of the SRN [referenced below]"*

6.60 NH also reviewed the Travel Plan and acknowledged the target of a 10% modal shift from single occupancy private cars. The Travel Plan includes monitoring to be undertaken annually, together with setting targets and potential incentives, such as:-

- Welcome and information pack to staff,
- Provision of employment perks, such as access to promotional schemes allowing the purchase on tax-free bikes;
- Potential option to facilitate car-share scheme if targets set out in the Travel Plan are not met; identifying the needs for additional measures to be considered.
- Inclusion of commitment and confirmation to provide financial means to fund the implementation of the Travel Plan.

6.61 NH have also added an advisory note to the Council that all other applicants in the area that this is likely to be the last set of proposals capable of being accommodated ahead of improvements to the A249/A2500 junction(s) to be promoted via applications and/or the emerging Local Plan. NH confirm that they are "*content to recommend no objection subject to the imposition of the conditions on any consent granted.*" The suggested conditions would require the applicant to provide details of a scheme to safeguard and maintain the geotechnical stability of A249 during construction, construction management traffic plan, details of lighting and drainage details, and submission of an updated Travel Plan that includes monitoring, review and effective enforcement measures.

- 6.62 Turning to the parking provision within the site, the parking court is situated within the eastern part of the site. The total parking provision amounts to 119 spaces, including 8 dedicated parent and child spaces, with 6 DDA compliant spaces, 7 motorcycle spaces and 12 bike stands. Parking to be located along landscaped edge is notionally smaller, however given the low landscaping planted in this location, this arrangement has been accepted by KCC Highways. The total provision of parking spaces complies with parking standards in Swale for mixed convenience(food)/comparison (non-food) stores based on the proposed floor space split of 80%/20% of the internal sales area. 11 EV charging points are included, as requested by KCC Highways and SBC Climate Change Officer.
- 6.63 In view of the above, subject to conditions requiring access to be provided, retention of parking, manoeuvring space, travel plan implementation, highways improvements and construction management plan, the proposal is considered acceptable in terms of local and national highway network impacts to accord with Chapter 9 of the NPPF and Local Plan Policies CP2, DM6, DM7 and DM14.

Impact on Heritage Assets

- 6.64 Following a challenge, the Council agreed to quash the previous grant of planning permission on the basis that the former Officer Report did not include sufficiently clear advice and a complete reference to the requirements to discharge the statutory duty contained in S. 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Consequently, the application is back to the LPA for re-determination. As advised above, this report, including that part of the report which assesses impact on heritage assets, comprises a comprehensive reassessment of the proposals and is independent of the assessments in previous reports, which led to the decisions which have been quashed.

Policy background

- 6.65 Any planning application for development which affects a listed building must be assessed in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) states the following:-

“In considering whether to grant planning permission or permission in principle 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.”

6.66 The effect of this statutory duty is that great weight and importance should be attached to any harm to a listed building or its setting when considering an application for planning permission and carrying out any planning balance as part of that consideration.

6.67 Policy CP8 of the Swale Local Plan 2017 deals with conserving and enhancing the historic environment and states:

'To support the Borough's heritage assets, the Council will prepare a Heritage Strategy. The 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. Development proposals will, as appropriate:

1. Accord with national planning policy in respect of heritage matters, together with any heritage strategy adopted by the Council;
2. Sustain and enhance the significance of Swale's designated and non-designated heritage assets and their settings in a manner appropriate to their significance and, where appropriate, in accordance with Policies DM32-DM36;
3. Respond to the integrity, form and character of settlements and historic landscapes.

6.68 Policy DM32 of the Local Plan states that development proposals, including any change of use, affecting a listed building, and/or its setting, will be permitted provided that:

1. 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, paying special attention to the
 - a. design, including scale, materials, situation and detailing.
 - b. appropriateness of the proposed use of the building; and
 - c. desirability of removing unsightly or negative features or restoring or reinstating historic features.

6.69 The NPPF provides guidance on identifying impacts upon heritage assets and weighing them against public benefit. National policy on conserving and enhancing the historic environment is contained in chapter 16 of the NPPF and is to be interpreted and applied consistently with the statutory duties under the

Planning (Listed Building and Conservation Areas) Act 1990.

6.70 The most relevant paragraphs of the NPPF in relation to heritage assets are set out as follows;

212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

213. 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. Substantial harm to or loss of:-

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

214. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use.

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

216. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

6.71 The Planning Practice Guidance (“PPG”) provides further guidance on the degree of harm.

Assessment

6.72 The application site is situated approximately 500m from the Grade II Listed Neats Court Farmhouse (also known as Neat Court Manor), which is a two-storey dwelling of red brickwork (browns, reds and touches of cream polychromatic brickwork laid in Flemish bond) on an L-shape plan with a red tiled roof with shallow eaves, having two small rooftop chimneys positioned symmetrically to each gable end. The grade II listed farmhouse fronts Queenborough Road. The significance of the listed building is derived from its architectural and historic interest as an eighteenth-century farmhouse. The building has architectural interest in the classical composition of its façade, and in the features to its principal façade. The listed building also has historic interest in the age of its built fabric and its role as the centrepiece and focal point of a historic farm.

6.73 Within direct proximity and to the east of the listed building, there are other outbuildings, which were part of the farmstead complex. These create a series of courtyards. These buildings appear to be vacant today and no longer in agricultural use. The farm buildings are a mixture of single and two-storey structures constructed of yellow and buff-brown bricks, with occasional areas of waney edge timber cladding. The roofs of the buildings are a mixture of slate and corrugated steel. Windows no longer contain glass but are timber framed. Given their age and relationship to the listed building, the outbuildings within the Neats Court are considered to be curtilage-listed. The Heritage Statement provided in support of the application treats the farm buildings as being curtilage-listed, and this view is endorsed in the most recent set of comments from the Council’s independent Heritage Advisers. Officers concur with the view that outbuildings are curtilage listed, on the basis of the historic map records and all other available information. The farm buildings are redundant and in poor condition, and it is understood that the farmhouse no longer has an active functional link with the adjacent agricultural land. Areas surrounding Neats Court Farm, which forms part of its setting comprise the following:-

- Curtilage-listed buildings to the east with some irregular, small-scale residential development beyond;
- Fields to the north, north-west and north-east;
- An approved Aldi application to the south-west (400m from the heritage asset in question, which is closer than the distance from this application site

to the listed building);

- Employment development site (and battery storage units) to the south (between Queenborough Road and A249), providing large-scale employment units, together with the land subject to this application;
- Substantial in size Regional Distribution Building (Aldi) beyond A249;

6.74 As to the setting of the listed building and heritage assets, the farmstead is, to a degree, enclosed to the south by vegetation and fencing. While once in the past, it was surrounded entirely by farmland, this setting has been eroded and divided heavily in the 20th/21st-century due to the construction of highway infrastructure, including roundabouts, residential development and most recently, the substantial building of the Aldi Distribution Centre and employment development between Queensborough Road and A249. Notwithstanding, given the historical connection, the application site forms part of the setting of the listed building and associated curtilage buildings and so has the potential to impact upon the setting of listed building. This is because the historical map records available suggest that the site was once in the same ownership as the listed building and had a functional relation with Neats Court Farm. Therefore, it is important to assess the contribution of this application site to the setting and thereby to the significance of the heritage assets in question.

6.75 The application site is a piece of undeveloped land sandwiched between the existing road infrastructure (roundabout and A2500), battery storage unit and a considerable piece of land currently under construction for employment uses. The separation distance between the site and heritage assets is approximately 400 metres to outbuildings and 500m to farmhouse.

6.76 A detailed Heritage Statement has been submitted in support of the application, which concludes that *“due to the eroded contribution of the site to the significance of Neats Court, the much-altered setting of the listed buildings, and the scale and form of the proposals, the proposed development would have no impact on the significance of Grade II listed Neats Court. The proposals would, therefore, preserve the special architectural and historic interest of the listed and curtilage listed buildings.”*

6.77 It is considered by officers that the land to the south of the listed building, including the application site boundaries, has been altered in character following twentieth and twenty-first century development. While patches of green farmland remain, these sit between the busy routes of Queenborough Road and beyond the extensive road network of the A249. These green areas are also understood in the context of the twenty-first century development

beyond, including the Neats Court Retail Park and the large Aldi Warehouse. The open agricultural fields to the north of the listed building form part of the setting and contribution to its significance, since the historic and functional relationship between former farm and outbuildings and surrounding farm land can still generally be appreciated. The position of the application site is very different. Intervening development and land uses are such that it is considered that although the application site forms part of the setting of the listed asset, it makes no positive contribution to that setting or to the significance of the listed farmhouse and curtilage listed outbuildings. In addition, there is no intervisibility between the site and the listed building. Although the public footpath to the north of Queensborough Road offers some views of Neats Farmstead, including the site, the undeveloped nature of the site does not provide any meaningful legibility of the historic agrarian setting of the listed building, given the erosion that took place by existing development. Against that background, the scheme has been reviewed by the independent Heritage Advisors appointed by the Council to provide a thorough assessment of impacts. The Council's Heritage Advisers have agreed with the above conclusion from the Applicant's Heritage Statement and are of a view that the proposal would not result in any harm to the setting or thereby to the significance of listed building and its curtilage listed outbuildings. Officers agree with the Council's Heritage Advisers' conclusion as to absence of impact.

- 6.78 It is noted that public consultation responses were submitted to dispute the level of impact and form the view that the proposal would lead to harm to the setting of listed buildings and there was a level of confusion in previous reports. Officers thoroughly considered that submission and are satisfied that the proposed development would have no harmful impact on the setting or significance of the heritage assets in question, for the reasons set out above.
- 6.79 In considering the impact of the proposal, Officers have also necessarily paid regard to the statutory duty imposed by s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as referred to above. In this regard, as it has been established that the proposal would not harm the heritage assets, their setting or significance. The *South Lakeland District Council v Secretary of State for the Environment* case and the *Barnwell Manor* case (*East Northamptonshire DC v SSCLG*) establish that "preserving" in s.66 means "doing no harm". It is therefore concluded that the proposed development would preserve the setting of listed buildings and curtilage listed buildings.
- 6.80 In view of the above, the proposal is considered to comply with the requirements set out in policies CP7 and DM32 of the Local Plan and the NPPF.

Archaeology

- 6.81 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 6.82 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. Archaeological work is also required through policy A4 of the Local Plan 2017.
- 6.83 The site is located within an area of archaeological potential, as designated on the Proposals Map of Swale Local Plan 2017 and KCC Archaeology were consulted as part of the application process. KCC Archaeology have considered the proposal and commented as follows: -
- The application has not included a supporting assessment of the archaeological potential, but we have provided advice on adjacent sites for the development related to the Neats Court distribution centre, the Aldi development, and adjacent employment sites.
 - The site lies on the former shoreline of Sheppey on the edge of the former marshlands. These have been exploited since prehistoric times and excavations both for the construction of the Queenborough Bypass and the business and retail development at Neats Court to the south and southeast have identified a range of important archaeological remains of Bronze Age, Iron Age, Roman, Saxon and medieval date. These included a rare, submerged Bronze Age barrow with Iron Age burials inserted and clusters of Iron Age and Roman cremations on the former shorelines. The present site is close to the focus of the clusters of Iron Age and Roman cremations at Cowstead Corner.
 - A staged archaeological investigation programme is an appropriate mitigation that can be secured through an appropriately-worded condition. The archaeological programme should commence with a stage of trial trenching, which would inform subsequent stages of the mitigation programme.
- 6.84 KCC Archaeology recommend a similar condition to that on the approved Aldi development nearby for intrusive field investigation and evaluation. In view of the above assessments, Officers are satisfied that safeguarding conditions are necessary and will ensure that any impact is appropriately and timely mitigated. With safeguarding conditions, the scheme is considered acceptable in terms of archaeological impacts and is in accordance with policies CP8 and DM34 of

the Local Plan and Chapter 16 of the NPPF.

Biodiversity

- 6.85 Policies CP7 and DM28 of the Swale Local Plan 2017 relate to the protection of sites of international conservation importance, including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites. Policy DM28 requires developments to be accompanied by appropriate surveys and preserve, restore and re-create ecological habitats, landscaping features and aged/veteran trees and irreplaceable habitats.
- 6.86 The application site comprises undeveloped rough grassland, with ditches passing around the site outside the site perimeter boundary. The applicant's Preliminary Ecological Appraisal (PEA) demonstrates that there is some but limited protected species interest, as the site has some suitable habitat to support foraging/commuting bats, reptiles and breeding birds. Due to the small areas of habitat to be impacted, KCC Ecology and Natural England raised no objections and concurs with the findings of ecological appraisals, which recommend precautionary mitigation measures, including:-
- Removal of vegetation outside bird breeding season and if not possible, vegetation should be checked for the presence of nesting birds by an experienced ecologist,
 - Covering of excavations, foundations and service connections overnight to prevent small mammals from becoming trapped or using ramps to allow small mammals to escape;
- 6.87 Turning to the potential impacts upon reptiles, the site comprises a suitable habitat for reptiles, however given that it is surrounded by busy roads on three sides, the presence of reptiles is highly unlikely. The PEA recommend nonetheless implementation of sensitive habitat clearance to ensure no reptiles are harmed. KCC Ecology advice is that in advance of the precautionary mitigation being implemented suitable habitat to support and retain the reptile population, if found, must be established within the site (landscaped areas). This can be reasonably secured via safeguarding conditions requiring detailed ecological mitigation strategy to be submitted for approval.
- 6.88 A BNG assessment and accompanying metric have also been submitted to demonstrate an overall net gain of 10.93%, largely achieved through the scrub and wildflower grassland creation. Initially, KCC Ecology raised some questions over the above values; however, upon further clarification (and receipt of base condition assessments), KCC Ecology is satisfied that this is achievable, but further enhancements to the BNG score can be achieved by

replacing amenity grassland with neutral grassland within the site. This can be reasonably secured via condition. Whilst it is noted that the application is not subject to a national or local requirement to deliver minimum of 10% BNG, the submitted information demonstrates sufficiently that there would be no loss of biodiversity on-site and enhanced biodiversity will be provided as supported in policy DM28 of the Local Plan 2017. The PEA also recommends a Landscape and Ecological Management Plan to cover 25-30 years, as well as a recommended external low lighting to mitigate the impact on foraging bats. Both measures can reasonably be secured via conditions.

- 6.89 It is also noted that due to the age of the Preliminary Ecological Report, a Walkover Survey (by RPS) has been carried out in 2024, which confirmed that the conclusions of PEA continue to be valid and robust, and this has been accepted upon by KCC Ecology.
- 6.90 KCC also requested a sensitive lighting design and, importantly, ensure that the development is not illuminated throughout the entire night. Lighting details will be secured by condition as above.
- 6.91 Subject to the safeguarding conditions above and the requirement of implementation of ecological enhancement features, the proposed development is considered to have an acceptable impact on ecology and would not result in any adverse loss of biodiversity or harm to protected species.
- 6.92 It is also noted that the Arboricultural Survey established that the site has a single group of Elder and Elm in the site's north-western corner. This group lacks any arboreal value and was largely declining in health terms. For arboricultural reasons, the group provides no long-term value and was recommended for removal and new planting. Consequently, it is concluded that the proposed scheme has no unacceptable arboricultural impacts and that the development and its proposed landscape scheme offer an opportunity to enhance the tree and woody shrub cover experienced locally.

Appropriate Assessment

- 6.93 The application site is located within the 6km buffer of the Swale Special Protection Area, which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention. In considering the European site interest and likely potential significant effect, the Council has had regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment (HRA).

- 6.94 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, as far as these would be significant having regard to the objectives of this Article.
- 6.95 Residential development within 6km of any access point to the SPAs has the potential to negatively impact that protected area by virtue of increased public access and degradation of special features therein from recreational use. The proposal is for a retail store and would not generate new recreational pressure within the Designations, and it does not have the potential to affect SPA and Ramsar's features of interest. Natural England, in its response of 3rd July 2023, confirmed that it considers that the proposed development will not have significant any likely significant effect on any European or other statutorily protected nature conservation sites or landscapes. NE recommends the decision to rule out likely significant effects be recorded in the decision taken on the application.
- 6.96 Given the nature of the proposed development for a retail store, which is absent of recreational pressures, and absent any other identified basis for impact, Officers are satisfied that likely significant effects on European sites can be ruled out. The site is not functionally linked habitat and this has not be of a concern to NE or KCC Ecology. As such, no Appropriate Assessment is required. Furthermore, NE have confirmed that the proposed development will not likely have significant effects on other statutorily protected sites and has no objection to it.
- 6.97 In view of the above, the proposed development would have an acceptable impact on biodiversity, ecology, and protected species and would not result in any potentially significant effects upon protected designations, and so it accords with policies CP7 and DM28, DM29, chapter 15 of NPPF and Habitats Regulations (as amended).

Drainage and Flood Risk

- 6.98 Local Plan as Policy DM21 sets out a raft of criteria aimed at preventing or reducing flood risk. The revised NPPF at Chapter 14 sets out government views on how the planning system should consider the risks caused by flooding. The planning practice guidance under the chapter titled 'flood risk and climate change' gives detailed advice on how planning can take account of the risks

associated with flooding in the application process.

- 6.99 At paragraph 173, NPPF sets out a sequential risk-based approach to individual applications in areas known to be at risk now or in future from any form of flooding, by aiming to steer development to areas with the lowest risk of flooding from any source (paragraph 174). Paragraph 175 of the NPPF clarifies that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a sitespecific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land rising or other potentially vulnerable elements, would be located on an area covered by that risk of flooding from any source. The NPPG further clarifies that Sequential Test should not be applied in areas at low risk of flooding from any source.
- 6.100 Local Plan Policy CP7 requires new development to be supported by the timely delivery of green infrastructure, including SuDS.
- 6.101 The site is located in a low-risk Flood Zone 1. The EA Flood Maps indicate the presence of a low risk of flooding from surface water to the south-east and north/northeast of the site. A Flood Risk Assessment and Drainage Strategy supports the application. The Environment Agency confirmed they have no comments to make on the proposal.
- 6.102 First, the risk of surface water flooding is low, as demonstrated in FRA, EA maps and Swale Planning Map. The area within the application site boundaries that is at low risk of surface water flooding is isolated and situated near the site boundaries. There is a low risk of surface water flooding within the northwest part of the site, where it would minimally encroach onto the substation/fence and hardstanding area. Given the risk of flooding is low, in line with the guidance contained in NPPG, Officers are satisfied that the Sequential Test is not required.
- 6.103 The proposal is to dispose of the surface water through attenuation and to a ditch at a slowed rate of discharge at 2.5l/s. The outfall pipe is proposed to run continuously in the A249 highway verge (HE/National Highways) and discharge directly into the LMIDB ditch. In terms of the proposed discharge of foul water, the proposal is to manage it through an on-site treatment plant located to the southwest of the site. The treated, cleaned foul effluent will be joined to the surface water run-off and become a combined sewer. It is noted that the construction of drainage infrastructure running along a public highway would be managed through a process separate from planning (Section 50 Licence). However, National Highways was consulted and raised no objection to this aspect of the scheme, subject to safeguarding conditions. KCC SuDs accepted the proposed drainage strategy as suitable, drawing the Applicant's

attention to the need for consent from the Lower Medway Internal Drainage Board. LMIDB has agreed in principle to the discharge of both surface water and treated foul water into the LMIDB drainage district and to consent to these discharges, subject to further details secured via safeguarding conditions. The consent process for LMIBD is a separate from planning process. Southern Water have also not raised an objection to the proposed drainage strategy on this site.

6.104 Subject to safeguarding conditions requiring a detailed design of the drainage scheme, the proposal will ensure that the scheme meets the requirements of Policies DM21 and CP7 of the Local Plan and would not result in off site or on-site risk of flooding. On this basis, drainage is considered to be satisfactorily addressed

Sustainable design and construction

6.105 Policy DM19 of the Swale Local Plan 2017, requires development proposals to include measures to address climate change, and it sets out that *“All new non-residential developments over 1,000 sq m gross floor area should aim to achieve the BREEAM “Very Good” standard or equivalent as a minimum”*. Additionally, in 2020 the Council adopted a Climate and Ecological Emergency Action Plan, which encourages development to reduce carbon emissions by 50% compared to the Building Regulations Part L1 2013.

6.106 The application is accompanied by BREEAM Pre-Assessment Report and Energy Strategy that demonstrates that energy efficiency and reduction in CO₂ over Building Regulations will be achieved, resulting in a minimum total savings of 133%. This will be achieved through the following measures:-

- Building fabric performance (passive design), it's air permeability, ventilation, heating,
- Use of energy-efficient lighting,
- Use of re-usable energy and efficient refrigeration,
- Installation of solar panels on the roof, consisting of 303 panels,
- Installation of heat pumps for both heating and cooling

6.107 The above sustainability measures are projected to provide 177% on-site renewable energy and 133% CO₂ emissions reduction. The Council's Climate Change Officer supports the sustainability/renewable energy strategy, subject to a condition on BREEAM 'very good' rating compliance.

6.108 Policy DM21 requires developments to reduce water usage. The target for housing developments is a maximum of 110 l/per person daily. Officers note that this target does not apply to commercial development. Nonetheless, the proposed development aims at reducing water consumption by a minimum of 12.5%, an improvement over the baseline water consumption, which is sufficient to meet 'very good' BREAAAM Standards. Consequently, this element of the proposal is considered to comply with local plan policies.

6.109 In view of the above, subject to safeguarding conditions requiring implementation of the above, the application is compliant with policies DM19 and DM21 of the Swale Local Plan 2017 and the NPPF.

Air Quality

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

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

6.112 The Air Quality and Planning Technical Guidance 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.....". The Guidance goes on to require Emission Mitigation Assessment (damage cost calculation) from all major developments and Air Quality Assessment for proposals generating more than (as applicable to proposals):-

- Generates more than 500 Light Duty Vehicles AADT elsewhere than adjacent to an AQMA,
- Generates more than 100 Heavy Duty Vehicles AADT elsewhere than adjacent to an AQMA,

6.113 The Local Plan at Policy DM6 sets out that development proposals will integrate air quality management and environmental quality into the location, design, and access to development and demonstrate that proposals do not worsen air quality to an unacceptable degree.

6.114 The proposed development is a major development located outside of any AQMA. Notwithstanding, given the updated guidance and the volume of daily traffic, the Air Quality Assessment has been submitted in support of the proposal. Initially, the submitted assessment relied upon the rural location of the site to calculate the damage costs, to which Air Quality Officer recommended that given the scale and location of the development, central damage cost should be applied. Upon receipt of additional information, it was demonstrated that even with applying the worst-case scenario (central damage cost) and excluding air quality measures required by other policies, the proposed mitigation that is embedded within the scheme would exceed the low and central damage costs. For these reasons, the proposed development is considered to sufficiently mitigate its pressure on air quality and the implementation of the mitigation measures referred to in an Air Quality Assessment will be secured via safeguarding conditions. SBC Environmental Health Team concurs with this conclusion and raises no further objections to the proposed development.

6.115 It is noted that the SBC Environmental Health Team initially recommended a safeguarding condition requiring details of measures for offsetting damage cost for an amount no less than £35,721,83. The updated Emission Mitigation Statement demonstrates the details of the measures proposed and demonstrates that the central damage cost would be spent in full. Consequently, only implementation condition is considered necessary, and the EH Team raised no objection to this approach.

6.116 Subject to safeguarding conditions, the proposed development is considered acceptable and would not worsen the air quality, which is in line with requirements of policy DM6 of the Swale Local Plan 2017 and NPPF.

Contamination

6.117 The NPPF states (at paragraph 196) that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.

6.118 The application has been submitted with a Land Contamination Assessment. This has made recommendations for further investigation, including soil, groundwater samples and ground gas monitoring. The Environmental Team at

SBC recommended that a contamination condition be imposed in any consent to ensure that further investigations are completed and any contamination encountered adequately addressed to prevent impact on the health or safety of visitors and employees. Subject to safeguarding conditions, the matter of contamination is considered to be adequately addressed.

7. PLANNING BALANCE AND CONCLUSION

- 7.1 In conclusion, the above assessment demonstrates that the proposed development would comply with many policies contained in majority of the Swale Local Plan 2017. The setting of Neats Court Grade II Listed Building and associated curtilage listed outbuildings would be preserved and its significance as a heritage asset will not be harmed. The impact of the proposal on heritage assets, including archaeological impact, and visual and landscape impacts, are considered acceptable, subject to the imposition of conditions, where necessary. There is no unacceptable harm to highway safety or highway operations or to the living conditions of nearby residents. The proposal satisfactorily addresses drainage, energy, and ecological interests and impacts. Consequently, the proposed development would comply with local and national planning policies with respect to these matters.
- 7.2 However, the proposed development would result in a conflict with Local Plan policy allocation A4, in that it proposes a retail unit within the land that has been identified in the site specific policy for a hotel use. However, it is not considered likely that hotel development as sought by policy A4 is likely to come forward on the site and, as such, that conflict is not one to which substantial weight is attached. The proposals will also give rise to a partial conflict with policy DM2(4) in that the site and the proposals will not be easily accessible by public transport; the remaining parts of DM2(4), including the sequential and impact tests, are met. In view of there being a conflict with the Local Plan's specific policy for the site and partial conflict with policy DM2(4), the proposed development is considered to conflict with the Swale Local Plan 2017, taken as a whole. As such, since a conflict with the development plan as a whole is considered to arise, in the application of the relevant statutory test, planning permission should be refused unless material considerations indicate otherwise.
- 7.3 In terms of material considerations, and as a result of the conflict with Local Plan site allocation policy A4, a consequential conflict with NPPF para.127(b) arises. Although the proposal does pursue, indeed enhance, opportunities to promote walking and cycling, the proposed development will not be easily accessible by public transport and, as such, some conflict will arise will NPPF

para.109(d) and the general objective in national policy to promote and encourage public transport usage. However, given that the site is outside Sheerness at the outer edge of the built-up area, opportunities for public transport use can be expected to be relatively limited and the conflict with para.109(d) is considered in that context. These conflicts with the NPPF are taken into account as weighing against the proposals as part of the planning balance.

- 7.4 As against that, no unacceptable harm in respect of the impact of the development on the vitality and viability of Sheerness Town Centre or other local centres or locations is identified and the sequential test is passed (albeit, as recognised above, one element of the local plan retail policy DM2(4), concerning accessibility by public transport, is not met). The proposed development would result in planning benefits arising importantly from economic activities and job creation as well as through ecological enhancements. The proposals would provide increased retail choice for consumers. The proposed development will deliver a development of high-quality design that reduces its carbon footprint. Additionally, there would also be off-site improvements for active travel with a footway/cycleway extension along the north side of Queenborough Road to Neats Court, thus improving sustainable movement generally within the locality. These benefits, as a whole, are afforded substantial weight.
- 7.5 In terms of the overall planning balance, the proposed development will generate substantial benefits which, as material considerations, are such as to outweigh the conflict with site-specific policy A4 and the partial conflict with policy DM4(2) of the Swale Local Plan 2017 and the resultant conflict with the development plan as a whole, as well as with the conflict with NPPF, as set out above. The presumption against the grant of planning permission is rebutted. In consequence, the Officer's recommendation is to grant planning permission, subject to safeguarding conditions set out below.

8 RECOMMENDATION

- 8.1 Delegate to the Head of Planning to **grant planning permission** subject to the conditions set out below, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary and appropriate.

DRAFT CONDITIONS

Compliance condition

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings:
 - AD100,
 - AD110 rev G,
 - AD111 rev B,
 - AD112 rev A,
 - AD113 rev H,
 - AD114 rev H,
 - AD115 rev E,
 - AD118 rev G,
 - AD119 rev A,
 - 600 rev C,
 - 601 rev C,
 - 9003-P06 and 9004-P06.

Reason: For clarity and in the interests of proper planning.

Design detail

- (3) Prior to the commencement of above ground-levels work within the development hereby approved, the following stated junction details between the key architectural elements of the building shall first have been submitted to and approved in writing by the Local Planning Authority:
 - (i) 1:5 vertical section showing the roof/wall junction detailing;
 - (ii) 1:5 vertical section showing cladding/brickwork junction detailing;
and
 - (iii) 1:5 vertical section showing external reveals to glazed areas and the associated glazing and brickwork or cladding junction detailing

The approved details shall be implemented in strict accordance with the details approved in relation to this planning condition, and thereafter and maintained as such in perpetuity.

Reason: In the interest of visual amenity.

Sustainability

- (4) The building hereby approved shall be constructed to achieve a minimum of BREEAM 'Very Good' rating. Within 6 months of the store first opening to the public, written documentary evidence proving that the development has achieved a minimum 'Very Good' rating against the BREEAM Standard in the form of a post-construction assessment and certificate as issued by a legitimate BREEAM certification body, shall be submitted to and approved in writing by the Local Planning Authority. The measures implemented shall be maintained and retained thereafter.

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

Transport

- (5) No works shall commence on the site hereby permitted (including site clearance or preparation) until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period for the development hereby approved and shall include:
- (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Measures to prevent the transfer of mud onto the public highway including the provision of wheel washing facilities
 - (e) Temporary traffic management / signage

Thereafter the construction of the development shall proceed in strict accordance with the approved Construction Traffic Management Plan unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the A249 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 paragraph 111 of the National Planning Policy Framework (2021).

- (6) No works shall commence on the site hereby permitted (including site clearance or preparation) until the details of a scheme to safeguard and maintain the geotechnical stability of, and safety of the travelling public on, the A249 during construction, occupation and maintenance of the site have been submitted to and approved in writing by the Local Planning Authority.

Thereafter the construction, occupation and maintenance of the development shall be in strict accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the A249 continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety and paragraph 111 of the National Planning Policy Framework (2021).

- (7) No occupation of the site hereby permitted shall occur until the details of the scheme of external lighting (covering all land and works capable of being seen from the A249) have been submitted to and approved in writing by the Local Planning Authority.

The lighting scheme shall be designed to follow best practice guidance within Bat Conservation Trust/Institute of Lighting Professionals 'Guidance Note 08/23 Bats and Artificial Lighting at Night'. The lighting scheme details shall comprise:

- Lighting spill plan and details of where lighting is located,
- Details of how the lighting spill can be reasonably minimised,
- Operational hours of the proposed lighting.

Thereafter the construction, occupation and maintenance of the development shall be in strict accordance with the approved scheme unless otherwise agreed in writing by the local planning authority (who shall consult National Highways).

Reason: To ensure that the A249 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 paragraph 111 of the National Planning Policy Framework (2021) and in the interest of ecology.

- (8) The site preparation, construction, use and/or maintenance of the development hereby permitted shall be managed in order to ensure that no surface water runs off on to the highway or into any drainage system connected to the Strategic Road Network. No drainage connections from

the development hereby permitted shall be made to any Strategic Road Network drainage systems.

Reason: To ensure that the A249 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 and to prevent environmental damage and paragraph 111 of the National Planning Policy Framework (2021)

- (9) No part of the development hereby permitted shall be occupied until a detailed Travel Plan, has been submitted to and approved in writing by the Local Planning Authority and implemented.

The Travel Plan shall include such details as required by DfT Circular 01/2022, particularly paragraph 44. The Travel Plan shall also include details regarding responsibilities and arrangements for long-term monitoring, review, amendment and effective enforcement in perpetuity.

Reason: To minimise traffic generated by the development and to ensure that the A249 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.

- (10) Prior to the first occupation of the retail unit hereby approved, the delivery vehicle loading, unloading, and turning facilities within the site shall be provided in full as shown on drawing SCP/210746/ATR04_1 Rev A and ATR04_2 rev A . Once provided, they shall be maintained as such in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

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

- (11) Prior to the first use of the site commencing, the vehicle parking spaces, as shown on the submitted plans (18048 AD_11- F), shall be fully installed and implemented and retained thereafter.

Reason: In the interests of highway safety.

- (12) Prior to the first use of the site commencing, the cycle parking facilities shown on the submitted plans (23007_ AD_110 REV G) shall be provided and shall be permanently maintained as such thereafter.

Reason: In the interests of promoting active sustainable travel and highway safety.

- (13) Prior to the first use of the site commencing, details of electric vehicle charging points, to serve 11 car parking spaces, to include the provision of at least 5no. ultra-rapid charging points with 150-350 kw chargers, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to first public use of the building and maintained thereafter.

Reason: In the interests of sustainable development.

- (14) Prior to development above slab level, the detailed and technical design for the footway/cycleway improvement works along Queenborough Road (as shown on drawing SCP/210746/D05) shall be submitted to and approved by the Local Planning Authority in writing. Subsequently, the off-site highway improvements, comprising the construction of a footway/cycleway along Queenborough Road, shall be completed in accordance with the approved details prior to the first use of the retail unit hereby approved.

Reason: In the interests of sustainable travel and highway safety.

- (15) Prior to the first use of the retail unit commencing, details of the lighting to serve the on-site pedestrian and cycle routes shall be submitted to and approved in writing by the Local Planning Authority. The on-site pedestrian and cycle routes, together with associated lighting hereby approved, shall be implemented in full prior to the first use of the retail unit hereby approved.

Reason: To encourage sustainable movement.

Construction Work

- (16) 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 0830 - 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.

- (17) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday, or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Ecology

- (18) Prior to the first occupation of the building, a site-wide management and monitoring plan must be submitted to the Local Planning Authority for written approval.

The plan shall include the following:

- a) Description and evaluation of features to be managed;
- b) Habitat Plan;
- c) Constraints on site that might influence management;
- d) Aims and objectives of management;
- e) Appropriate management prescriptions for achieving aims and objectives;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan, and;
- h) Ongoing monitoring and remedial measures.

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 shall be implemented in accordance with the approved details.

Reason: In the interests of ecology.

- (19) Within 3 months of works commencing, details of how the site will be enhanced to benefit biodiversity, shall be submitted to the LPA for written approval, including details of integrated enhancement features within the buildings and enhancement features within the site boundary of the site boundaries. The plan must be implemented as approved prior to the first use of the retail unit hereby approved.

Reason: In the interests of ecology and to ensure no net loss of biodiversity.

- (20) The landscaping scheme and planting specification shown on drawing nos. JSL4227-RPS-XX-EX-DR-L-9003_P06 and JSL4227-RPS-XX-EX-DR-L-9004_P06 shall be carried out within 12 months of the completion

of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

Public Art Feature

- (21) Prior to the above-ground works within the development hereby approved commencing, details of the design, materials and scale of the public art feature shown in drawing no. 230613_23007_AD 110 rev G, including CGIs from long-distance views, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme and public art shall be installed prior to the first opening of the retail unit approved and thereafter maintained.

Reason: To ensure the design of the approved development befits the gateway location in the interest of the visual amenities of the area.

Noise management

- (22) No building works shall commence until the details of mechanical ventilation system that will be installed, including details of the predicted acoustic performance, shall be submitted for approval in writing by the Local Planning Authority.

The system shall be installed, maintained, and operated in accordance with the details approved and thereby retained, to prevent the emission of odours, fumes, noise and vibration to neighbouring properties.

Reason: In the interest of residential amenities.

- (23) The proposed mitigation measures detailed in the Noise Impact Assessment 9314/RD revision 6 including the acoustic fencing opposite Cowstead Cottages shown on drawing no, 230613_23007_AD 114 Rev H shall be implemented fully prior to the first use of the development hereby approved.

The mitigation measures shall be maintained thereafter.

Reason: In the interest of residential amenity.

- (24) No deliveries shall take place outside the hours of 0600 - 2300 hours Monday to Saturday, and 07:00 - 23:00 hours on a Sunday, Bank or Public holiday.

Reason: In the interests of residential amenities.

- (25) Prior to the first use of the site hereby approved commencing, a Delivery Management Plan (DMP) shall be submitted to and approved in writing by the Local Planning Authority. The DMP shall detail all recommended noise mitigation measures to be undertaken during deliveries, as contained in the Noise Impact Assessment submitted with this application, and shall include but not limited to, a limit of one delivery at a time and no audible reversing alarms.

Reason: In the interest of residential amenities.

Drainage

- (26) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based upon Flood Risk Assessment and Drainage Strategy dated September 2022 prepared by Mayer Brown Ltd. The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

Reason: To ensure the development is served by satisfactory

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

- (27) The development hereby permitted shall not 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.

Contamination

- (28) 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 have been submitted to and approved, in writing, by the local planning authority:

- 1) A site investigation, based on the Phase 1 site investigation and preliminary risk assessment 892.01.03 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 (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.

- 3) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (3). 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: In the interest of public health.

Archaeology

(29) 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 in writing by the local planning authority.

- 1) 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.
- 2) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
- 3) 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.
- 4) 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 the Swale Borough Local Plan and the National Planning Policy Framework.

Air Quality

- (30) Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'.

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

Reason: In the interest of air quality.

- (31) Prior to the commencement of the development hereby approved, a Dust Monitoring Schedule for dust monitoring to be undertaken at nearby sensitive receptor sites during the construction of the development shall be submitted to and approved in writing by the

Local Planning Authority.

The dust monitoring shall be undertaken for at least three months prior to site activity to ascertain background levels. The Dust Monitoring Schedule shall include monitoring measures throughout the construction or demolition phases of the work to determine impacts.

Reason: In the interests of air quality.

- (32) The Air Quality Mitigation measures, as set out in the Air Quality Assessment, shall be implemented in full, prior to the first operation of the retail shop hereby approved and thereafter retained.

Reason: In the interest of air quality.

Restriction on use

- (33) The food store hereby approved shall only be used as a Class E(a) retail food store only and shall be restricted to 'limited product line deep discount retailing' and shall be used for no other purpose falling within Class E of the Town and County Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting or amending that Order with or without modification).

'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 3,500 individual product lines.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Sheerness Town Centre.

- (34) The total Class E(a) (retail) floorspace hereby permitted shall not exceed 1,906 sqm gross internal area. The net sales area (defined as all internal areas to which customers have access, including checkouts and lobbies) shall not exceed 1,266 sqm without the consent of the Local Planning Authority.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Sheerness Town Centre.

- (35) The Class E(a) (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 253 sqm of the net sales area devoted to comparison goods. Floorspace for the sale of

convenience goods shall at no time exceed 1013 sqm of the net sales area.

Reason: To control the extent of comparison goods retailing, to prevent unacceptable impacts upon the vitality and viability of Sheerness Town Centre.

- (36) The Class E(a) (retail) unit hereby permitted shall be used as a single unit and shall not be sub-divided into two or more units, and no concessions shall be permitted within the unit.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Sheerness Town Centre.

- (37) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending that Order with or without modification), no mezzanine floor or other form of internal floor to create additional floorspace other than that hereby permitted shall be constructed in the hereby permitted Class E(a) (retail) unit.

Reason: To prevent unacceptable impacts arising from the development upon the vitality and viability of Sheerness Town Centre.

- (38) The class E(a) retail use hereby permitted shall not be open to customers or any other persons not employed within the business operating from the site outside the following times 0800 - 2200 on Monday-Friday, Saturdays and Bank and Public Holidays and any 6 hours between 1000 - 1800 on Sundays.

Reason: In the interests of residential amenity.



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2.2 REFERENCE NO: 23/505043/FULL		
PROPOSAL: Installation of new EV charging units, equipment compound, substation, boundary fence, landscaping, and associated works		
SITE LOCATION: Macknade Service Station, Canterbury Road, Faversham, Kent, ME13 8XA		
RECOMMENDATION: Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary and appropriate.		
APPLICATION TYPE: Minor		
REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to Faversham Town Council's objection to the application.		
Case Officer: Luke Simpson		
WARD: Watling	PARISH/TOWN COUNCIL: Faversham	APPLICANT: Miss Jackie Ford AGENT: JMS Planning & Development Ltd
DATE REGISTERED: 07/11/2023		TARGET DATE: 15/03/2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - Lighting Assessment carried out by GW Consultancy Noise Impact Assessment carried out by Venta Acoustics (dated 20.06.2024) Preliminary Ecological Appraisal carried out by Icen Ecology Ltd (dated April 2024) Reptile Survey Report carried out by Icen Ecology Ltd (dated June 2024) Arboricultural Report (Ref: 22040) (dated August 2023) 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=S3QUJITYMHC00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is situated on the northern side of Canterbury Road, Faversham. It incorporates a petrol filling station with forecourt canopy and a car wash. It is enclosed to the north, east and west by residential properties that are situated on Laxton Way, Bramley Avenue and Blenheim Avenue respectively, and to the south by Canterbury Road.
- 1.2 The site lies within an area of archaeological potential and is located approximately 80m to the north-east of an 18th Century dwelling known as Macknade Manor, which is a grade II listed building.

2. PLANNING HISTORY

- 2.1 22/503048/FULL
Installation of electric vehicle chargers, external seating area, equipment compound and substation, bin store and boundary fencing.
Withdrawn Decision Date: 14.06.2023
- 2.2 SW/06/1057
Refurbishment of petrol filling station including 3 new 70,000L fuel storage tanks, new above ground offset fills, vents, new floodlight, pump islands, pumps and class 1 interceptor plus associated forecourt surfacing.
Grant of Conditional planning permission Decision Date: 25.10.2006
- 2.3 SW/95/0690
Construction of jetwash with portico and vacuum facility
Refused Decision Date: 10.10.1995
- 2.4 SW/95/0091
Removal of condition (ii) of SW/87/772 to allow for 24 hour opening of petrol filling station
Refused Decision Date: 24.03.1995
- 2.5 SW/89/1481
Erection of car wash.
Refused Decision Date: 15.11.1989
- 2.6 SW/88/0290
Proposed car wash
Refused Decision Date: 08.04.1988
- 2.7 SW/88/1272
Erection of car wash within a structure
Refused Decision Date: 29.03.1989
- 2.8 SW/87/0772
Redevelopment of existing petrol filling station including new sales building canopy pumps car wash and associated underground storage tanks and drainage
Approved Decision Date: 05.10.1987

APPEAL HISTORY

- 2.9 SW/97/0388/1
Variation of condition (II) of SW/95/690 extending jetwash hours on Sundays (only) to 900-1900 hours
Dismissed Decision Date 03.12.1997
- 2.10 SW/95/0690/1
Construction of jetwash with portico and vacuum facility
Appeal Allowed and or Notice Quashed Decision Date 08.07.1996
- 2.11 SW/95/0091/1
Removal of condition (II) of SW/87/772 to allow for 24 hour opening of petrol filling station
Dismiss or Dismiss-Notice Upheld/Varied Decision Date: 23.08.1995
- 2.12 SW/89/1481/1
Erection of car wash
Appeal allowed and or Notice Quashed Decision Date 06.03.1991

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission to extend the existing filling station forecourt to the rear in order to provide 10 new electric vehicle charging bays, with 3 charger units, and to construct an associated equipment compound, substation and boundary fence, and carry out associated landscaping works.
- 3.2 The new area of forecourt measures approximately 29.4m at its widest point by approximately 13.5m at its deepest point and would partially be laid over an area of greenery situated at the rear of the site. The new equipment compound and substation would also be located within this area on new permeable surfaced bases, to include access from the main forecourt.
- 3.3 The equipment compound comprises a timber enclosure of approximately 4.55m by 6.47m that would house an electric cabinet that stands approximately 2.8m in height and measures approximately 3.82m by 2.0m.
- 3.4 The substation unit measures approximately 2.8m by 2.8m and approximately 2.4m in height and would be constructed with dark green GRP panelling.
- 3.5 The scheme would result in the loss of 3 trees from the site, but a landscaping scheme has been provided that shows the incorporation of replacement trees and vegetation along the northern, eastern and western boundaries of the site.

4. CONSULTATION

4.1 Three 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.

4.2 16 letters of public representation were received in objection to the proposal during the first round of consultation. Comments were raised in relation to the following summarised matters (full comments are available online):

Comment	Report reference
The proposed tree planting will result in a loss of light to the adjacent gardens.	Paragraph 7.6.10
The proposal will result in additional noise, lighting and nuisance that will have a detrimental impact on neighbouring residential amenity.	Paragraph 7.6.1 – 7.6.11
The proposed number of new charging spaces is too much and amounts to the overdevelopment of the site.	Paragraph 7.3.1 – 7.3.6
The proposal will have a detrimental impact on local wildlife.	Paragraph 7.7.1 – 7.7.6
The proposal will encourage antisocial behaviour.	Paragraph 7.6.9
The proposed use of the site for 24 hours will disturb neighbouring occupiers.	Paragraph 7.6.9

4.3 1 letter of public representation has been received in support of the proposal during the first round of consultation, with the following reasons give:

Comment	Report reference
The proposal will provide a much needed fast EV charging hub for Faversham.	Paragraph 7.5.4
The proposal will have minimal impact upon the local roads and the environment.	Paragraph 7.5.3
The proposal will contribute towards improving air quality in this part of Faversham.	Paragraph 7.5.4

4.4 Faversham Town Council objected to the proposed development on the following grounds:

Comment	Report reference
The proposal will cause noise and light pollution effecting neighbouring properties and the privacy, amenity and quality of their occupiers.	Paragraph 7.6.1 – 7.6.11

The proposal does not include a light or acoustic barrier which should be erected between the site and neighbouring properties.	Paragraph 7.6.7
The number of EV charging units is too many for the site and would result in the loss of landscaping at the rear.	Paragraph 7.3.1 – 7.3.6
The proposal will negatively affect wildlife on the site and in the immediate area.	Paragraph 7.7.1 – 7.7.6

4.5 14 letters of public representation were received in objection to the proposal during the second consultation (13 of these were from addresses that responded to the first consultation). The issues raised within these comments were the same as those received in the first round of consultations and are therefore not repeated here.

4.6 Faversham Town Council responded to the second consultation and confirmed that they supported the proposed development on the following grounds:

Comment	Report reference
Concerns raised by neighbours on the previous application have been addressed.	This is a general point which is noted.
Trees on the site are being protected or replaced.	Paragraph 7.3.4
The proposed development will result in increased levels of noise and nuisance as it would extend the opening hours of the site.	Paragraph 7.6.9

4.7 8 letters of public representation were received in objection to the proposal during the third consultation (these were all from addresses that previously responded). The concerns raised within this round of consultation are the same as those that have been raised previously aside from the below comments:

Comment	Report reference
The proposed EV charging units pose a fire risk.	Paragraph 7.11.1
The additional charging / parking bays will result in highway safety issues due to the increased number of vehicles existing the site onto a busy road.	Paragraph 7.5.3

4.8 Faversham Town Council objected to the proposed development on the same amenity grounds that were noted within their initial comments, although noted that in principle they support EV provision. The following additional issue was also raised:

Comment	Report reference
The seating area is too large and close to gardens.	Paragraph 7.6.9

5. REPRESENTATIONS

- 5.1 **KCC Biodiversity Officer** – No objection subject to conditions to secure the implementation of recommendations set out within the Preliminary Ecological Appraisal and a Biodiversity Enhancement Plan.
- 5.2 **SBC Environmental Protection** – No objections subject to a watching brief condition that would require the applicant to submit assessment and remediation details in the event of contaminated land being uncovered, and a condition to ensure that construction activity is restricted to traditional daytime working hours.
- 5.3 **KCC Highways** – There are no highways implications associated with the proposals.
- 5.4 **KCC Minerals & Waste** – The County Council has no land-won minerals or waste management capacity safeguarding objections or comments to make regarding this particular application.
- 5.5 **KCC Archaeology** – No objection subject to a condition to secure an archaeological watching brief.
- 5.6 **Southern Water** – No objection but it is noted that the applicant should be referred to Southern Water's guide to tree planting near water mains.
- 5.7 **Kent Police** – No objections raised but the applicant was invited to contact Kent Police if they wish to discuss any site-specific security.
- 5.8 **Environment Agency** – No objection.
- 5.9 **KCC Public Rights of Way** – No comments to make.
- 5.10 **SBC Heritage** – The site does not contribute to the setting of the listed building due to its distance from the building, the existing boundary treatment to the north of the building, and the intervening modern built form (including the service station). The proposals will not detract from any views from or towards the listed building.
- The proposals will preserve the setting of the listed building and will not result in any harm to its significance, as per Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapter 16 of the NPPF.
- 5.11 **Tree Officer** – The loss of the three trees that are proposed for removal will not be detrimental to the visual/sylvan character of the local area and being of low quality not sufficient to pose a significant arboricultural constraint, and the general species proposed within the proposed landscape plan are not unreasonable, so I see no arboricultural grounds for refusal. Any approval should

include a condition to secure an arboricultural method statement and a tree protection plan.

6. DEVELOPMENT PLAN POLICIES

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

- ST1 Delivering sustainable development in Swale
- ST3 The Swale settlement strategy
- CP2 Promoting sustainable transport
- CP4 Requiring good design
- CP8 Conserving and enhancing the historic environment
- DM6 Managing transport demand and impact
- DM7 Vehicle parking
- DM14 General development criteria
- DM21 Water, flooding and drainage
- DM28 Biodiversity and geological conservation
- DM29 Woodlands and Trees
- DM32 Development involving listed buildings
- DM34 Scheduled Monuments and archaeological sites

6.2 **Faversham Neighbourhood Plan**

- FAV4 Mobility and sustainable transport
- FAV7 Natural environment and landscape
- FAV8 Flooding and surface water
- FAV10 Sustainable design and character
- FAV11 Heritage

7. ASSESSMENT

7.1 This application is reported to the Committee because the recommendation is contrary to the considerations of Faversham Town Council. For the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- Principle of development
- Character and appearance
- Heritage
- Transport
- Living Conditions
- Ecology
- Flood Risk, Drainage and Surface Water
- Contamination
- Archaeology

7.2 **Principle of development**

- 7.2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.2.2 The National Planning Policy Framework 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.
- 7.2.3 The application site lies within the built-up area boundary of Faversham, which is designated as a Borough Centre within Policy ST3 of the Swale Borough Local Plan. This Policy sets out that Faversham is the main focus for growth within this planning area, where new development is especially viable provided it reflects the historic importance of the town, the quality of its surroundings and a need to manage levels of out-commuting.
- 7.2.4 Accordingly, and mindful of the fact that the proposal relates to an existing established use, it is considered that the principle of providing electric vehicle charging points in this location is acceptable, subject to the scheme satisfying other relevant material planning considerations, as listed above. These issues are discussed in detail below.

7.3 Character and appearance

- 7.3.1 The National Planning Policy Framework attaches great importance to the design of the built environment and states that design should contribute positively to making places better for people. The Local Plan reinforces this requirement through Policy CP4, which requires development proposals to be of high-quality design and to be in keeping with the character of the area. Further to this, Policy DM14 of the Local Plan sets out that development proposals should be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.
- 7.3.2 Policy FAV10 of the Faversham Neighbourhood Plan mirrors the principles set out within Policies CP4 and DM14 of the Local Plan, but more specifically emphasises that development proposals should complement the existing townscape character of the surrounding area, and include green infrastructure and features, including street trees, garden trees and traditional hedges and features to support wildlife.
- 7.3.3 The application comprises a number of elements, including the expansion of the forecourt to provide 10 new electric vehicle charging bays, with 6 EV units, a low voltage (LV) cabinet, a substation, an approximately 2.2m high timber acoustic fence around the sides and rear of the new forecourt area and new landscaping, including the planting of new trees around the northern, eastern and western boundaries of the rear portion of the site. These elements are typical of what one would expect to see within and surrounding a petrol station forecourt.

- 7.3.4 The scheme benefits from the fact that the land upon which the EV parking bays and associated infrastructure are proposed, is currently largely screened from Canterbury Road by a 2m tall brickwork wall that spans the width of the site, and a jetwash building, both of which are proposed to be removed. As such, whilst the proposal would result in the development of an existing grassed area and the removal of 3 category C (low grade) trees from the site, it is not considered that it would erode the landscape character of this part of Canterbury Road, particularly given that it is proposed to introduce a large number of trees to screen the proposed acoustic fence, that would be more visible than the vegetated area that is currently at the rear of the site.
- 7.3.5 Concerns were initially raised by officers as the originally submitted plans included canopy structures over the proposed EV charging bays, which would have added a significant amount of bulk and massing to the site, and resulted in an overconcentration of development; however, these structures have been removed, and mindful of the fact that the LV cabinet and substation will be positioned at the rear of the site and screened from Canterbury Road, it is considered that the proposals would sit comfortably on the site.
- 7.3.6 It is therefore considered that the proposed development would not have a detrimental impact upon the overall appearance of the site, or that of the surrounding street-scene and is in accordance with Policies CP4 and DM14 of the Local Plan, FAV10 of the Faversham Neighbourhood Plan and the NPPF.

7.4 Heritage

- 7.4.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a local planning authority, in considering development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of architectural or historic interest it possesses.
- 7.4.2 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.
- 7.4.3 Policy DM32 of the Local Plan sets out that proposals that affect a listed building or its setting, will be permitted only where special architectural, townscape characteristics or historic interests are preserved.
- 7.4.4 On a neighbourhood level, Policy FAV11 of the Faversham Neighbourhood Plan sets out that development proposals should preserve or enhance the character and appearance or setting of listed buildings.
- 7.4.5 The site does not contain any listed buildings and does not lie within a Conservation Area. However, the grade II listed property known as Macknade Manor, which lies approximately 80m to the south-west, on the opposite side of

Canterbury Road has been identified as a heritage asset that the proposed development could have the potential to affect, by virtue of its proximity and shared setting.

7.4.6 SBC Heritage initially raised concerns over the impact of the originally proposed development on the setting of Macknade Manor due to the fact that it included large canopy structures over the proposed EV charging bays and an unbroken timber fence that spanned across the width of the site, which would have a significant impact in terms of increasing the quantum of development on the site.

7.4.7 Subsequently, the applicant has removed the canopies, altered the path of the acoustic fence to enable it to be pushed further away from the site frontage, and shown provisions for the introduction of landscaping in front of the fence to provide natural screening and help break it up when viewed from Canterbury Road. These alterations have resulted in a significant reduction in scale and coverage of the proposed development and have sought to introduce a meaningful and effective landscaping scheme that would help to provide a more verdant character and soften the overall appearance of the filling station.

7.4.8 SBC Heritage has confirmed that the proposal as amended addresses the original concerns and would not have a detrimental impact upon the special characteristics or setting of Macknade Manor.

7.4.9 It is therefore considered that the proposed development would not result in harm to any designated heritage assets, and it is therefore compliant with Policies CP8 and DM32 of the Local Plan, Policy FAV11 of the Faversham Neighbourhood Plan and the NPPF.

7.4.10 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.

7.5 Transport

7.5.1 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such.

7.5.2 Further to the above, Policies DM7 and DM14 of the Local Plan establish that development proposals must provide appropriate levels of parking and safe vehicular access.

7.5.3 The proposed development would provide 10 new EV charging bays within the site and would therefore result in a modest increase in the number of vehicles that enter and leave the site on a daily basis. However, notwithstanding this, the existing access arrangements to the site provides good visibility splays in both directions, and KCC Highways have confirmed that there are no highway safety implications associated with the proposed works.

7.5.4 It is also noted that the provision of new EV charging facilities would help to encourage the use of electric vehicles which is a more sustainable mode of transport, and therefore the scheme would contribute towards the

implementation of the aims of Policy CP2 of the Local Plan as well as Paragraph 117 of the NPPF which set out that development should help to improve the transport network and be designed to enable charging of plug in and other ultra-low emission vehicles in sustainable ways.

7.5.5 With regards to the layout of the proposed charging bays, each one measures approximately 5m in length by 2.5m in width, which is compliant with the size standards for parallel parking spaces set out within the Council's Parking SPD. Further to this, the two rows of bays are positioned a minimum of approx. 7.3m apart, meaning sufficient space is provided for vehicles to comfortably manoeuvre into and out of each bay, in accordance with the SPD which sets out that a minimum distance of 6m should be afforded.

7.5.6 It is therefore considered that the proposal would not create a situation that would result in significant risks to highway safety or the efficient functioning of the local highway network. Accordingly, it is compliant with the NPPF and Policies CP2, DM7 and DM14 of the Local Plan as well as the Council's Parking SPD.

7.6 Living Conditions

7.6.1 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight. Policy FAV10 of the Faversham Neighbourhood Plan mirrors these principles but specifically states that development should avoid adverse impacts on residential properties through intrusive, excessive or poorly designed lighting.

7.6.2 The application site is enclosed around its northern, eastern and western boundaries by residential properties within Laxton Way, Bramley Avenue and Blenheim Avenue respectively, and a number of objections have been received from the residents of these properties with specific concerns over noise and light being generated from vehicles and the EV charging equipment, and their impact on residential amenity.

7.6.3 In order to address these concerns, the applicant has submitted a Noise Impact Assessment and a Lighting Assessment, which provide an evaluation of the noise and light emissions that would be associated with the development.

7.6.4 The noise impact assessment details the findings of a 5-day, 24-hour monitoring exercise, which found that background noise levels as taken from the nearest neighbouring properties currently average around 44dB, and that during the quietest period of the day when the chargers would be operational (between 6am and 7am), it drops to 43dB.

7.6.5 The report goes onto assess the proposed development, including the substation, the EV charging units and associated vehicular activity, and states that noise levels associated with the development would not exceed 42dB even in instances where all of the car chargers are being used to their maximum

capacity and output. Mindful of the fact that this level of uptake at any one time is unlikely, particularly during the quietest period of the day (between 6am and 7am), it is not considered that the proposals would exceed the existing background noise levels, particularly given that anticipated noise levels would drop to 36dB in the event of half of the charging bays being in use at any one time.

7.6.6 Notwithstanding the above, the Noise Impact Assessment recommends the inclusion of a 2.2m high acoustic fence around the area of the charging bays in order to minimise the noise impacts as much as reasonably possible and sets out that the inclusion of this element would ensure that noise levels from the development would not exceed 35dB even when measured from the mid-point of neighbouring gardens.

7.6.7 SBC Environmental Protection have reviewed the Noise Impact Assessment and has confirmed that its methodology and findings are accurate and that there are no concerns with the proposed development with regards to noise impacts subject to implementation of the recommendations. As a result a condition has been included which requires the acoustic fence to be installed prior to the first use of the charging points.

7.6.8 In terms of potential amenity impacts arising from lighting, the submitted Lighting Assessment confirms that all new illuminations would be directed towards the centre of the site (away from neighbouring properties) and down towards the ground in order to restrict their spread. SBC Environmental Protection have reviewed the proposed lighting information and has confirmed that if the scheme is carried out in accordance with the submitted details, there are no concerns over the schemes impact on neighbouring properties with regards to light pollution or glare.

7.6.9 It is also noted that a number of objections have been received from local residents that raise concerns over antisocial behaviour and additional noise and nuisance during extended opening hours, and associated with an outside seating area that was originally proposed within the rear landscaped part of the site. However, the applicant has not applied to extend the opening hours of the filling station, and the outside seating area has been removed in response to neighbour concerns. Mindful of this and that it is not anticipated that the provision of 10 new EV charging bays would be likely to generate a degree of noise and nuisance that would significantly exceed existing levels, it is not considered that the proposals would create any antisocial behaviour issues. Notwithstanding this, a condition is included within this recommendation to restrict the operation of the EV charging units to the permitted opening hours of the filling station as existing (i.e. 6am – 10pm).

7.6.10 Concerns have also been raised by local residents that some of the trees included within the proposed landscaping plan have the potential to grow too large for the site and would result in a loss of light to the gardens that adjoin the rear part of the site. In respect of this, the Council's Tree Officer has reviewed the application and has confirmed that the species identified within the landscape plan are reasonable for the locality, and that their appropriate management can

be secured through a landscape management plan, which is the focus of a condition included within this recommendation.

7.6.11 Mindful of the above, and the fact that none of the proposed structures would result in the harmful enclosure of any neighbouring properties, or a loss of light and outlook or unacceptable noise concerns, it is considered that the proposals would not create a situation that would result in significant harm to the privacy and living conditions of the occupiers of any neighbouring properties. It is therefore deemed that the scheme is compliant with Policy DM14 of the Local Plan, Policy FAV10 of the Faversham Neighbourhood Plan and the NPPF.

7.7 Ecology

7.7.1 Section 40 of the NERC Act (2006), as well as paragraphs 187 and 193 of the NPPF, establish that biodiversity should be maintained and enhanced through the planning system, and that the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged. These principles are reinforced at a local level by Policies CP7 and DM28 of the Local Plan which establish that development proposals will apply national planning policy in respect of the preservation, restoration and re-creation of habitats and species, and will be required to provide, where possible a net gain of overall biodiversity.

7.7.2 Neighbourhood Plan Policy FAV7 is consistent with national and local policy in respect of biodiversity, but in respect of biodiversity net gain (BNG), identifies that major development proposals on brownfield sites must create an overall net gain in biodiversity of 10%. As this application is not for major development, the proposals turn to be assessed against the Local Plan in respect of biodiversity gain.

7.7.3 The Governments new BNG legislation goes a step further than the above referenced policy requirements as it requires that development proposals must have no adverse impact upon important habitats and that they must create an overall net gain in biodiversity of 10%. However, as the application was submitted prior to the date on which the BNG legislation came into effect, this threshold cannot be applied in this instance.

7.7.4 The applicant has submitted a Preliminary Ecological Appraisal in support of their application, which details the results of a site survey that was conducted by a qualified Ecologist. The report states that the site and its surrounding vegetation provides potential habitat opportunities for nesting birds and hedgehogs and therefore a precautionary approach should be applied when removing vegetation. It was also noted that the site was deemed suitable for reptiles but during surveys that were conducted between May and June 2024 no reptiles were observed.

7.7.5 The KCC Biodiversity Officer has reviewed the application and confirmed that the site evidently has low biodiversity interest, and that sufficient information has been provided to determine the application. It is however recommended that conditions should be attached to any permission to secure the implementation of

precautionary mitigation measures detailed within the Ecological Impact Assessment and a biodiversity enhancement plan. These suggested conditions are considered to be reasonable and appropriate and have therefore been incorporated into this recommendation.

7.7.6 Overall, it is therefore deemed that subject to compliance with conditions, the proposed development would deliver habitat enhancements and would not result in harm to local wildlife. It is therefore in accordance with Section 40 of the NERC Act (2006), Policies CP7 and DM28 of the Local Plan, FAV7 of the Faversham Neighbourhood Plan and the NPPF.

7.8 Flood risk, drainage and surface water

7.8.1 Policy DM21 of the Local Plan establishes that development proposals should avoid inappropriate development in areas at risk of flooding, and include, where possible, sustainable drainage systems to restrict runoff to an appropriate discharge rate to ensure that surface water is disposed of on site.

7.8.2 The site lies entirely within Flood Zone 1 and is therefore at the lowest risk of flooding. Notwithstanding this, the Environment Agency has been consulted given the use of the site, and they have confirmed that there are no objections with the proposed development.

7.8.3 It is therefore considered that the proposed development will not increase the risk of flooding within or outside of the site and as such, it complies with Policy DM21 of the Local Plan, FAV8 of the Neighbourhood Plan and the NPPF.

7.9 Contamination

7.9.1 Environmental Protection have confirmed that as the site is not a known area of contamination, and therefore no information is required prior to the determination of the application. It is however recommended that any permission should be subject to a watching brief condition that requires details and mitigation to be submitted to and approved by the local planning authority in the event of contaminants being found during construction works. Subject to the suggested condition, the proposal is in accordance with the NPPF.

7.10 Archaeology

7.10.1 Policy DM34 of the Local Plan sets out that development will not be permitted that would adversely affect an archaeological site, and that whether they are currently known or yet to be discovered, there will be a preference to preserve important archaeological sites in-situ and to protect their setting, unless it is justifiable to excavate and record any artifacts that are found.

7.10.2 The site lies within an area of archaeological potential, being located on the A2, which is on the route of the main Roman road between London and the coast. KCC's Archaeology Officer has confirmed that Iron Age and Roman remains have been found in the general area to the south-east and north-east of the site, and that it is possible that archaeological remains may be encountered during the proposed groundworks. Notwithstanding this, it is acknowledged that the

proposed groundworks are limited, and as such, it is deemed appropriate for a watching brief condition to be attached to this recommendation that required the applicant to secure the implementation of a watching brief prior to works being carried out. This condition has been included below.

7.10.3 Therefore it is considered that the proposal would be in accordance with Policy DM34 of the Local Plan, FAV11 of the Neighbourhood Plan and the NPPF.

7.11 Other matters

7.11.1 The majority of the issues made within the public representations that have been received, have been addressed in the sections above. Of those that remain the following comments are made. In respect of potential fire safety issues resulting from the EV charging infrastructure, this is matter dealt with via Building Regulations.

7.12 Conclusion

7.12.1 The proposed development is of an acceptable scale and design and would not have a detrimental impact upon the visual amenities of the site or wider area, the setting of the nearby listed building at Macknade Manor, living conditions of neighbouring occupiers, ecology or highway safety. There are also no contamination, drainage or archaeology issues that cannot be addressed through the use of appropriately worded conditions. Accordingly, it is recommended that planning permission should be granted for the proposed development.

CONDITIONS

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

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (SLP A), Landscape Planting Plan (SY24-385-LPP-24-01), Compound & Sub-Station (PLNG 15 C), Proposed Site Elevations (PLNG 14 B), Proposed Site Layout Plan (PLNG 13 D).

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

- 3) The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use.

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.

- 4) No external lighting other than that approved by this permission shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity.

- 5) No construction activities shall take place, other than between 0700 to 1900 hours (Monday to Friday) and 0700 to 1300 hours (Saturday) with no working activities on Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity.

- 6) The landscaping planting scheme as detailed within drawing SY24-385-LPP-24-01 shall be implemented in the first planting season (1 October to end of February) following the first use of the site. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- 7) Prior to the commencement of works, a Tree Protection Plan that aligns with the agreed landscape plan and arboricultural impact assessment shall be submitted to and approved by the Local Planning Authority.

Reason: In the interest of landscape, visual impact and the amenity of the area.

- 8) Prior to the development hereby approved being first brought into use a 5-year landscape management plan shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall thereafter be maintained in accordance with the approved details and management plan.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- 9) From commencement of works (including site clearance) and for the duration of works through to the first use, to avoid impacts to protected and priority species, the precautionary working measures detailed in Table 2 of the Preliminary Ecological Appraisal (Iceni Ecology, April 2024) associated with the planning application shall be adhered to. Measures include:

- Vegetation clearance should avoid the core bird nesting season (March through August inclusive);
- Regardless of timing, vegetation clearance is to occur under the supervision of an Ecological Clerk of Works (ECoW); and
- Any Hedgehogs found on site are to be moved into safe, similar habitat away from works by the ECoW.

Reason: In order to protect protected species.

- 10) Prior to any development being carried out above slab level a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The plan shall accord with the submitted Landscape Planting Plan (Squires Young, July 2024) and Table 2 of the Preliminary Ecological Appraisal (Iceni Ecology, April 2024) associated with the planning application and shall include details of the following enhancement measures:
- The provision of multiple durable bird boxes;
 - The provision of multiple durable bat boxes; and
 - Details of landscaping utilising plants of primarily native provenance.

The approved plan shall be implemented as described and retained thereafter.

Reason: In the interests of enhancing biodiversity.

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

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

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To reduce risk to controlled waters.

- 12) 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.

- 13) The new areas of hardstanding hereby approved shall be constructed from either permeable materials or incorporate drainage channels to prevent surface water runoff onto the highway.

Reason: In the interests of highways convenience and to prevent surface water runoff.

- 14) The use of the development hereby approved shall not commence until details of the RAL colour and ongoing maintenance of the acoustic fence to be erected along the northern, eastern and western edges of the newly proposed hardstanding have been submitted to and agreed in writing by the local planning authority, and the fence has been constructed in accordance with the agreed details. The fence shall also be retained in accordance with the agreed details in perpetuity.

Reason: In the interests of aural amenity.

- 15) The EV charging units hereby approved shall only be operated between the hours of 06:00 hours and 22:00 hours Monday to Sunday.

Reason: In the interests of the residential amenities of the occupiers of nearby properties.

Informatives

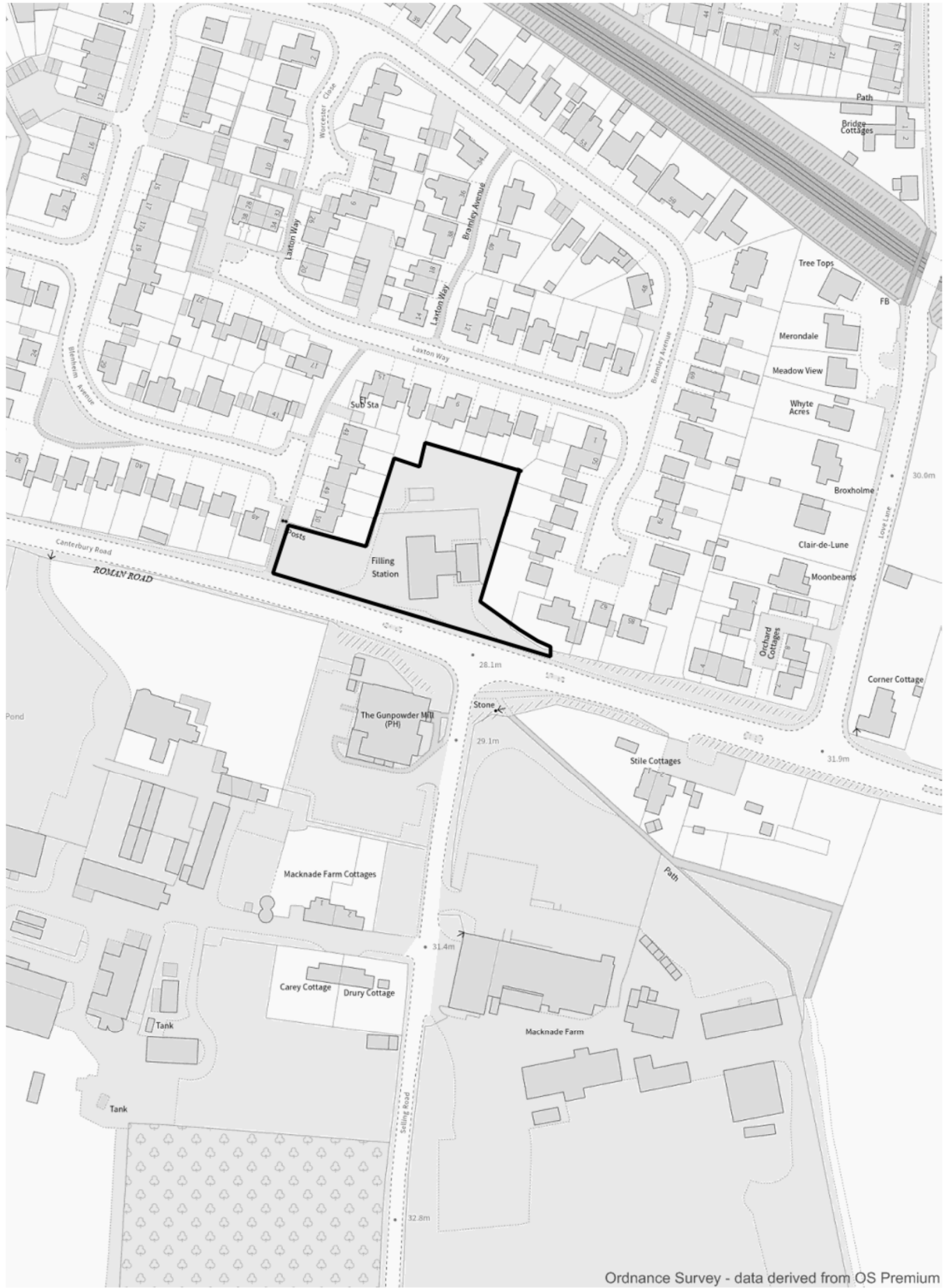
- 1) It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.
- 2) As the development involves demolition and / or construction, it is recommended that the applicant reviews the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected. This can be found at: <https://tunbridgewells.gov.uk/environmental-codeof-development-practice>

The Council's approach to the application

In accordance with paragraph 39 of the National Planning Policy Framework (2024), 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.



2.3 REFERENCE NO - 24/501929/REM		
PROPOSAL		
Section 73 - Application for minor material amendment to approved plans condition 1 (to allow changes to affordable housing tenure, revisions to SDS pond and redesign of public open space) pursuant to 23/501167/REM for - Approval of reserved matters (scale, design, layout and landscaping being sought) for the erection of 231 dwellings (houses and apartments, C3 Use Class) with landscaping, associated highway works, including car parking and open space, pursuant to 16/508602/OUT for - Outline application for erection of up to 250 dwellings with all matters reserved except for access.		
SITE LOCATION		
Site A Land At Preston Fields Salters Lane Faversham Kent		
RECOMMENDATION		
Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement Deed of Variation 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 - Application submitted under s73 (material amendments)		
REASON FOR REFERRAL TO COMMITTEE		
Faversham Town Council object to the application and request that it be considered by the SBC Planning Committee.		
Case Officer Ben Oates		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town Council	APPLICANT Redrow Homes AGENT Urbanissta Ltd
DATE REGISTERED 28/05/2024	TARGET DATE 27/09/2024	
BACKGROUND PAPERS AND INFORMATION:		
Documents referenced in report are as follows: -		
All drawings submitted		
All representations received		

Affordable Housing Justification Statement

Summary of changes document

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=SCX0MVTYFOZ00>

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site falls within an allocated site under Policy A16 of the Swale Borough Local Plan, which seeks to enable the provision of a minimum of 217 dwellings. The site has outline planning permission (ref: 16/508602/OUT) for up to 250 units with all matters reserved except access. This was granted, with conditions and subject to a S106 Agreement, on the 12th May 2022. Reserved Matters approval (ref: 23/501167/REM) for scale, design, layout and landscaping for the erection of 231 dwellings was subsequently granted on 2nd October 2023.
- 1.2. The application site is part of the larger site that is split into two parts; Site's A and B. Site A is the subject of this application (referred to hereon as the 'Site'); which is 10.34 ha in size and is situated between Site B that borders the M2 motorway to the south and Canterbury Road (A2) to the north. West of the site are mainly detached two-storey houses fronting Ashford Road (A251) with rear gardens facing towards the application site and east of the site is Faversham Highway Depot with car parking for HGV vehicles and a Household Waste and Recycling Centre which is accessed from Salters Lane.
- 1.3. Part of the site lies immediately to the east of the Faversham Town Conservation Area and 82 metres to the east of Orchard Cottages, a pair of early C19 semi-detached Grade II listed buildings. Preston-Next-Faversham Conservation Area lies 12 metres to the east of the site. A commercial business is run from the land at Orchard Cottage supplying traditional building materials and training events. Access to that site is from the A2 and lies 14 metres from the western boundary of the application site. Cherry Tree Cottages – Grade II listed buildings - lie 53 metres to the north-east of the application site and on the opposite (northern) side of the A2.

2. PLANNING HISTORY

- 2.1. 16/508602/OUT - Outline application for erection of up to 250 dwellings with all matters reserved except for access. - Granted - 12.05.2022
- 2.2. 21/500766/OUT - Outline application for the erection of up to 70 dwellings (all matters reserved) and land reserved for a link road connecting the A251 with Salters Lane. - Granted - 12.05.2022

2.3. 23/500966/SUB - Submission of details pursuant to condition 4 (Design Code) of application 16/508602/OUT. - Granted - 09.08.2023

2.4. 23/501075/SUB

Submission of Details pursuant to conditions 9 (Remediation Strategy) and 12 (Piling Foundation Designs) of Application 16/508602/OUT.

Approved Decision Date: 08.08.2024

2.5. 23/501085/SUB

Submission of details pursuant to conditions 13 (foul sewerage disposal), and 14 (surface water drainage systems) of application 16/508602/OUT.

Approved Decision Date: 31.10.2024

2.6. 23/501088/SUB

Submission of details pursuant to condition 15 (Code of Construction Practice) of application 16/508602/OUT.

Approved Decision Date: 05.12.2023

2.7. 23/501089/SUB

Submission of Details pursuant to condition 29 (Invasive Non-Native Species Protocol) of Application 16/508602/OUT.

Approved Decision Date: 06.10.2023

2.8. 23/501090/SUB

Submission of details pursuant to conditions 33 (sustainable surface water drainage scheme) and 34 (details of implementation, maintenance, and management of sustainable drainage scheme) of application 16/508602/OUT.

Approved Decision Date: 04.12.2024

2.9. 23/501093/SUB

Submission of details pursuant to condition 36 (noise assessment) of application 16/508602/OUT.

Approved Decision Date: 08.12.2023

2.10. 23/501167/REM

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

Approved Decision Date: 02.10.2023

2.11.23/501394/SUB

Submission of details to discharge condition 7 (proposed site and finished floor levels) of planning application 16/508602/OUT.

Approved Decision Date: 28.08.2024

2.12.23/502836/SUB

Submission of details to discharge Conditions 23 - Water Consumption Rate and Condition 35 - Hydrogeological Risk Assessment, Subject to 16/508602/OUT

Approved Decision Date: 20.01.2025

2.13.23/503442/SUB

Submission of details to discharge conditions 28 (method statement) and 30 (ecological design strategy) of planning application 16/508602/OUT

Approved Decision Date: 28.06.2024

2.14.23/504160/SUB

Submission of details to discharge condition 24 (energy efficiency and thermal performance) of planning application 16/508602/OUT.

Approved Decision Date: 10.10.2023

2.15.23/504193/SUB

Submission of details pursuant to condition 31 (ecological assessment) of application 16/508602/OUT.

Approved Decision Date: 08.08.2024

2.16.23/504220/SUB

Submission of details to discharge condition 24 - Energy Statement, Subject to 16/508602/OUT

Approved Decision Date: 10.10.2023

2.17.23/505321/SUB

Submission of details to discharge condition 10 (verification report) of planning application 16/508602/OUT.

Approved Decision Date: 29.05.2024

2.18.23/505322/SUB

Submission of details to discharge condition 17 - Archaeological Evaluation Report, Subject to 16/508602/OUT

Pending Consideration Decision Date:

2.19.23/505342/SUB

Submission of details to discharge condition 18 - Highways Details, Subject to 16/508602/OUT

Approved Decision Date: 12.06.2024

2.20.24/500493/REM

Section 73 - Application for minor material amendment to approved plans condition 1 (to allow changes to materials) pursuant to 23/501167/REM for - Approval of reserved matters (scale, design, layout and landscaping being sought) for the erection of 231 dwellings (houses and apartments, C3 Use Class) with landscaping, associated highway works, including car parking and open space, pursuant to 16/508602/OUT for - Outline application for erection of up to 250 dwellings with all matters reserved except for access.

Approved Decision Date: 24.09.2024

3. PROPOSED DEVELOPMENT

- 3.1. This application is submitted under Section 73 of the Town and Country Planning Act (1990), seeking amendments to the approved plans secured under condition 1 pursuant to Reserved Matters planning permission ref: 23/501167/REM. The proposed amendments seek to allow changes to the affordable housing tenure, make revisions to sustainable drainage system basins and redesign the public open space.
- 3.2. The s106 Agreement linked to the outline permission (ref 16/508602/OUT) secures the delivery of 81 affordable homes (35% of total dwellings), with a tenure split of 90% affordable rent (73 dwellings) and 10% shared ownership (8 dwellings). However, since execution of the agreement the developer has received limited interest from registered housing providers, who have raised concern with the high proportion of 4-bedroom affordable dwellings and the tenure split heavily weighted towards affordable rent (this is discussed further at section 7.4).
- 3.3. The application seeks to revise the tenure split to 50.6% affordable rent (41 dwellings) and 49.4% shared ownership (40 dwellings), which would continue to provide a total of 81 affordable homes. This tenure split has been amended since the application was first submitted, as it originally proposed the tenure mix to be 30% affordable rent and 70% shared ownership. An Affordable Housing Justification Statement was provided during the application confirming the 50/50 (rounded) revised split and sets out the background and explanation for the proposed changes, and confirmation from a Registered Provider of their commitment to taking forward the proposal. The previously approved split / mix and that now proposed is set out in detail below:

Affordable Housing Tenure Split

	Affordable Rent	Shared Ownership	Total
Approved	73 (90.1%)	8 (9.9%)	81 (100%)
Proposed revised	41 (50.6%)	40 (49.4%)	81 (100%)

Affordable Housing Dwelling Mix

	Approved	Proposed revised
Apartments (Affordable Rent)		
1 bed / 2 person	3	3
2 bed / 3 person	6	6
Dwellings (Affordable Rent)		
1 bed / 2 person	10	2
2 bed / 3 person	6	0
3 bed / 4 person	22	16
4 bed / 5 person	26	14
Dwellings (Shared Ownership)		
1 bed / 2 person	2	10
2 bed / 3 person	0	6
3 bed / 4 person	6	24
Total	81	81

3.4. All affordable apartments will continue to be provided to M4(3) accessibility standards and all affordable dwellings will continue to be provided to M4(2) accessibility standards.

3.5. Other minor amendments proposed to the approved scheme include the following:

- Repositioning of plots to increase setback to retained trees.
- Slight realignment of access road and junction to accommodate repositioning of plots.
- SUDS basin changes and mown path alternations.
- A redesign of central POS area to accommodate revised levels and retaining wall arrangements.

3.6. Revisions were made during the application to rectify issues raised by the Urban Design officer, which resulted in an amended drawing pack being submitted. Due to the minor nature of the revisions no further consultation was considered necessary.

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 representation (three from the same household) were received in relation to the consultation. Concerns were raised in relation to the following matters:

Comment	Report reference
This should not be considered as a 'minor matter'.	Paragraph 7.2.3
Concerns that the proposal will seek to amend the obligations related to the planning permission granted under ref. 21/500766/OUT (in relation to Preston Fields south).	Paragraph 7.14.1
The proposal to switch 49 of the affordable rented units from affordable rented to shared ownership does not address Faversham's housing need.	Paragraph 7.4.1 – 7.4.8
Consideration should be given to re-negotiating the S.106 to capture lost planning gain / capturing the subsidy value of a policy compliant allocation of social rented tenure / payment of commuted sums for the absence of First Homes.	Paragraph 7.14.1
Smaller units should be provided in apartment blocks.	Paragraph 7.3.1 – 7.3.6
Impact of the proposed development on foul water drainage.	Paragraph 7.14.1
Concerns regarding details submitted under separate applications to discharge conditions of the outline planning permission (ref: 23/505321/SUB).	This matter is not relevant to this application and the relevant application (ref: 23/505321/SUB) has already been determined.

4.3. Faversham Town Council objected to the application on the following grounds: -

Comment	Report reference
1) The Town Council objects to the proposed changes in affordable housing	Paragraph 7.4.1 – 7.4.8

tenure which would reduce the number of affordable rental units substantially.	
2) The Town Council also objects to the distribution of units on the site.	Paragraph 7.4.9

4.4. Ospringe Parish Council commented on the application (neither in support or objection) raising the following matters:

Comment	Report reference
We would like to see the affordable housing offered at prices which allow those with local connections to aspire to home ownership.	Paragraph 7.4.1 – 7.4.8

5. REPRESENTATIONS

5.1. **SBC Heritage:** Based on the submitted documents the proposed variation of plans will have no additional impact upon the setting of the Faversham Conservation Area, which this site forms part of. Therefore, no concerns from a built heritage perspective.

5.2. **SBC Urban Design:** Initially requested clarification in regard to boundary treatment changes, car parking areas and its compliance with the Design Code, alignment of pedestrian routes with adjoining footpaths and the changes proposed across the site generally. Following receipt of further information the Urban Design officer confirmed that there are no objections raised to the proposed amendments.

5.3. **SBC Accommodation and Resettlement Manager:** Officers are aware of difficulties with developers securing a registered provider (RP) for the affordable housing at this site, particularly due to the high number of 4-bedroom homes included in the mix (26 x 4BHs), the policy compliant s106 tenure split and also because of other current factors impacting most RPs whose capacity to take on AHs has significantly reduced or ceased. It is therefore acknowledged that an alternative mix may be required to enable on-site delivery of the 81 AHs.

The current S73 application originally sought a new tenure split of 30% Affordable Rent Tenure (24 homes) with 70% Shared Ownership (57 homes); however, given the extent of deviation from the approved tenure split, confirmation was requested that an RP is committed to take forward the proposal.

An Affordable Housing Justification Statement was subsequently provided, which revised the tenure split to 50% rented / 50% shared ownership and includes confirmation from the RP of their commitment to take forward the proposal. The Housing officer has reviewed the additional information and confirmed that the proposals are acceptable.

5.4 **KCC Ecology:** - Advise that the open space has not changed significantly and therefore the comments made in the previous application are still valid for this

application. Sufficient ecological information has been provided but it is advised that additional information is required demonstrating what ecological enhancement features will be incorporated into the site.

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

[Officers note that conditions were previously included to secure the required additional information.]

- 5.6 **KCC SUDs (Lead Local Flood Authority):** Initially requested further information regarding drainage calculations and modelling. Following receipt of further information it was confirmed that the principles of the proposed drainage are accepted.

Further clarification was also requested regarding the impact of large successive storms. However, the relevant information was concurrently being assessed through a submission of details application in relation to Condition 33 and 34 of the parent permission (ref: 23/501090/SUB). The SUDs team advise in their response to that application the following: "Having reviewed the latest information, alongside that also submitted for applications 23/501085/SUB and 24/501929/REM, we are satisfied that those concerns raised by ourselves previously have now been addressed and as such remove our objection to the discharge of conditions 33 and 34." As such, no further information within this application was required.

- 5.7 **KCC Highways:** No comment - there are no highway implications associated with the proposals.
- 5.8 **Environment Agency:** We have no objection to the minor material amendments proposed. However, please refer to our previous comments with regards to surface water discharge proposals under 21/500766/OUT, dated 12 October 2021 (KT/2021/128090/02-L01).
- 5.9 **The Health and Safety Executive:** HSE does not advise on safety grounds, against the granting of planning permission in this case.
- 5.10 **Southern Water:** No objections.
- 5.11 **Kent Police:** No further comments to add (in regard to previous applications).
- 5.12 **Kent Downs National Landscape:** No comments.
- 5.13 **Historic England:** No comments.
- 5.14 **UK Power Networks:** The existence of underground and overhead cables on the site should be noted.

6. DEVELOPMENT PLAN POLICIES

The National Planning Policy Framework (NPPF)

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

- ST1 Delivering Sustainable Development in Swale
- ST2 Development Targets for Jobs and Homes 2014-2031
- ST3 The Swale Settlement Strategy
- CP2 Promoting Sustainable Transport
- CP3 Delivering a Wide Choice of High-Quality Homes
- CP4 Requiring Good Design
- CP7 Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure
- A16 Land at Preston Fields, Faversham
- DM6 Managing Transport Demand and Impact
- DM7 Vehicle Parking
- DM8 Affordable Housing
- DM14 General Development Criteria
- DM17 Open Space, Sports, and Recreation Provision
- DM19 Sustainable Design and Construction
- DM21 Water, Flooding and Drainage
- DM24 Conserving and Enhancing Valued Landscapes
- DM28 Biodiversity and Geological Conservation
- DM29 Woodlands, Trees, and Hedges
- DM32 Development involving listed buildings
- DM33 Development affecting a conservation area
- DM34 Scheduled Monuments and Archaeological Sites

Neighbourhood Plans

Faversham Neighbourhood Plan (2024)

- FAV2: Housing Development
- FAV3: Residential Mix and Standards
- FAV4: Mobility and Sustainable Transport
- FAV7: Natural Environment and Landscape
- FAV8: Flooding and Surface Water
- FAV10: Sustainable Design and Character
- FAV11: Heritage

Supplementary Planning Guidance/Documents

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

7. ASSESSMENT

7.1. The main considerations involved in the assessment of the application as a result of the proposed changes are:

- Principle
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage and Archaeology
- Character and appearance
- Living Conditions
- Trees
- Ecology
- Transport and Highways
- Open Space
- Surface Water Drainage

7.2. **Principle**

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

7.2.2. The National Planning Policy Framework 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.

7.2.3. The application seeks a variation of condition 1 (approved drawings) of the reserved matters approval granted under ref. 23/501167/REM. This application has been submitted under Section 73 of the Town and Country Planning Act 1990 which allows for conditions to be varied, including the condition that specifies the plans which the development should be undertaken in accordance with. Although not appearing in current legislation or guidance, when made in respect of such a condition, this type of application is sometimes referred to as a Minor Material Amendment. Planning Practice Guidance sets out that “there is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.” This is supported by the guidance setting out that the only limits on the use of this approach are that it cannot amend the time limit for commencing development and cannot amend the description of the development. In this case, noting that the amendments relate to the changes to affordable housing tenure, revisions to

the drainage pond and redesign of public open space scale, it is considered that the scope of the changes sit comfortably within the scope of an application of this type.

- 7.2.4. 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 variation, as set out in the proposal section above is acceptable. Therefore, the principle of development has been accepted and is not able to be considered further.
- 7.2.5. The site is allocated for residential development under the terms of Local Plan policies ST4 and A16. Moreover, the principle of the proposed development on this site has been established as being acceptable through the parent Outline planning permission (ref: 16/508602/OUT). The current application submitted under s73 does not propose any amendments to the development that would result in a different conclusion on the principle of development to that already established.
- 7.2.6. Since the previous Reserved Matters application was granted permission, the Faversham Neighbourhood Plan has been adopted and is, therefore, part of the development plan that the application is required to be considered in relation to. Noting the scope of an assessment that can be made in relation to an application submitted under the terms of Section 73 of the Act, the Neighbourhood Plan does not represent a reason to re-consider the principle of the proposed development.

7.3. Size and Type of Housing

- 7.3.1. 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. Policy FAV3 of the Faversham Neighbourhood Plan requires residential schemes to include a mix of accommodation to meet local housing need based on the available evidence including 3 bedroom properties as a predominant part of the mix; 2 bedroom (or fewer) accommodation suitable for first time buyers / renters / those seeking to downsize and accommodation suitable for older people and those with limited mobility.
- 7.3.2. The approved Reserved Matters application (ref: 23/501167/REM) was granted with the following dwelling size mix:
- 1 bedroom – 15 dwellings
 - 2 bedrooms – 59 dwellings
 - 3 bedrooms – 84 dwellings
 - 4+ bedrooms – 73 dwellings

- 7.3.3. The officer report for that application stated that “The mix of housing size and types is considered acceptable as it provides for a range of options within the site itself using the context and characters of the area to determine density as set out in Policy CP3 of the Local Plan”.
- 7.3.4. The proposed revisions would change the dwelling size mix as follows:
- 1 bedroom – 15 dwellings
 - 2 bedrooms – 59 dwellings
 - 3 bedrooms – 96 dwellings
 - 4+ bedrooms – 61 dwellings
- 7.3.5. The proposed revisions would result in 12 x 4-bedroom dwellings changing to 3-bedroom dwellings. The number of 1 and 2-bedroom sized dwellings would remain the same. The 12 dwellings are all affordable housing units and are proposed to be changed at the request of the affordable housing provider to enable the delivery of the affordable housing.
- 7.3.6. Officers consider that the proposed revisions would continue to provide a range of dwelling size options within the site and would remain generally consistent with the context and character of the area as set out in Policy CP3 of the Local Plan and policy FAV 3 of the Faversham Neighbourhood Plan.

7.4. Affordable Housing

- 7.4.1. The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Through Policy DM8, the Local Plan requires 35% of affordable housing from developments in Faversham. The supporting text states *“the Council will, in the first instance, seek an indicative target of 90% affordable/social rent and 10% intermediate products. Specific site circumstances may affect the viability of individual proposals which may result in an alternative tenure being acceptable, however this must be demonstrated by a viability assessment accompanying a planning application. The Council recognises that the evidence base for different tenures may vary over time particularly with the progression of policy initiatives such as Starter Homes and so will refer to the latest needs assessment in decision making.”* Policy FAV3 of the Faversham Neighbourhood Plan seeks an affordable housing tenure split of 66% affordable rent and 34% affordable ownership.
- 7.4.2. The S106 agreement attached to the parent Outline permission secures, among other matters, 81 (35%) of the dwellings delivered to be provided as affordable housing units, comprising 73 dwellings (90%) as Affordable Rented Housing and 8 dwellings (10%) as Shared Ownership.
- 7.4.3. The application would retain the overall amount of affordable housing in accordance with the Outline permission and Local Plan policy DM8. However,

it seeks to revise the affordable housing tenure mix to comprise 41 dwellings (51%) as Affordable Rented Housing and 40 dwellings (49%) as Shared Ownership. This is illustrated in the following table.

Totals	Approved	Proposed
Affordable Rent	73	41
	90%	51%
Shared Ownership	8	40
	10%	49%
Total	81	81

- 7.4.4. An Affordable Housing Justification Statement was provided during the application along with revisions to the proposed tenure split at the request of officers, which was originally proposed to be 30/70 in favour of shared ownership. The Statement sets out the challenges facing the delivery of affordable housing at this site, in particular the difficulty in finding a Registered Provider to take on the approved affordable housing. It states that the developer, *“has engaged in discussions with numerous Registered Providers (RP’s) that have resulted in limited interest due to the significant number of 4 beds affordable dwellings proposed and a tenure split which was heavily weighted towards affordable rent”*.
- 7.4.5. Paragraph 1.31 of the Statement sets out further details of the RP’s approached by the applicant and their responses. Officers note that 11 RP’s / affordable housing providers were approached, however only 3 qualified offers were received from RP’s. Furthermore, 7 RP’s declined to bid as they were no longer in the market for S106 units or there was an issue with the affordable housing mix or tenure split proposed.
- 7.4.6. The Statement further sets out that the issues they are experiencing in finding an RP are being experienced widely across the region. They identify that the main problems generally include funding constraints as a result of the current economic climate, RP’s needing to divert current funds to refurbish existing stock, rent caps, and availability of grant funding.

The Council’s Accommodation and Resettlement Manager and planning officers have been in discussions with the applicant and are aware of the issues in securing an RP for the affordable homes secured under the parent Outline consent. The Accommodation and Resettlement Manager acknowledges that this was in part due to the high number of 4-bedroom homes included in the mix, the high proportion of affordable rent homes and also because of other current factors impacting most RPs whose capacity to take on affordable homes has significantly reduced or ceased. The Affordable Housing officer advises that

the Affordable Housing Justification Statement covers what has been agreed with regards to the revisions of the affordable housing tenure mix.

- 7.4.7. The proposed revised affordable housing tenure mix is therefore accepted in light of the exceptional circumstances detailed in the application. However, the revisions to the tenure mix results in the application conflicting with policy FAV3 Part 2 of the Faversham Neighbourhood Plan (albeit the previously agreed mix would also have conflicted with this part of the policy). As a result of this, although the overall percentage of affordable housing accords with the requirements of policy DM8 of the Local Plan, there is a section of the policy which requires *“The size, tenure and type of affordable housing units in accordance with the needs of the area”*. The needs of the area, having been set out in the Faversham Neighbourhood Plan differ from what is being proposed. As a result, there is conflict with this element of policy DM8 of the Local Plan. The overall planning balance is discussed at the end of this report.
- 7.4.8. A deed of variation to the s106 legal agreement has been prepared to reflect the above proposed changes to the affordable housing tenure mix. The proposal is therefore acceptable subject to the agreement of the deed of variation.
- 7.4.9. Officers note that Faversham Town Council also raised concerns about the distribution of affordable units across the site. However, the distribution of the affordable units remains unchanged from the approved scheme.

7.5. Landscape and Visual

- 7.5.1 The NPPF requires decisions to ensure that development is *‘sympathetic to... landscape setting’*.
- 7.5.2 The application site is not in a designated landscape but the supporting text to Policy A16 (Land at Preston Fields, Faversham) notes that the site makes a positive contribution to the heritage setting of the town and its rural setting and views.
- 7.5.3 The Officer Report for the approved Reserved Matters application notes the inclusion of an area of open space and SuDs feature provided to the north of the site to retain an open aspect from the A2 and helps the site to integrate with the Conservation Area. The Report also makes general note of the other areas of open space, and concludes that the proposal accords with the relevant Development Plan policies.
- 7.5.4 The proposed revisions do not make any significant changes to the layout of the development, and therefore would generally retain these areas of open space as previously approved. The proposed revisions to the SUDS basins and Public Open Space (POS) are minor, seeking to accommodate changes in levels and meet drainage capacity requirements. Therefore, the proposal would not affect the visual appearance of the development or its effect on

landscape setting. As such, the proposal would continue to be acceptable in accordance with policy DM24 of the Local Plan and policy FAV7 of the Faversham Neighbourhood Plan.

7.6. Heritage and Archaeology

- 7.6.1 Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.6.2 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.
- 7.6.3 The parent Outline application (ref: 16/508602/OUT) considered the impacts of the development on heritage assets and concluded that the proposed development would preserve the setting of adjoining listed buildings, together with protecting the character and appearance of the nearby Conservation Areas. It also concluded that the development would protect on-site archaeology subject to securing appropriate mitigation for archaeological findings by way of planning conditions. The Officer Report for the approved Reserved Matters application notes the conclusions made in the parent Outline consent and concludes that the proposal therefore would comply with the relevant policies.
- 7.6.4 As discussed in the previous section, the proposal would generally retain the previously approved layout and arrangement of open space, which was considered to sufficiently mitigate impacts on the setting of nearby heritage assets. The Council's heritage consultant advises that the proposed variation of plans will have no additional impact upon the setting of the Faversham Conservation Area.
- 7.6.5 The proposed revisions therefore accord with policies DM32, DM33 and DM34 of the Local Plan and policy FAV11 of the Faversham Neighbourhood Plan which have similar aims and requirements as the NPPF which are summarised above. 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.

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 The layout, scale, appearance and landscaping of the proposed revisions remains generally the same in the approved reserved matters development, with only minor changes proposed to address various matters that have arisen through the detailed design stage. A 'Summary of Changes' document was provided in August 2024, which illustrates the proposed changes along with the reasons for doing so.
- 7.7.3 The proposed layout has been slightly amended along the western boundary to improve the separation of development from tree root protection areas. The crossroads junction has also slightly changed to accommodate this change. The footpath link to the west has also been revised to accommodate the surveyed location of the footpath on the adjoining site.
- 7.7.4 The layout in the north-eastern corner of the site has also slightly changed to accommodate refinements to the pumping station, substation and associated turning head. This in turn has resulted in slight revisions to the positioning of plots 8 – 14. The parking court block paving colour in this location has been changed from Charcoal to Natural. The surface material to other parking courts, secondary shared surfaces and tertiary routes has been changed from charcoal block paving to tarmac.
- 7.7.5 The central open space has been revised to accommodate for the change in ground levels and associated retaining wall strategy. Footpaths, planting throughout the POS and Local Equipped Area of Play (LEAP) have also been adjusted accordingly.
- 7.7.6 The proposed layout changes are minor and retain the design principles established in the Outline and previous Reserved Matters approvals. The Council's Design Manager has not raised any concerns in regard to the proposed changes, including to the revised surface materials and open space. As such, the proposed changes would not adversely impact on the approved character and appearance of the development. The proposal therefore remains consistent with policies CP3, DM7, DM14 and A16 of the Local Plan and policies FAV2 and FAV10 of the Faversham Neighbourhood Plan.

7.8. Living Conditions

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

7.8.2. The parent Reserved Matters permission established that the development would not adversely impact on the amenity of neighbouring properties. The proposed changes to the layout would actually increase the setback of buildings from the only boundary directly adjoining existing residential properties and therefore would not result in the adverse impact on their amenity over and above that previously consented.

7.8.3. The proposed revisions would not impact on the internal layout of the proposed dwellings, which would all continue to be provided with sufficient garden space. As such, the proposed changes would continue to provide existing and future residents with acceptable standards of residential amenity. The proposal therefore complies with policy DM14 of the Local Plan.

7.9. Trees

7.9.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside and urban environments. The Local Plan requirement is recognised through Policy DM29 of the Local Plan and FAV7 of the Faversham Neighbourhood Plan.

7.9.2. The previous Reserved Matters application established that the tree protection measures set out within the approved Arboricultural Report were acceptable and these were secured within the approved plans. The proposed changes would improve the setback from the proposed buildings to the retained trees and therefore would in turn improve the protection measures for these trees. As such, the proposal would not adversely impact on trees over and above the previously consented development. The condition securing the approved plans and documents is updated to include the submitted Arboricultural Report. As a result the proposal complies with policy DM29 of the Local Plan and FAV7 of the Faversham Neighbourhood Plan.

7.10. Ecology

7.10.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies 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.

7.10.2. In terms of the 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.

- 7.10.3. The previous Reserved Matters officer report concluded that there were no objections on ecology grounds to that application, noting that details pursuant to lighting and ecological enhancement are subject to conditions associated with the approved outline planning approval, ref. 16/508602/OUT. In addition, the SAMMS contribution is secured under the S106 Agreement in association with the above outline approval.
- 7.10.4. Updated ecological information has been submitted as part of this s73 application. KCC Ecology have compared the plans with the previous Reserved Matters permission and confirm that the open space has not changed significantly and therefore the previous comments are still valid for this application. As such, the proposed development continues to be acceptable with regard to ecological matters subject to the measures secured at the outline stage.
- 7.10.5. In terms of Biodiversity Net Gain (BNG), it is noted that policy FAV7 states that *“Major development proposals should include positive features in its design and landscaping to create Biodiversity Net Gain, as follows:*
- a. for brownfield sites, 10% net gain;*
 - b. for greenfield sites, 20% net gain.”*
- 7.10.6. However, the Planning Practice Guidance states that *“Biodiversity net gain does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024.”*
- 7.10.7. In this case, both the planning permission and the reserved matters to which this Section 73 relates were granted before 12th February 2024. In any case, this application is an amendment to a reserved matters approval, which themselves are not subject to BNG as they are not a grant of planning permission. In addition, the Planning Practice Guidance states that *“It would be inappropriate for decision makers to continue to give weight to aspects of existing local policies related to biodiversity gains which are inconsistent with the statutory framework for biodiversity net gain.”* And *“Decision makers should not give weight to local policy which requires biodiversity gains for types of development which would now be exempt under the statutory framework.”* Therefore, it is clear that in this case, a minimum BNG of 10% is not required to be demonstrated due to the scope and timing of the relevant applications as discussed above.

7.11. Transport and Highways

- 7.11.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such.

- 7.11.2. 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.
- 7.11.3. The officer report supporting the parent Reserved Matters permission concluded that the development would not lead to unacceptable highway impacts, noting that vehicle parking was provided in accordance with Swale Borough Council standards. The provision of the A251 southern access road to meet local distributor road standards and safeguarding of a future link through to Salter Lane were also secured. A Traffic Regulation Order plan to include waiting restrictions was also secured by condition.
- 7.11.4. The proposed amendments to the approved development only makes minor changes to the layout and do not impact the spine route, road layout, or pedestrian and cycling routes within and adjoining the site. Furthermore, the proposed amendments do not affect the dwelling numbers and the revisions are not considered to impact vehicle movements to and from the site. As such the revisions will not further impact the wider highway network or affect external transport impacts.
- 7.11.5. The proposed parking layout plan demonstrates that all on-plot parking will be provided with electric vehicle charging (EVC) facilities along with EVC facilities to 10% of visitor bays and communal parking courts. KCC Highways have not raised concern with the proposed parking layout changes.
- 7.11.6. Overall, it is considered that the scheme continues to comply with Policies DM6 and DM7 of the Local Plan and would not lead to unacceptable highway impacts.

7.12. Open Space

- 7.12.1. Policy DM17 of the Local Plan sets out that new housing development shall make provision for appropriate outdoor recreation and play space, including urban parks, children's play areas, open space for sport, allotments or community gardens proportionate to the likely number of people who will live there.
- 7.12.2. The previous Reserved Matters application established that the POS provision as set out within the application amounts to 2.5ha (6.17 acres); this area of open space is contained outside of the proposed SUDs areas, which amounts to 0.41ha (0.41 acres).
- 7.12.3. The central open space has been revised in this s73 application to accommodate for the change in ground levels and associated retaining wall strategy. Footpaths, planting throughout the POS and LEAP have also been adjusted accordingly. However, the proposed changes do not affect the overall

provision of open space previously secured and would not impact on the site's play space strategy. As such, the open space and play space strategy continues to be acceptable in accordance with policy DM17 of the Local Plan and policies FAV7 and FAV13 of the Faversham Neighbourhood Plan.

7.13. Surface Water Drainage

7.13.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan and policy FAV8 of the Faversham Neighbourhood Plan.

7.13.2. The application proposes minor alterations to the approved SUDS basins, which would not materially change their appearance or function. Details of sustainable surface water drainage pursuant to conditions 33 and 34 of the parent Outline permission have already been discharged under application ref: 23/501090/SUB, which was approved in December 2024.

7.13.3. KCC SUDS confirmed that the information within this s73 application reflects that provided in the approved SUB application, and that they are satisfied that the concerns raised by them previously have now been addressed. As such, the proposal will provide acceptable drainage measures in accordance with policy DM21 of the Local Plan and FAV 8 of the Neighbourhood Plan.

7.14. Other Matters

7.14.1. Although a number of the matters raised in the consultation section above have been dealt with, of those that remain the following comments are made. Firstly, this application does not seek amendments to the scheme approved under ref. 21/500766/OUT. Any amendments to that permission would require separate consent. It is also considered that securing further obligations via the varied S.106 agreement would not meet the tests on the basis that the amendments have been considered as an acceptable way to deliver affordable housing on this site. Finally, foul drainage is a matter dealt with via the outline planning permission.

7.15. Conclusion

7.15.1. 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.

7.15.2. The application site forms part of the allocated site under policy A16 - Land at Preston Fields - as identified within the adopted Local Plan. Swale Borough Council currently cannot demonstrate 5-years housing supply, and therefore

the delivery of this site for 231 new homes would make a significant contribution to the Borough's housing delivery.

- 7.15.3. Officers acknowledge that the revisions to the affordable housing tenure mix results in the application conflicting with policy FAV3 Part 2 of the Faversham Neighbourhood Plan and as a result, the single element of policy DM8 of the Local Plan which requires the tenure of affordable housing units to be in accordance with the needs of the area. However, the development would continue to provide 81 affordable homes overall, which complies with the percentage requirements as set out in Local Plan policy DM8 and would make a valuable contribution towards providing affordable housing in the borough.
- 7.15.4. Officers also acknowledge that the proposed changes to the affordable housing tenure mix are due to the difficulties in gaining interest from a Registered Provider, which is essential in the delivery of affordable housing. The proposal therefore seeks to overcome the issues obstructing the one RP showing interest, which includes reducing the number of 4-bedroom homes included in the mix and evening out the proportion of affordable rent homes to intermediate. Officers are also aware that the current economic climate is impacting most RPs whose capacity to take on affordable homes has significantly reduced or ceased. The Council's Accommodation and Resettlement Manager has also, after assessing all the evidence provided as discussed above, considered the proposals to be acceptable.
- 7.15.5. The proposed revised affordable housing tenure mix is therefore, on balance, accepted in light of the material considerations detailed in the application.
- 7.15.6. The proposed design changes are considered to be acceptable in accordance with the relevant Local Plan policies and National Planning Policy Framework as set out above in this report. Should this s73 application be approved it is necessary to reimpose the conditions secured by the previous Reserved Matters approval as originally worded or revise where details are required to be updated as a result of the amendments or have been approved through discharge of conditions applications. This will ensure the proposal accords with the Local Plan 2017 and the NPPF.

RECOMMENDATION

Approve – subject to the signing of the s106 legal agreement deed of variation and the following conditions

CONDITIONS

1. The development hereby approved shall be carried out in accordance with the following drawings / details:

Planning Statement & Statement of Community Involvement

Heritage Impact Assessment

PC4334 Preston Fields Faversham_Air Quality_Technical Note_July2023

Affordable Housing Justification Statement Sept 2024

A1121_01_Rev O_Planning Layout_Section 73

A1121_01_Rev O_Planning Layout_COLOUR

A1002_04_Site Location Plan

A1121_07_Rev L_Materials Plan_Section 73

A1121_08_Rev K_Enclosure Plan_Section 73

A1121_09_Rev K_Character Area Plan_Section 73

A1121_10_Rev J_Occupancy Plan_Section 73

A1121_11_Rev J_Massing Plan_Section 73

A1121_12_Rev L_Parking Plan_Section 73

A1121_13_Rev J_Affordable Housing Plan_Section 73

A1121_14_Rev J_Refuse Plan_Section 73

A1002_15 Rev D M4-3 -APARTMENT PLANS

A1002_16_Rev D M4-3 -APARTMENT ELEVATIONS

A1121_17_Rev K_POS Area Plan_Section 73

A1121_18_Rev G_Street Scenes A-E

A1121_19_Rev J_Gas Easement Plan_Section 73

A1121_Rev G_House Type Brochure

A1121_063 Rev B Letchworth - Floor Plans

A1121_064 Rev B Letchworth - Elevations

A1121_066 Rev B Letchworth - Elevations

A1121_067 Rev D Stamford - Floor Plans

A1121_068 Rev C Stamford - Elevations

A1121_069 Rev B Stamford and Amberley - Floor Plans

A1121_070 Rev B Stamford and Amberley - Floor Plans

A1121_071 Rev B Stamford and Amberley - Elevations

A1121_072 Rev B Stratford - Floor Plans and Elevations

A1121_073 Rev C Stratford - Floor Plans and Elevations

A1121_074 Rev B Leamington Lifesyle - Floor Plans and El...

A1121_075 Rev B Leamington Lifestyle - Floor Plans and E...

A1121_076 Rev B Oxford Lifestyle - Floor Plans and Eleva...

A1121_080 Rev B	Cambridge - Floor Plans and Elevations
A1121_082 Rev B	Shaftesbury - Floor Plans and Elevations
A1121_083 Rev B	Shaftesbury - Floor Plans and Elevations
A1121_086 Rev B	Harrogate - Floor Plans and Elevations
A1121_088 Rev B	Harrogate - Floor Plans and Elevations
A1121_089 Rev B	Harrogate - Floor Plans and Elevations
A1121_090 Rev B	Henley - Floor Plans
A1121_091 Rev B	Henley - Elevations
A1121_092 Rev B	Henley - Elevations
A1121_093 Rev B	Balmoral - Floor Plans
A1121_094 Rev B	Balmoral - Elevations
A1121_095 Rev B	Hampstead - Elevations
A1121_096 Rev B	Richmond - Floor Plans
A1121_097 Rev B	Richmond - Elevations
A1121_098 Rev B	Richmond - Elevations
A1121_099 Rev C	Hampstead - Floor Plans
A1121_100 Rev B	Hampstead - Elevations
A1121_101 Rev B	Hampstead - Elevations
A1121_102 Rev B	Tavy and Spey - Floor Plans
A1121_103 Rev B	Tavy and Spey - Elevations
A1121_104 Rev A	Dart - Floor Plans and Elevations
A1121_105 Rev B	Dart and Spey - Floor Plans
A1121_106 Rev B	Dart and Spey - Elevations
A1121_107 Rev B	Dart - Floor Plans
A1121_108 Rev B	Dart - Elevations
A1121_109 Rev B	Dart - Floor Plans
A1121_110 Rev B	Dart - Elevations
A1121_111 Rev B	Dart and Spey - Floor Plans
A1121_112 Rev C	Dart and Spey - Elevations
A1121_113 Rev B	Tweed - Floor Plans and Elevations
A1121_114 Rev B	Tweed - Floor Plans and Elevations
A1121_115 Rev B	Tweed - Floor Plans
A1121_116 Rev B	Tweed - Elevations

A1121_ 119 Rev B Single Garage Floor Plan and Elevations
A1121_ 120 Rev B Twin Garage Floor Plan and Elevations
A1121_ 121 Rev A Double Garage Floor Plan and Elevations
A1121_ 123 Rev A Leamington Lifestyle - Floor Plans and E...
A1121_ 124 Rev A Leamington Lifestyle - Floor Plans and E...
A1121_ 125 Rev A Cambridge - Floor Plans and Elevations
A1121_ 126 Rev A Shaftesbury - Floor Plans and Elevations
A1121_ 127 Rev A Shaftesbury - Floor Plans and Elevations
A1121_ 128 Rev A Harrogate - Floor Plans and Elevations
A1121_ 129 Rev A Oxford Lifestyle - Floor Plans and Eleva...
A1121_ 130 Rev A Harrogate - Floor Plans and Elevations
A1121_ 132 Rev A Dart - Floor Plans and Elevations
A1121_ 133 Rev A Dart - Elevations
A1121_ 134 Rev A Dart - Elevations
A1121_ 137 Rev A Stamford - Floor Plans
A1121_ 138 Rev A Stamford - Elevations
A1121_ 139 Rev A Stamford - Floor Plans
A1121_ 140 Rev A Stamford - Elevations
A1121_ 150 Oxford - Floor Plans and Elevations
A1121_ 151 Rev A Balmoral - Elevations
1002_Design Justification Statement_Rev C 30.08.23
6150-LLB-EA-E1-DR-L-0003-S4-P06_Planting Plan-A1L-EAE1
6150-LLB-EA-E2-DR-L-0004-S4-P06_Planting Plan-A1L-EAE2
6150-LLB-EA-E3-DR-L-0005-S4-P05_Planting Plan
6150-LLB-EC-E1-DR-L-0023-S4-P06_Planting Plan-A1L-ECE1
6150-LLB-EA-E5-DR-L-0007-S4-P04_Planting Plan
6150-LLB-EA-E6-DR-L-0008-S4-P04_Planting Plan
6150-LLB-EA-E7-DR-L-0009-S4-P05_Planting Plan
6150-LLB-EA-E8-DR-L-0010-S4-P04_Planting Plan
6150-LLB-EA-E9-DR-L-0011-S4-P04_Planting Plan
6150-LLB-EA-E10-DR-L-0012-S4-P05_Planting Plan
6150-LLB-EA-E11-DR-L-0013-S4-P04_Planting Plan
6150-LLB-EA-E12-DR-L-0014-S4-P07_Planting Plan

6150-LLB-EA-E13-DR-L-0015-S4-P08_Planting Plan
6150-LLB-EA-E14-DR-L-0016-S4-P04_Planting Plan
6150-LLB-EA-E15-DR-L-0017-S4-P04_Planting Plan
6150-LLB-EA-E16-DR-L-0018-S4-P05_Planting Plan
6150-LLB-EA-E17-DR-L-0019-S4-P05_Planting Plan
6150-LLB-EB-E1-DR-L-0020-S4-P06_Planting Plan
6150-LLB-ZZ-ZZ-DR-L-0001-S4-P21_Indicative Site Landscape Masterplan-A1L-ZZZZ
6150-LLB-EB-E3-DR-L-0022-S4-P06_Planting Plan
6150-LLB-EC-E1-DR-L-0023-S4-P05_Planting Plan
6150-LLB-EC-E2-DR-L-0024-S4-P07_Planting Plan
6150-LLB-ED-E1-DR-L-0002-S4-P07_Play Equipment Plan
6150-LLB-ED-E1-DR-L-0002-S4-P09_Play Equipment Plan
6150-LLB-ED-E1-DR-L-0025-S4-P07_Planting Plan
6150-LLB-EC-E3-DR-L-0026-S4-P03_Planting Plan
6150-LLB-RP-L-0003-S0-P01_Play Equipment Specifications
6150-LLB-ZZ-ZZ-DR-L-0001-S4-P21_Indicative Site Landscape Masterplan
6150-LLB-XX-XX-DR-L-0002-S4-P02_Landscape Masterplan
PFF-PPC-00-XX-DR-C-0301 Highways Review-301
PFF-PPC-00-XX-DR-C-0302 Highways Review-302
PC-00-XX-DR-C-0303 Highways Review-303
PRE-PPC-00-XX-RP-C-0016 Preston Fields TechNote – KCC Highways rev 1
Parking Justification Note (Preston Fields) V1.0
PFF-PPC-00-XX-DR-C-0304 Tracking Plans-304
PFF-PPC-00-XX-DR-C-0305 Tracking Plans-305
PFF-PPC-00-XX-DR-C-0306 Tracking Plans-306
PRE-PPC-00-XX-RP-C-0010 Preston Fields Site A Drainage Strategy Complete
PRE-PPC-00-XX-RP-C-0019 Preston Fields TechNote - KCC LLFA
PRE-PPC-00-XX-RP-C-0020 Preston Fields TechNote - KCC LLFA
PRE-PPC-00-XX-RP-C-0018 Preston Fields TechNote - Southern Water
PFF-PPC-00-XX-DR-C-3201 C2 Drainage Layout Green Alternative-3201
PFF-PPC-00-XX-DR-C-3202 C2 Drainage Layout Green Alternative-3202
PFF-PPC-00-XX-DR-C-3203 C2 Drainage Layout Green Alternative-3203
PFF-PPC-00-XX-DR-C-3204 C2 Drainage Layout Green Alternative-3204

PFF-PPC-00-XX-DR-C-3205 C2 Drainage Layout Green Alternative-3205
PFF-PPC-00-XX-DR-C-3206 C2 Drainage Layout Green Alternative-3206
PFF-PPC-00-XX-DR-C-3207 C2 Drainage Layout Green Alternative-3207
PFF-PPC-00-XX-DR-C-3208 C2 Drainage Layout Green Alternative-3208
PFF-PPC-00-XX-DR-C-3211 C3 External Works Levels Green Alternative-3211
PFF-PPC-00-XX-DR-C-3212 C3 External Works Levels Green Alternative-3212
PFF-PPC-00-XX-DR-C-3213 C3 External Works Levels Green Alternative-3213
PFF-PPC-00-XX-DR-C-3214 C3 External Works Levels Green Alternative-3214
PFF-PPC-00-XX-DR-C-3215 C3 External Works Levels Green Alternative-3215
PFF-PPC-00-XX-DR-C-3216 C3 External Works Levels Green Alternative-3216
PFF-PPC-00-XX-DR-C-3217 C3 External Works Levels Green Alternative-3217
PFF_M3_SW_Drainage Basin Central Network FEH 20240920 Calcs
PFF_M3_SW_Drainage Basin North Network FEH 20240920 Calcs
10327 2023-08-25 RGM - CS2 Tank M5-60 1-30
10327 2023-08-25 RGM - CS2 Tank M5-60 1-100
10327 2023-08-25 RGM - CS3 Tank M5-60 1-30
10327 2023-08-25 RGM - CS3 Tank M5-60 1-100
10327 2023-08-25 RGM - CS4 Tank M5-60 1-30
0327 2023-08-25 RGM - CS4 Tank M5-60 1-100
10327 2023-08-25 RGM - CS5 Tank M5-60 1-30
0327 2023-08-25 RGM - CS5 Tank M5-60 1-100
PFF_M3_SW_Drainage Basin South Network FEH 20240923 Calcs
PFF-PPC-00-XX-DR-C-3261 P1 Catchment Plan Green Alternative-3261
PFF-PPC-00-XX-DR-C-3262 P1 Catchment Plan Green Alternative-3262
PFF-PPC-00-XX-DR-C-3263 P1 Catchment Plan Green Alternative-3263
UE0520 EcIA 7 241002
UE0520 Preston Fields Site A EcIA 7241002
UE0520 Preston Fields Site A PEA 7 241002
UE0520 Preston Fields Site A PSR 7 241002
Arboricultural Method Statement (dated: May 2024) ref: 11362_AMS.001 Rev D

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

2. Prior to first occupation of the dwellings hereby permitted the developer shall submit a Traffic Regulation Order application to secure a package of suitable traffic restrictions for the roads within the estate hereby approved.

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

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

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

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

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

5. Prior to the occupation of the dwellings hereby approved, details of a scheme to prevent vehicular parking to allow the proper servicing of the foul pumping/substation, shall be submitted to and agreed in writing with the Local Planning Authority. The works shall thereafter be carried out in accordance with the agreed details.

Reason: To allow the servicing of the foul pumping/ substation in the interests of highway safety.

INFORMATIVES

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

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

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

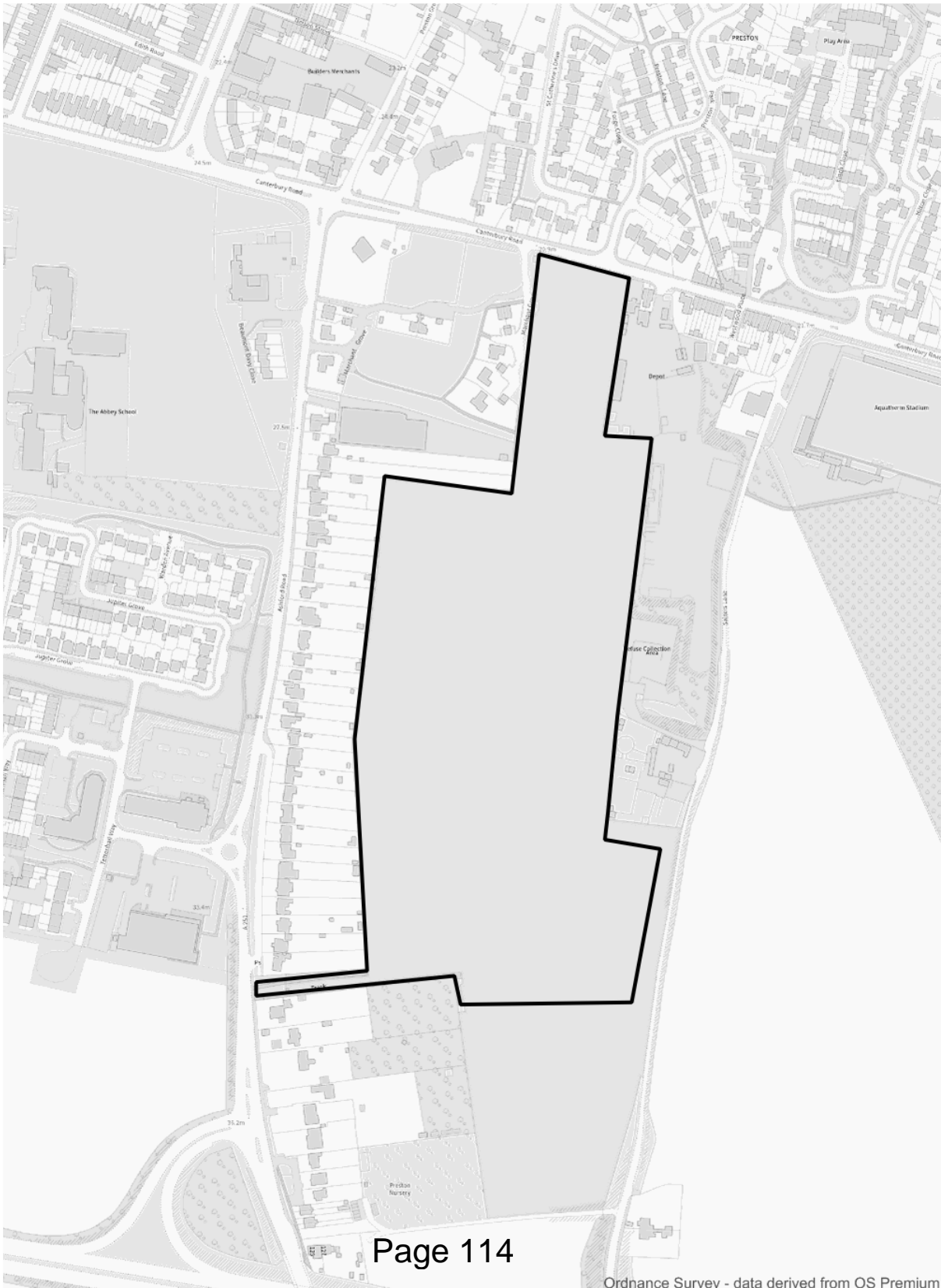
Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-andtravel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework 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.



2.4 REFERENCE NO - 24/503858/FULL		
PROPOSAL Demolition of single storey rear extension and erection of single storey rear extension with changes to fenestration and addition of 6no rooflights and bifold door (part retrospective).		
SITE LOCATION Oak Tree Cottage, South Street, Boughton Under Blean, Kent, ME13 9NR		
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 Householder		
REASON FOR REFERRAL TO COMMITTEE Boughton under Blean Parish Council Objection		
CASE OFFICER Mandi Pilcher		
WARD Boughton & Courtenay	PARISH/TOWN COUNCIL Boughton under Blean	APPLICANT Mrs Kerry Nikolova AGENT Mrs Cherry Baillie
DATE REGISTERED 25/09/2024	TARGET DATE 20/11/2024	
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: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SJWWHATYGDU00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 Oak Tree Cottage is a two storey detached residential property located in the countryside on the northern side of South Street, Boughton Under Blean. The property sits on a sizable plot and has been extended previously in the form of a two storey side extension and a single storey rear extension, which has recently been demolished.
- 1.2 The surrounding area is rural in nature with agricultural fields surrounding the dwelling. South Street, which the property fronts, is a designated rural lane.

2. PLANNING HISTORY

- 2.1 25/500057/LAWPRO
Lawful Development Certificate for proposed outbuilding for storage including 2no. roof lights.
Pending Consideration

- 2.2 24/504588/LAWPRO
Lawful Development Certificate for proposed outbuilding for storage facility.
Refused Decision Date: 24.12.2024
- 2.3 24/503833/AGRIC
Prior notification for the erection of an extension to existing garage to form agricultural storage facility for machinery. For its prior approval to: - Siting, design and external appearance.
Planning Permission Required Decision Date: 14.10.2024
- 2.4 15/508522/FULL
Replacement of damaged single storey rear part of main dwelling.
Approved Decision Date: 23.12.2015
- 2.5 SW/12/1381
Renewal of planning permissions approved under reference SW/09/1228 – to demolish existing outbuilding due to subsidence; replacement rear extension to provide new kitchen/breakfast room. Alterations to layout to provide utility room and WC within existing house.
Approved Decision Date: 18.12.2012
- 2.6 SW/09/1228
Demolition of existing outbuilding due to subsidence; replacement rear extension to provide new kitchen/breakfast room. Alterations to layout to provide utility room and WC within existing house. (Renewal of Planning Permission SW/06/1261).
Approved Decision Date: 15.01.2010
- 2.7 SW/09/0295
To demolish existing single storey utility/shower room at rear (north) of property and replace with two storey extension incorporating new kitchen and bedroom.
Refused Decision Date: 22.05.2009
Dismissed at appeal Decision Date: 23.11.2009
- 2.8 SW/06/1261
Demolition of existing outbuilding due to subsidence; replacement rear extension to provide new kitchen/breakfast room. Alterations to internal layout to provide utility room and WC within existing house.
Approved Decision Date: 21.12.2006
- 2.9 SW/87/1023
Proposed two storey side extension and change of use of agricultural land to residential.
Approved Decision Date: 23.10.1987
3. PROPOSED DEVELOPMENT
- 3.1 This application seeks planning permission for the demolition of a single storey rear extension and erection of single storey rear extension with changes to fenestration and addition of 6no rooflights and bifold door. The rear projection has already been

demolished so the proposal is part retrospective.

3.2 The proposed rear extension would extend from the staggered rear elevation of the property by a distance ranging between approximately 2.5m and 3.5m. The proposed extension has a width of approximately 8.2m. The extension has a pitched roof and measures approximately 2.3m to the eaves and 3.4m in overall height.

3.3 The proposal also includes the insertion of 6 rooflights on the rear facing roofslope, two additional windows on the first floor rear elevation, two new windows on the side (west) elevation and the replacement of windows on the rear elevation in a style to match those on the front elevation. A door is also proposed in the side elevation of the existing porch.

4. CONSULTATION

4.1 One round of consultation has been undertaken during which a site notice was displayed at the site. No letters from neighbours were received.

4.2 **Boughton under Blean Parish Council** were consulted on two occasions. In response to the first consultation they raised an objection on the following summarised grounds (full representations are available online):

Comment	Report reference
The proposal represents overdevelopment in a rural area and is above the 60% figure as set out in the Council's SPG;	Paragraph 7.10 and 7.11
The original historic structure will be completely consumed;	Paragraph 7.13
The proposal does not preserve or enhance the visual amenity of the hamlet in a rural area;	Paragraph 7.12 – 7.18
The extension does not reflect the character and appearance of the existing building;	Paragraph 7.13 and 7.14
The proposals do not represent good design;	Paragraph 7.12 – 7.18
The drawings are not accurate in terms of the fenestration;	Paragraph 4.3
This proposal is more detrimental than the scheme dismissed at appeal – the flat roof design and bi-fold doors are not in keeping with the style of the property or the local area.	Paragraph 7.14 and 7.15

4.3 The application was subsequently amended to alter the flat roof to a pitched roof and to amend the window details to reflect the existing property. Boughton under Blean Parish Council were re-consulted and continued to raise an objection on the following summarised grounds:

Comment	Report reference
Whilst the minor amendments to the application are recognised the proposal fails to preserve and enhance the appearance of the existing building and would have a harmful effect on the character and appearance of the surrounding area.	Paragraph 7.6 - 7.18

5. REPRESENTATIONS

5.1 **None**

6. DEVELOPMENT PLAN POLICIES

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

CP4 Requiring good design

DM7 Vehicle Parking

DM11 Extensions to, and replacement of, dwellings in the rural area

DM14 General development criteria

DM16 Alterations and extensions

DM26 Rural lanes

6.2 **Boughton and Dunkirk Neighbourhood Plan (BDNP)** – policies:

E1 *Proposals for developments which respect and enhance the tranquillity, local landscape, character, environmental quality and amenity value of Boughton and Dunkirk parishes will be supported in principle.*

E4 *Any development that conflicts with the protection of the natural landscape and sensitive sites and wildlife in ‘The Blean’ and the surrounding fruit belt will not be supported.*

E8 *A minimum level of at least 10% Biodiversity Net Gain is required for proposed new developments in the Plan area against baseline conditions for the development sites concerned.*

E9 *Variety in density, layout, building orientation and sizes will be sought to reflect the local context. Building styles and materials must also respect and positively contribute to local distinctiveness.*

T3 *Future residential and non-residential buildings shall have sufficient dedicated on-site parking spaces to avoid the need for parking on adjacent roads in accordance with the Parking Standards set out in BD4.*

AS13 *Development proposals will be supported which contribute to protecting and where possible, enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.*

6.3 **Supplementary Planning Guidance/Documents**

Supplementary Planning Guidance - Designing an Extension – A Guide for Householders

Supplementary Planning Document - Swale Parking Standards

7. ASSESSMENT

7.1 This application is reported to the Committee because Boughton under Blean Parish Council object to the proposal. Considering these comments and the scheme that has been submitted, the committee is recommended to consider the following points:

- The Principle of Development
- Character and appearance
- Living Conditions
- Rural lane
- Highway safety and parking
- Biodiversity net gain

Principle

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

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

7.4 Policy DM11 of the Local Plan states that the Council will permit extensions (taking into account any previous additions undertaken) to existing dwellings in the rural areas where they are of an appropriate scale, mass, and appearance in relation to the location.

7.5 Therefore, the principle of extensions to dwellings is accepted by policy DM11 subject to certain criteria being met. Therefore, these matters, and the consideration of other relevant planning considerations are discussed below.

Character and appearance

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

7.7 In addition to the requirements of policy DM11 as set out above, policies CP4, DM14 and DM16 of the Local Plan state that developments and extensions should be well designed and respond positively to the building and its surroundings.

7.8 In addition, paragraph 3.3 of the Council's SPG related to domestic extensions states:

“The Council will not normally approve an extension to a dwelling in a rural area if it results in an increase of more than 60% of the property’s original floorspace”.

- 7.9 Policy E1 of the BDNP states that proposals which respect and enhance the tranquillity, local landscape, character, environmental quality and amenity value of Boughton and Dunkirk parishes will be supported in principle. Policy E4 sets out that any development that conflicts with the protection of the natural landscape and sensitive sites in the fruit belt will not be supported. Policy E9 states that building styles and materials must also respect and positively contribute to local distinctiveness whilst policy AS13 states that proposals will be supported which to contribute to protecting and where possible, enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.10 In this case, the property is a detached, two storey rendered dwelling which has been previously extended to the side and rear. In assessing the previously refused application for a two storey rear extension (ref. SW/09/0295), the Inspector concluded that the property had, by virtue of a previously constructed two storey side extension, been increased by approximately 55%. In addition, once the Inspector considered the proposed two storey rear extension and factored in the demolition of the single storey rear projection, a percentage increase of approximately 81% would have occurred. In the current application, the extension proposed is considerably smaller than that considered under ref. SW/09/0295. In terms of floorspace, due to the demolition of the single storey rear projection, the proposal as now submitted adds approximately a further 10sqm of floorspace to the dwelling. The application submitted under the SW/09/0295 application added approximately 50sqm.
- 7.11 The Inspectors calculations are not before me, however, on the basis of the above figures, it is clear that the extension as now proposed results in a considerably lower overall percentage increase on the original property than 81%, although cumulatively likely exceeds the 60% figure as set by the SPG. However, in any case, the SPG states that the Council will not normally approve an extension which results in an increase above 60% which does not preclude this scenario from ever occurring. In addition, policy DM11 of the Local Plan sets out that the Council will permit extensions (taking into account any previous additions undertaken) to existing dwellings in the rural areas where they are of an appropriate scale, mass, and appearance in relation to the location. Therefore, this is considered in further detail as follows.
- 7.12 Firstly, it is important to note that the proposed extension is single storey, and replaces what was a single storey extension. The replacement is wider than the previous projection although it remains entirely confined to the rear elevation of the dwelling. South Street adjacent to the site is fairly heavily planted and as such, in addition to the single storey scale of the extension and its siting on the rear elevation, the extension would have very little impact when viewed from public vantage points and little impact upon the wider countryside or the local landscape.
- 7.13 Even taking into account the two storey side extension that has previously been constructed, which itself has been set back from the front elevation of the property, due to the single storey scale of the proposal it is considered that the extension both alone and in combination with the previous addition would continue to allow an appreciation

of, and would be subservient to the original dwelling. The dwelling also sits on a reasonably generous plot and as a result the extension sits comfortably within this context.

- 7.14 In design terms the scheme has been amended from the original submission. Originally, the extension was proposed to have a flat roof which has been altered to a pitched roof. This is considered to be an acceptable design. Concern has been raised by the Parish Council in respect of the bi-fold doors, however, these are contained at ground floor level on the rear facing elevation of the extension. Although they are of a more contemporary design than the rest of the fenestration on the dwelling, due to their location it is not considered that they give rise to any identifiable harm to the dwelling itself or the surrounding area.
- 7.15 The drawings show that the extension will be rendered to match the existing dwelling which is appropriate. In addition, it is considered that the roof tiles should also match the existing dwelling. As a result, a condition is recommended below which requires materials to match. On this basis it is considered that the scheme uses an appropriate palette of external finishing materials.
- 7.16 The proposal also includes the insertion of rooflights on the rear roofslope and new windows on the rear facing elevation at first floor level. As these are located on the rear elevation and of a scale consistent with existing fenestration it is not considered that they give rise to any unacceptable harm in terms of the dwelling itself or the character of the wider countryside. In addition, and of fundamental importance is the ability for these elements of the scheme to be inserted under permitted development rights which represents a fallback position. On this basis these elements of the scheme are considered acceptable.
- 7.17 Two windows are also proposed in the west facing side elevation, one at ground floor and one at first floor. They are proposed at a scale and with a design to match the existing windows on the property and therefore from a visual perspective they are considered acceptable. In addition, there is a fall back position in relation to the ground floor window which could be inserted without planning permission under permitted development rights. A new door is also proposed in the side elevation of the existing porch. This will have little impact on the overall appearance of the dwelling and doors are able to be inserted under permitted development rights representing a fall back position. On this basis this aspect of the scheme is considered acceptable.
- 7.18 On the basis of the above, the extension, which is replacing a previous addition to the property is of an appropriate scale, mass, and appearance in relation to the location. It is, along with the other elements of the scheme, appropriately designed and uses acceptable materials. In this case, due to the assessment undertaken it is considered that a cumulative extension to the property above the 60% figure as set out in the SPG is acceptable. The other elements of the scheme are also considered acceptable for the reasons set out above. Therefore, the application complies with policies CP4, DM11, DM14 and DM16 of the Local Plan and policies E1, E4, E9 and AS13 of the BDNP.

Living conditions

- 7.19 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight. Policy DM16 also requires that alterations or extensions to existing buildings protect residential amenity.
- 7.20 The dwelling subject to the application does not have any near neighbouring residential properties, the closest being approximately 115m away. On this basis the proposal will have no adverse impact upon the living conditions of neighbouring occupiers.
- 7.21 Taking the above into account the proposal is considered to have an acceptable impact upon the living conditions of surrounding dwellings in accordance with policies DM14 and DM16 of the Local Plan 2017.

Rural lanes

- 7.22 Policy DM26 of the Local Plan states that planning permission will not be granted for development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes.
- 7.23 South Street, which the property fronts onto is designated a rural lane. However, the extension to the dwelling is, as discussed above, entirely confined to the rear of the dwelling. The only aspect of the development which would be readily visible from the rural lane would be the side windows and the door in the porch. However, these small alterations would not significantly harm the character of the rural lane. As a result, the scheme complies with policy DM26.

Highway safety and parking

- 7.24 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such.
- 7.25 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, following mitigation, would be severe, taking into account all reasonable future scenarios.”*
- 7.26 Local Plan policy DM7 requires proposals to be in accordance with the Council’s Parking SPD. Policy T3 of the BDNP requires proposals to have sufficient on-site parking space and also for developments to be in accordance with the Council’s Parking SPD.
- 7.27 The proposal, although providing extra ground floor accommodation is not proposing any additional bedrooms in the single storey rear extension. The rooflights in the rear roofslope would allow the internal roofspace may be used as bedrooms, although

internal alterations do not amount to development and as such would not require planning permission. In any case, there is ample parking space to the side of the dwelling to comply with the Council's Parking SPD. On this basis, the proposal would not give rise to any additional harm in respect of highway safety or convenience and as a result complies with policies T3 of the BDNP and the Council's Parking SPD.

Biodiversity Net Gain

- 7.28 Para 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to exemptions. An exemption applies in relation to planning permission for a development which is the subject of a householder application, within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order (2015). The application submitted in this case is a householder application.
- 7.29 Policy E8 of the BDNP states that a minimum level of at least 10% Biodiversity Net Gain is required for proposed new developments in the Plan area against baseline conditions. The Neighbourhood Plan does not appear to set a minimum threshold for development in relation to this policy. However, the Planning Practice Guidance states that "*Decision makers should not give weight to local policy which requires biodiversity gains for types of development which would now be exempt under the statutory framework.*" On the basis of the above, as the development would be exempt from providing a biodiversity net gain of a minimum of 10%, weight should not, in this case, be given to policy E8 of the BDNP.

Conclusion

- 7.30 On the basis of the above, the scheme is considered to be in compliance with policies CP4, DM11, DM14, DM16 and DM26 of the Local Plan and the relevant policies in the BDNP. 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 permitted shall be carried out in accordance with the following drawings:
- 07 Rev B - Proposed Block Plan;
 - 08 Rev B - Proposed Ground Floor Plan;
 - 09 Rev B - Proposed First Floor Plan;
 - 10 Rev B - Proposed Loft Plan;

- 11 Rev B - Proposed Roof Plan;
- 12 Rev B - Proposed Rear Elevation;
- 13 Rev B - Proposed Front Elevation;
- 14 Rev B - Proposed Side Elevation;
- 15 Rev B - Proposed Garden Side Elevation;
- 16 Rev B - Proposed Section A-A

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

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

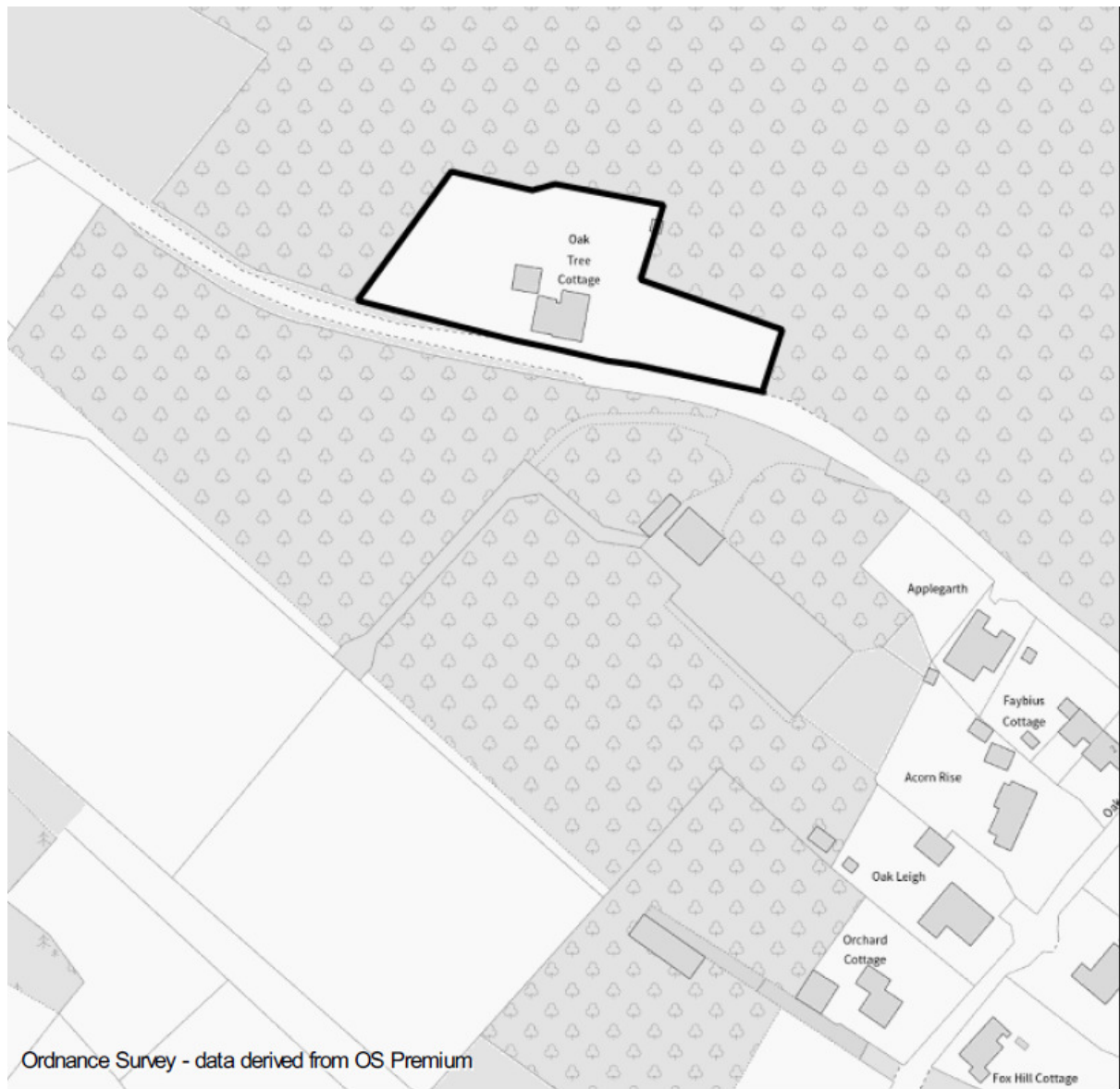
Reason: In the interests of visual amenity.

The Council's approach to the application

In accordance with paragraph 39 of the National Planning Policy Framework (2024), 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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PLANNING COMMITTEE – 6th March 2025

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – 31 Brecon Chase, Minster On Sea ME12 2HX**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

A Certificate of Lawfulness was sought for the siting of an ancillary temporary structure on the grounds that it is a “caravan” and would be used for purposes that are ancillary to the primary use of the site.

In assessing whether the item represented a caravan, the Inspector assessed the means of constructing the item and its mobility. The Inspector found that insufficient evidence had been presented with the application for it to be concluded that the item met the definition of a caravan.

The Inspector then undertook an assessment as to whether the item represented a building having regard to the conventional tests of physical attachment, permanence and size. The Inspector concluded that the item did represent a building.

The Inspector identified that the development could not represent permitted development, due to the use of the building not being incidental to the use of the host dwelling. As planning permission had not been granted for the development, it was concluded that the development was not lawful and that the Council’s refusal to grant a Certificate of Lawfulness was well-founded.

- **Item 5.2 – Digswell, Lower Hartlip Road, Hartlip, Kent, ME9 7SX**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

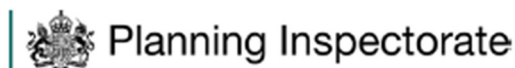
Observations

Planning permission was sought for the demolition of two existing buildings at the site and the erection of four dwellings. The main issues were identified to be whether the location of the development is acceptable and the impact on the character and appearance of the area.

The position of the site relative to facilities and services, the limitations on travelling by modes of transport other than the car and the location outside of the built-up areas of the Borough led the Inspector to identify that the site is contrary to the development plan.

The suburban, cramped and contrived layout of the development, the awkward shape and size of the plots, the dominance of the turning and parking areas, the overall amount of development and the conflict with the character of the area led the Inspector to conclude that the visual impact of the development was unacceptable and contrary to the development plan.

Even having had regard to several other factors, including other approvals at the site, the Council's housing supply position and other benefits arising from the proposal, the Inspector concluded that the harm arising from the proposal significantly and demonstrably outweighed the benefits. The conflict with the development plan was, therefore, not outweighed by the NPPF or any other material considerations and the appeal was dismissed.



Appeal Decision

Site visit made on 17 January 2025

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Appeal Ref: APP/V2255/X/23/3323970

31 Brecon Chase, Minster On Sea ME12 2HX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Emma Howland against the decision of Swale Borough Council.
 - The application ref 22/50463/LAWPRO, dated 26 September 2022, was refused by notice dated 23 March 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is siting of an ancillary temporary structure under the Caravan Act 1968.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council states that the appellant agreed to a change in the description of the proposed development to an application for the siting of a mobile home for incidental use under the Caravan Act 1968. I have not been provided with details of the appellant's agreement and I have considered the appeal on the basis of the description in the banner heading above, which I have taken from the application form. The description makes it clear that the temporary structure is intended to meet the legal definition of a caravan.
3. The application was accompanied by a drawing (ref. 613.08.22 V1 / R1) indicating that model Rydal 70 was proposed. A further drawing was provided (ref. 613.08.22 V2/R1) showing the model Albany 60. It is dated 20 March 2023, just before the application was refused. I note that the appellant's appeal statement includes images showing the Albany 60 but the dimensions given in the same appeal statement relate to the Rydal 70. It is not therefore clear which model was the subject of the Council's decision but I have taken them both into account in my decision.
4. The layout indicated in Figure 6 of the Supporting documentation for an application for a Certificate of Lawfulness under the Caravan Act by Contemporary Log Living reference 613.08.22 does not reflect the internal layout of either of the models provided with the appeal submissions. It most closely resembles the Rydal 70 (ref. 613.08.22 V1/R1) in terms of the dimensions and the section shown at Figure 1.
5. I saw on my site visit that there is a structure in the rear garden. Although it is in a similar location to the proposed mobile home, it differs from both of the proposed

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drawings provided by the appellant. I have determined the application on the basis of the submitted proposal, rather than structure that is present on site.

6. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case to show that, on the balance of probability, the development would, on the date of the application, be lawful. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded or not. The case must be considered solely on the relevant legal tests. The planning merits of the case are not relevant to the legal tests and therefore I cannot take into account the appellant's personal circumstances. The main issue is whether the Council's decision to refuse to grant the LDC was well-founded.

Reasons

7. The application sought to establish that the structure, which the appellant considers would fall within the definition of 'twin-unit caravan', can lawfully be stationed on the land and used for purposes ancillary or incidental to the residential use of the site. The application was refused because the Council considered that the structure was not a caravan as defined in law, and that due to its scale in relation to the main dwelling it would not be incidental to the enjoyment of the dwelling.

Whether the structure would be a caravan

8. Subsection 29(1) of the Caravan Sites and Control of Development Act 1960 as amended (the CSCDA) says that a 'caravan' means any structure designed or adapted for human habitation, which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted. Subsections 13 (1) and (2) of the Caravan Sites Act 1968 as amended (the CSA) define twin-unit caravans.
9. It is well-established that when considering whether or not a structure is deemed to be a twin-unit caravan, the commonly applied 'construction' and 'mobility' tests should be considered. The following are relevant considerations; there has to be a structure, it has to be designed or adapted for human habitation and that structure must be capable of being moved as a single structure. A structure composed of not more than two separately constructed sections which are designed to be assembled on site, and, when assembled, is physically capable of being moved by road, is not excluded from the relevant legislative provisions.
10. Section 55(2)(d) of the Town and Country Planning Act states that '(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land – (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such'.
11. The parties have referred to relevant case law. In *Measor*¹ it was found that generally, and as a matter of fact and degree, a mobile caravan would not satisfy the definition of a building, having regard to the factors of permanence and attachment. But the Court would be wary of holding that, as a matter of law, a

¹ *Measor v SSETR & Tunbridge Wells BC* [1999] JPL 182, [1998] EWHC 123 (QB)

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structure that satisfied the definition of, for example, a mobile home under section 13(1) of the 1968 Act could never be a building for the purposes of the 1990 Act.

12. The judgement in *Byrne*² found that a twin-unit caravan needs to be of two parts that are separately constructed and then joined together. A structure did not meet the CSA 1968 definition because the s13(1)(b) requirement to be physically capable of being moved by road would be failed if there would be a risk of structural damage from lifting the caravan onto a trailer by crane.
13. In *Brightlingsea*³ the Court found that to pass the 'mobility test' the structure must be physically capable of being towed or carried on a road, not momentarily but enough to say that it is taken from one place to another.

Construction Test

14. While I accept that there is no requirement for the process of creating the two separate sections to take place away from the site, there is a requirement that the act of joining the two sections together should be the final act of assembly. The application submissions set out that the structure would be a twin-unit mobile home and two different options for construction are provided.
15. The supporting documentation states that the preferred method would be 'option (a)', which would use the 'Easy Pad' foundation system with a raised timber floor construction resting on its own weight. The mobile home would be split into two sections across its depth. The 'Easy Pads' are shown to be laid onto concrete pads with supporting metal brackets to which the structure would be attached, placed onto the ground at regular intervals. The pads can be completely removed and are therefore temporary, according to the appellant. The mobile home would be delivered as a flat pack sectional building to be constructed on site as two separate sections and then joined together. Diagrams show the location of the pads underneath the 'floor cassettes'.
16. The prebuilt wall cassettes would sit on the floor cassettes, allowing for both sections of the mobile home to be constructed independently of each other. Once the two sections are completed they would then be joined with mechanical fixings, so that there would clearly be a visible joint line to the external build of the mobile home. The appeal statement provides further information but contradicts the application details in specifying that a 'swift plinth foundation system' would be used. This indicates that concrete pads would be set into the ground with a metal plate with a similar design to the 'Easy Pad'.
17. The alternative option (b) method would be to construct the mobile home onto a 2 allow wheeled chassis which would be joined together as a final part of the construction. The mobile home would be split long ways. This appears to be based on the Albany 60 model (reference 613.08.22 V2/R1). It seems that this option would not need the pad foundation system but would require a suitable concrete slab to be laid for the chassis to be wheeled onto. However, the appellant's stated preferred option is (a) and I have not been advised that a concrete slab would be laid.
18. Regardless of which option was proposed, very little information has been provided as to the proposed process of construction. The Council's delegated

² *Byrne v SSE & Arun DC* [1998] JPL 122, [EWHC] Admin 190

³ *Brightlingsea Haven LTD v Morris* [2008] EWHC 1928 (QB); [2009] 1 EGLR 117 (*Brightlingsea*)

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report states that the agent was contacted during the course of the application for further information in relation to the method of construction. He explained that it would typically take around 13 weeks, with the first 3-4 weeks involving the foundation pads and service connections, and the remainder of the time being the assembly of the structure on site. Given that the application details stated that the structure would be delivered as a flat pack sectional building it is not clear why it would take such a long period of time to construct it. It seems unlikely that 9-10 weeks would be required unless it arrived in many pieces rather than as a flat-pack sectional building.

19. The length of time required to build the structure indicates that it would be a complex process and leads me to question whether it would in fact be constructed as two separate units, prior to being joined, or whether it would be constructed as a single structure. The uncertainty and contradictions regarding the model that would be used, which option would be followed, the method of construction and whether it would be prebuilt in sections or fully assembled on site, leads me to conclude that is less than probable that the structure would be formed of two separate units that would be joined. The evidence is not sufficiently precise and unambiguous. The appellant has not discharged the burden of proof and as a matter of fact and degree and on the balance of probability the construction test in section 13(1)(a) of the CSA would not be met.

Mobility Test

20. The appellant asserts that once the two parts have been joined together the resultant whole as a single structure would be capable of being moved by a crane and transported to and from the site. The floor would be built using '8 x 2' timber joists. A specialist lifting company would be required. Temporary lifting bars/straps would be inserted under the floor from front to rear across the depth of the mobile home at structural load points along its length. Chains or straps would be attached to the lifting bars or straps and attached to a spreader bar to ensure that the lift of the mobile home would be vertical. It would then be lowered onto a suitable low loader trailer to be transported by road to another place. The appellant further asserts that the structure would have the structural integrity to be able to be craned or moved as a whole unit. However, it has not been shown that any structural elements would ensure that it would withstand being lifted and moved from one place to another.
21. The details set out above appear to be based on option (a). Option (b) would be built onto a chassis which could be winched onto a suitable flat bed trailer lorry using a specialist lifting or transport company and transported to another place. It is not clear that option (b) forms the basis of the proposal, not least because the appellant has not stated that the required concrete slab would be installed, and therefore I have given this option little weight.
22. The evidence falls short of discharging the burden of proof and on the balance of probability I therefore conclude that the mobility test in s13(1)(b) to the CSA would not be met and the structure would not meet the definition of a twin-unit caravan.
23. The appellant has referred to a number of appeal decisions. In the Romford decision⁴, the appellant had provided a detailed method of construction which satisfied the inspector that the construction test had been met. In this case no

⁴ Ref APP/B5480/C/17/3174314

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detailed method of construction has been provided and I have concluded that the evidence is not sufficiently precise and unambiguous.

24. The Erewash decision⁵ confirms that the process of construction of the two units does not need to take place away from the site on which they are then joined together, and it is only necessary that the act of joining the two sections together should be the final act of assembly. In that case, the inspector was satisfied, on the basis of the clear and undisputed evidence before them, that the two sections had been constructed separately. In terms of the mobility test, the inspector was satisfied that the evidence showed that the structure was capable of being lifted and transported. It therefore differs from this case, where the appellant's assertions have not been backed up by clear evidence in relation to the construction or the mobility tests.
25. I note that in the Teddington⁶ decision there was a letter from a qualified structural engineer in relation to the construction and mobility tests. The degree of attachment to the land is not in dispute in the case before me. The Sawbridgeworth⁷ decision also states that the connection to services is not the same as attachment to land, but that is not in dispute in this case.

Whether the structure would be a building

26. Section 336 of the Act states a "building" "includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building." The main characteristics of a building, as a matter of fact and degree, are (a) physical attachment, (b) permanence and (c) of a size to be constructed on site, as opposed to being brought onto the site. No one test is conclusive.
27. The proposed structure would be substantial in size and the evidence indicates it would be constructed on site. Although it would rest under its own weight, there is no indication that it would be moved once placed on the site, and therefore I consider it would have a degree of permanency. Therefore, as a matter of fact and degree, I conclude that the structure would be a building.
28. It has not been argued that the development would be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Since the proposed purpose of the structure is to provide primary living accommodation for the appellant's family members, the building would not be permitted development by virtue of Class E, Part 1 of Schedule 2 as such a use would not be incidental to the enjoyment of the dwellinghouse as such.
29. I therefore conclude that the proposal would require planning permission and was not lawful at the date of application.

⁵ Ref APP/N1025/C/01/1074589

⁶ Ref APP/L5810/X/15/3140589

⁷ Ref APP/J1915/X/11/2158970

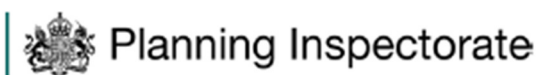
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Conclusion

30. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of siting of an ancillary temporary structure under the Caravan Act 1968 was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

N Thomas

INSPECTOR



Appeal Decision

Site visit made on 5 December 2024

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2025

Appeal Ref: APP/V2255/W/24/3344926

Digswell, Lower Hartlip Road, Hartlip, Kent, ME9 7SX

- 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 Miss Clair Webb against the decision of Swale Borough Council.
 - The application Ref is 23/505840/FULL.
 - The development proposed is demolition of 2no. commercial premises (Use Class E) and erection of 4no. dwellings together with associated parking, refuse and cycle stores, and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is within the zone of influence of the Swale, Thames and Medway Estuary Special Protection Areas (SPAs). The protected habitats and their associated bird populations can be harmed by disturbance arising from additional recreational visitors to the protected areas.
3. However, a mitigation strategy, the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS) has been adopted by the local authorities in the affected area, in partnership with Natural England (NE). NE were consulted on the application and raised no objection to the proposal subject to a contribution towards the SAMMS. The appellant has made a direct payment to the Council of £1,313 towards the SAMMS. Based on this the Council is satisfied that its second reason for refusal has been addressed. I return to this matter below.
4. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I am satisfied that none of the changes was material to the assessment of the proposal and have determined the appeal accordingly.

Main Issues

5. The main issues are therefore:
 - a) Whether the site is suitable for residential development having regard to local and national planning policy for the location of housing;
 - b) The effects of the proposal on the character and appearance of the area.

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Reasons

Suitability of location

6. The Council's spatial strategy, set out in Policy ST3 of the Swale Borough Local Plan 2017 (Local Plan), directs development to sites within urban centres and well-connected villages. Policy CP2 of the Local Plan seeks to locate development in areas which minimise the need to travel for employment and services and facilitate the use of sustainable modes.
7. The appeal site lies outside any settlement boundary and is in the countryside for the purpose of planning policy. It lies between two villages; Newington to the east, categorised as a rural local service centre, and Hartlip to the south-west, defined as a village in the Council's spatial strategy.
8. Whilst the site is not very far from the edge of the settlement of Newington to reach the convenience store and other services in Newington on foot would take approximately 20 minutes. The journey would be on a narrow footpath alongside the northern side of the A2, a busy road. This would not be a convenient or comfortable experience, particularly in inclement weather. To reach the local primary school would take nearly 30 minutes, whether by walking along the A2 or going via Breach Lane. Neither journey would be suitable for young, unaccompanied children. Cycling into Newington would be possible for some journeys, although there would be a perception that doing so along the A2 would not be safe due to the volume and speed of traffic.
9. Hartlip is a village with only limited facilities, the most important of which is a primary school. A journey to it from the appeal site would necessitate walking or cycling along narrow, unlit country lanes with no footways. This would be totally unsuitable for young children and anyone with mobility problems. Access to employment, shopping, health and other education establishments would require residents to travel to nearby larger settlements.
10. The National Design Guide states that for local facilities to be considered accessible on foot they should be no more than a 10-minute walk away (800m). In this case most of the facilities that future residents would require to meet their day-to-day needs lie significantly beyond this distance. This, combined with the characteristics of the routes they would have to use, would make them unlikely to choose to walk or cycle. It would deter the use of active travel modes as it would be safer and more convenient to use a car.
11. There are bus stops within walking distance of the site which provide hourly services to Medway and Sittingbourne. However, the proposal includes 16 parking spaces, so most future occupants are likely to have a choice of travel mode. As traveling by car would be easier, quicker, and a more cost-effective choice for most journeys, use of walking, cycling or public transport is unlikely to be used more than occasionally.
12. For these reasons, I conclude the proposal would not be a suitable location for new housing and would conflict with the aims of the above policies.

Character and appearance

13. The site lies to the rear of the host property, Digswell, and is reached via a narrow track. It includes two large barns adjacent to each other, constructed of corrugated sheeting and with semi-circular profiles. These buildings are in

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light industrial use Class B1. The remainder of the site is an open parking area. There is other commercial development in the vicinity including a garden centre and small industrial estate. Nevertheless, the area has a predominantly rural character where the scattered residential development outside village boundaries is characterised by homes in good sized plots with direct street frontage. The proposal would demolish the existing barns and replace them with four detached dwellings of individual design arranged around a short cul-de-sac some distance from Lower Hartlip Road. It would be a form of backland development with no frontage access.

14. Each dwelling would have a minimum of 3 parking spaces. The proposed layout and designs are more typical of those found in suburban areas. The awkward shape and size of the plots serves to demonstrate the contrived nature of the proposed layout. This is illustrated by the proximity of the northern and eastern elevations of the house on plot 1 to the shared cul-de-sac. The need to provide turning and parking areas for vehicles would take up a disproportionate amount of the site, leaving little room for meaningful landscaping. The overall footprint and bulk of development would be greater than the existing barns and spread across a greater part of the site. Consequently, the scheme would be a poor quality, cramped layout which would be completely out of keeping with the character and grain of surrounding development where dwellings have direct frontage access and most occupy good sized plots. It would therefore fail to reinforce local distinctiveness or provide a positive sense of place.
15. This leads me to conclude that the proposal would be harmful to the character and appearance of the area. The use of materials which reflect houses elsewhere in the vicinity would not diminish the harm arising from the poor layout of the site and its incongruous location to the rear of existing development. The proposal would conflict with Policies CP4, DM14 and DM24 of the Local Plan which, amongst other things, require development to be sympathetic and appropriate to its location and context, thereby creating safe, accessible and attractive places.

Other Considerations

16. Prior approval has been granted for the removal of both barns and the erection of replacement buildings containing 2 flats each to provide a total of 4 dwellings. It is therefore contended that the principal of 4 dwellings on the site has already been established through this fallback position.
17. However, 2 flats each with 3 bedrooms, served by what appears from the plan in the appellant's appeal statement to be 6 parking spaces, is materially different from the current proposal. In any event proposals which are promoted through the prior approval process are assessed against the provisions of the General Permitted Development Order, not the development plan. Furthermore, policies that are relevant to the conversion or replacement of existing buildings are not the same as those to assess a proposal for new dwellings in the countryside.
18. It therefore does not follow that because prior approval has been secured for 4 units of accommodation on the site, residential development in the form of a fundamentally different scheme is acceptable. I therefore give this matter little weight in my assessment of the appeal proposal which I have determined on its individual planning merits.

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Planning Balance

19. The Council is unable to demonstrate a five-year supply of deliverable housing sites (5YHLS), which currently stands at 4.1 years, a notable shortfall. In these circumstances paragraph 11 d) of the Framework is engaged.
20. The provision of 4 dwellings would contribute towards housing need in the borough. It would be a modest benefit. However, if the fallback scheme of 4 flats was implemented it would also provide 4 additional units of accommodation. Therefore, although the proposal would provide larger dwellings, there would be no net increase in the number of units of accommodation arising from it. In these circumstances the social and economic benefits arising from the proposal would be limited, particularly as the borough's greatest housing need is for homes with 2 or 3 bedrooms.
21. I found that the location of the dwellings would be contrary to the Council's spatial strategy and result in future residents being over-reliant on private transport to reach the facilities and service that they require. This would be contrary to the Framework's aim of locating housing in rural areas where it will enhance or maintain the vitality of rural communities. The proposal would also harm the character and appearance of the area and fail to comply with the Framework's approach to design, which requires development to add to the overall quality of the area through appropriate layouts and landscaping which establish a strong sense of place.
22. This leads me to conclude that the cumulative adverse impacts of the proposal would significantly and demonstrably outweigh the limited benefits of the proposal when assessed against the Framework as a whole. The presumption in favour of sustainable development therefore does not apply to this case. The proposal is unacceptable.
23. If I had come to a different conclusion, it would have been necessary for me to be certain that the mechanism that secured the contribution towards the agreed mitigation measures set out in the SAMMS was robust and effective in addressing the identified harm to the habitats site. However, as I am dismissing the appeal for other reasons, this has not been necessary.

Conclusion

24. The proposal conflicts with the development plan and there are no other considerations, including the shortfall in housing land supply, which indicate that a decision should be made other than in accordance with the development plan.
25. For this reason, the appeal should be dismissed.

S M Holden

INSPECTOR

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