

# Agenda

## Planning Committee Meeting

Date: Thursday, 17 July 2025

Time 7.00 pm

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

Membership:

Councillors Monique Bonney, Andy Booth (Chair), Hayden Brawn, Ann Cavanagh, Lloyd Chapman, Simon Clark (Vice-Chair), Kieran Golding, James Hunt, Elliott Jayes, Peter MacDonald, Peter Marchington, Claire Martin, Ben J Martin, Julien Speed, Paul Stephen, Terry Thompson and Tony Winckless.

Quorum = 6

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Pages

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nearest safe exit and gather at the assembly point on the far side of the car park. Do not leave the assembly point or re-enter the building until advised to do so. Do not use the lifts.

- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the Meeting held on 14 May 2025 (Minute Nos. 16 – 17) and the [Minutes](#) of the Meeting held on 22 May 2025 (Minute Nos. 40 – 48) as correct records.

4. Declarations of Interest

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

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

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

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

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

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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 16 July 2025.

- |    |  |           |
|----|--|-----------|
| 5. | 2.1 - 24/501839/ADV Hooks Hole Farm, School Lane, Borden, ME9 8DA            | 9 - 16    |
| 6. | 2.2 - 24/500125/FULL Land at Pitstock Farm, Rodmersham, Kent                 | 17 - 78   |
| 7. | 2.3 - 24/502717/OUT Land West of Borden Lane, Sittingbourne, Kent, ME9 8HR   | 79 - 126  |
| 8. | 2.4 - 24/503677/FULL Land off Riddles Road, Sittingbourne, Kent              | 127 - 178 |
| 9. | 2.5 - 24/504519/REM Land to the East of Lynsted Lane, Lynsted, Kent, ME9 9QN | 179 - 198 |



10. Part 5 applications

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

**Issued on Wednesday, 9 July 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](mailto:democraticservices@swale.gov.uk). To find out more about the work of this meeting, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

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

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**17<sup>th</sup> July 2025**

#### **Standard Index to Contents**

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

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

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

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

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

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

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

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**ABBREVIATIONS:** commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## **INDEX OF ITEMS FOR PLANNING COMMITTEE – 17<sup>th</sup> July 2025**

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

### **PART 2**

<b>2.1</b>	<b>24/501839/ADV</b>	<b>BORDEN</b>	<b>Hooks Hole Farm, School Lane, ME9 8DA</b>
<b>2.2</b>	<b>24/500125/FULL</b>	<b>RODMERSHAM</b>	<b>Land At Pitstock Farm, Rodmersham, Kent.</b>
<b>2.3</b>	<b>24/502717/OUT</b>	<b>BORDEN</b>	<b>Land West of Borden Lane, ME9 8HR</b>
<b>2.4</b>	<b>24/503677/FULL</b>	<b>HOMEWOOD</b>	<b>Land Off Riddles Road, Sittingbourne, Kent.</b>
<b>2.5</b>	<b>24/504519/REM</b>	<b>LYNSTED</b>	<b>Land To The East Of Lynsted Lane Lynsted, Kent. ME9 9QN</b>

### **PART 5**

<b>5.1</b>	<b>22/503908/FULL</b>	<b>BOBBING</b>	<b>Land at Eden Top, Bobbing, Kent, ME9 8QP</b>
<b>5.2</b>	<b>24/503051/FULL</b>	<b>TEYNHAM</b>	<b>89 London Road, Teynham, Kent ME9 9QL</b>
<b>5.3</b>	<b>23/505643/FULL</b>	<b>EASTCHURCH</b>	<b>Peternel, Elm Way, Eastchurch, ME12 4JP</b>
<b>5.4</b>	<b>23/505514/FULL</b>	<b>HARTLIP</b>	<b>Building 3, Hales Court, Paradise Farm, Hartlip ME9 7SU</b>
<b>5.5</b>	<b>24/503158/ADV</b>	<b>BAPCHILD</b>	<b>Land at junction of Fox Hill and Blossom Street, Bapchild, Sittingbourne</b>
<b>5.6</b>	<b>23/500998/TPOA</b>	<b>FAVERSHAM</b>	<b>Central Communal Garden, Sommerville Close, Faversham, Kent ME13 8HP</b>
<b>5.7</b>	<b>25/500021/FULL</b>	<b>MINSTER ON SEA</b>	<b>30 Harps Avenue, Minster-on-Sea, ME12 3PH</b>
<b>5.8</b>	<b>22/503844/FULL</b>	<b>MINSTER ON SEA</b>	<b>Land West of Salvation Place, Bell Farm Lane, Minster-on-Sea, Sheerness, Kent, ME12 4JB</b>
<b>5.9</b>	<b>22/502086/OUT</b>	<b>MINSTER ON SEA</b>	<b>Land East of Scocles Rd, Minster-on-Sea</b>
<b>5.10</b>	<b>23/502113/OUT</b>	<b>FAVERSHAM</b>	<b>Land at Ham Road, Faversham. ME13 7TX</b>

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**PLANNING COMMITTEE – 17<sup>th</sup> July 2025****PART 2**

Report of the Head of Planning

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

<b>2.1 REFERENCE NO - 24/501839/ADV</b>		
<b>PROPOSAL</b> Advertisement Consent for 2 x non illuminated fascia signs		
<b>SITE LOCATION</b> Hooks Hole Farm School Lane Borden Sittingbourne Kent ME9 8DA		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to grant advertisement consent subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary and appropriate.		
<b>APPLICATION TYPE</b> Advertisement Consent		
<b>REASON FOR REFERRAL TO COMMITTEE</b> This application is reported to the Committee at the request of Cllr Baldock and on the basis that the recommendation is contrary to the view of Borden Parish Council, who have specifically requested the application be decided by the Planning Committee.		
<b>CASE OFFICER</b> Andrew Gambrill		
<b>WARD</b> Borden and Grove Park	<b>PARISH/TOWN COUNCIL</b> Borden	<b>APPLICANT</b> Paul Scriven <b>AGENT</b> DHA Planning
<b>DECISION DUE DATE</b> 11.07.2024		<b>TARGET DATE</b> 11.07.2024
<b>BACKGROUND PAPERS AND INFORMATION:</b> <b>Documents referenced in report are as follows: -</b> All drawings submitted All representations received  The full suite of documents submitted pursuant to the above application are available via the link below: -  <a href="https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SCOZPUTYMPW00">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SCOZPUTYMPW00</a>		



## 1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site comprises a large agricultural barn-type structure in use as a go-karting facility. The site is accessed from School Lane to the south, with open land to the west bound by Chestnut Street and a small parcel of open land to the north bound by a relatively new access route known as Platinum Way that leads into the Wises Lane development.
- 1.2 The building to which the adverts are to be attached lies outside of the Borden – Chestnut Street Conservation Area but within its setting, with the conservation area wrapping around the west and northern sides of the building. There are a cluster of listed buildings located to the west of the site, the nearest of which is a Grade II\* listed property known as Hook's Hole that lies circa 130m away. The site also lies within the Borden Mixed Farmlands Landscape Character Area.
- 1.3 At the time of the most recent site visit (1<sup>st</sup> July 2025), two fabric signs advertising the business were in place on the south west and north east elevations of the building. There was also a small sign above the entrance door into the building which does not form part of these proposals.

## 2. PLANNING HISTORY

- 2.1 24/501519/FULL - Retrospective change of use from B8 storage and distribution use to an augmented reality electric go-karting entertainment venue (sui-generis) with insertion of a mezzanine floor and associated parking – Granted October 2024.
- 2.2 22/503623/FULL - Change of use of barn from agricultural to B8 storage and distribution use, with associated office space (retrospective) – Granted December 2022.
- 2.3 SW/08/0464 - Change of use of part of agricultural building to commercial use (scaffold storage) with associated parking - Approved (Temporary 3-year permission) July 2008.
- 2.4 SW/01/0190 - Hay storage barn - Approved May 2001.

## 3. PROPOSED DEVELOPMENT

- 3.1 A number of revisions to the proposals have been submitted since the application was first validated. The first set of proposals included three 3m x 3m signs to the south west of the building and an 18m x 4.5m sign to the north east with the company logo set on a yellow background.

- 3.2 A second revision was then submitted showing one 3m x 3m sign to the south west and a 15m x 4m sign to the north east of the building comprising the company logo on a black background.
- 3.3 The proposal was amended for a final time and this application now seeks advertisement consent for the erection of two fascia signs on the building – one to the north east elevation and one to the south west. The sign to the south west is proposed to be circa 3m x 3m and the north easterly 8m x 3.5m.
- 3.4 Both of the signs are to be non-illuminated and constructed with an aluminium frame and laminated PVC face. They would be primarily black in colour, with the company logo in orange/red set to the middle.

#### 4. CONSULTATION

- 4.1 Two rounds of consultation have been undertaken with neighbours, with letters sent out notifying them of the proposals. No comments from neighbours have been received.
- 4.2 **Borden Parish Council** have also been consulted on the proposals. In response to the first consultation they stated that they had no comments to make. Following the latest round of consultation, they object and raise the following matters:

Comment	Report reference
The sign to the north east of the building is in a rural setting and next to a conservation area. The building is a former barn, blending in with the setting, but the proposed sign is totally not in keeping with the countryside view of this location.	7.6 – 7.9
No need for aesthetically damaging signage in this rural part of Swale given modern technology and websites.	7.10
The Chestnut Street conservation area was extended recently, despite the knowledge of the Wises Lane development, therefore, any argument that the Wises Lane development reduces the integrity of the conservation area impact is not valid.	7.6 – 7.9

## 5 REPRESENTATIONS

- 5.1 **Mid-Kent Environmental Health** raise no objections as the signage is not illuminated.
- 5.2 **SBC Heritage Consultants** raise no objection to the proposal.
- 5.3 **Cllr Mike Baldock** – *“I wish to call in the above application. Reason – I wish this to be determined by the members of the Planning Committee.”*

## 6. DEVELOPMENT PLAN POLICIES

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

**CP4** Requiring good design  
**CP8** Conserving and enhancing the historic environment  
**DM14** General development criteria  
**DM15** New Shopfronts, signs and advertisements  
**DM24** Conserving and enhancing valued landscapes  
**DM33** Development affecting a conservation area

### 6.2 **Supplementary Planning Guidance SPG**

The Design of Shopfronts, Signs & Advertisements  
Conservation Areas

### 6.2 **Supplementary Planning Documents SPD**

SBC Landscape and Biodiversity Appraisal

## 7. ASSESSMENT

- 7.1 This application is reported to the Committee at the request of Cllr Baldock and Borden Parish Council (BPC), with the recommendation contrary to comments received from the BPC. The NPPF paragraph 141 states that advertisements should be subject to control only in the interests of amenity and public safety. As such, the only matters for consideration are:

- Impact on amenity
- Impact on public safety

### **Impact on amenity**

*Visual amenity and heritage*

- 7.2 Policy DM15 of the Local Plan and the Design of Shopfronts, Signs and Advertisements SPG seek to ensure that advertisements respond positively to the character of a locality and minimise harm to amenity. They advise that such development should respect the character of the surrounding area and should not be excessive in quantity.
- 7.3 In respect of heritage assets, the NPPF is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to an asset's conservation. It also sets out that clear and convincing justification should be provided in instances where any harm to a designated heritage asset (including its setting) is identified.
- 7.4 Policies CP8 and DM33 of the Local Plan align with the NPPF and seek to ensure that proposals preserve or enhance the setting of conservation areas and features that contribute positively to the area's special character or appearance. The Conservation Area SPG sets out that strong regard should be given to safeguarding setting.
- 7.5 In respect of the proposed sign to the south west elevation (3m x 3m), it would appear modest in size when compared with the scale of the host building and would be in a part of the site that is visually well-contained. Views of the sign from public vantage points around the site would be relatively limited given its location, but in any event the sign itself is appropriately designed and would appear as a compatible addition to the building. It would preserve the setting of the adjacent conservation area.
- 7.6 The sign to the north east elevation would be larger (8m x 3.5m) than that on the south west elevation. It would be readily visible from surrounding public vantage points on Platinum Way and Chestnut Street in particular due to its position.
- 7.7 In considering the impact of the proposed signage on the visual amenity of the area, it is important to acknowledge that the context within which the host building now sits has changed quite considerably in recent times, following the installation of a roundabout on Chestnut Street and the construction of Platinum Way. When approaching the site from the north, the north east elevation of the building is clearly seen in the context of surrounding highways infrastructure and other built-form present on Chestnut Street, including the Tudor Rose pub which itself possesses a variety of different signs and adverts. The sign on this elevation is also appropriately scaled in the context of the relatively large scale of the building itself.
- 7.8 When taking into account the surrounding context and the size and design of the signage proposed, it would not appear unduly prominent in the streetscene. Whilst it is noted that the Design of Shopfronts, Signs and Advertisements SPG states that the council '...will not normally permit advertisements outside town centres, particularly in sensitive areas such as residential areas and open countryside', the signage in this case is of a scale, design, appearance and detail

that would appear sufficiently sympathetic and appropriate in this location.

7.9 The Council's Heritage Consultants have reviewed the latest proposals and in light of the recent road layout changes in the area and modern building to which the signage would be attached, have not raised any objections. For these reasons and those above, the proposals would preserve the setting of the adjacent conservation area.

7.10 Overall, the two signs proposed would not appear as a proliferation and are appropriate in scale and quantum in order to support the advertisement of the business. They would have sufficient regard for the character, setting and context of the site and are considered acceptable, in accordance with Policies CP4, CP8, DM14, DM15, DM24 and DM33 of the Local Plan and the NPPF.

#### *Living conditions*

7.11 In terms of other amenity considerations, the Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Given the nature and location of the signage, and the absence of any illumination, the proposals would not give rise to any unacceptable impact on neighbouring living conditions, in accordance with Policy DM14 of the Local Plan and the NPPF.

#### **Public safety**

7.12 When considering public safety, the impact of new proposed signage on the safe use and operation of any form of traffic or transport including the safety of pedestrians, must be taken into account. This is also recognised in the Design of Shopfronts, Signs and Advertisements SPG.

7.13 The signs would be non-illuminated and given their location would not give rise to any adverse impact on public or highway safety.

#### **Conclusion**

7.14 The proposed development would have an acceptable impact on amenity and public safety which are the only two matters that can be considered in the case of an application for advertisement consent. Consequently, it would comply with the requirements of Policies CP4, CP8, DM14, DM15, DM24 and DM33 of the Swale Borough Local Plan 2017 and the NPPF. It is therefore recommended that advertisement consent be granted.

## CONDITIONS

- (1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (2) No advertisement shall be sited or displayed so as to:
  - a. endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - b. obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - c. hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- (5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In accordance with the provisions of Regulation 2(1) of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

- (6) The advertisements hereby permitted shall be installed in accordance with the following approved drawings titled:
  - Drawing no. 1709/1 Rev C – Site location plan (received 2<sup>nd</sup> July 2025)
  - Drawing no. 1709/7 Rev D – Proposed elevations (received 21<sup>st</sup> May 2025)

Reasons: For the avoidance of doubt.





<b>2.2 REFERENCE NO - 24/500125/FULL</b>		
<b>PROPOSAL</b> Installation and operation of a renewable energy generating station comprising ground-mounted photovoltaic solar arrays together with inverter/transformer units, control house, substations, onsite grid connection equipment, storage containers, site access, access gates, internal access tracks, security measures, other ancillary infrastructure, and landscaping and biodiversity enhancement.		
<b>SITE LOCATION</b> Land At Pitstock Farm, Pitstock Road, Rodmersham, Kent		
<b>RECOMMENDATION</b> - Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement or unilateral undertaking to secure the planning obligations 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 s106 Heads of Terms as may be consequently necessary and appropriate.		
<b>APPLICATION TYPE</b> - Major – Full Planning Application		
<b>Case Officer</b> – Ben Oates		
<b>WARD</b> West Downs	<b>PARISH/TOWN COUNCIL</b> Rodmersham Bapchild Milstead	<b>APPLICANT</b> Votalia UK Ltd. <b>AGENT</b> Stantec (Maeve Whelan)
<b>DATE REGISTERED</b> 26/01/2024		<b>TARGET DATE</b> 31/01/2025
<b>BACKGROUND PAPERS AND INFORMATION:</b> Documents referenced in report are as follows: - All drawings submitted. All representations received. Alternative Sites Assessment (10 Jan 2024) Agricultural Considerations Report (10 Jan 2024) Agricultural Land Classification and Framework Soil management Plan (20 March 2025) Agricultural Land Classification: Assuming Rooting to 120cm (22 May 2025) Further Response to Peer Review of ALC (22 May 2025) Landscape Visual Impact Assessment (LVIA) (10 Jan 2024) LVIA addendum (02 Oct 2024) Historic Environment Desk Based Assessment (HEDBA) provided by Stantec (10 Jan 2024) Transport Assessment (10 Jan 2024) Transport Technical Note (02 Oct 2024) Construction Traffic Management Plan (CTMP) (10 Jan 2024)		

Solar Photovoltaic Glint and Glare Study (13 Feb 2025)

Arboricultural Impact Assessment (10 Jan 2024)

Ecological Impact Assessment (EcIA) (02 Oct 2024)

Landscape and Ecological Management Plan (LEMP) (02 Oct 2024)

Biodiversity Net Gain (BNG) – Design Stage Report (02 Oct 2024)

Outline Skylark Mitigation Strategy (02 Oct 2024)

Archaeological geophysical survey (10 Jan 2024)

Archaeological evaluation report (02 Oct 2024)

Heritage Technical Note (02 Oct 2024)

Flood Risk Assessment (10 Jan 2024)

Phase 1 Desk Study and Preliminary Risk Assessment (PRA) Report (10 Jan 2024)

Noise Impact Assessment (NIA) (02 Oct 2024)

Technical note on Low-frequency noise (LFN) (13 Feb 2024)

Design and Access Statement (10 Jan 2024)

Planning Statement (10 Jan 2024)

Planning Statement addendum (02 Oct 2024)

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=S71D6NTYMJ100>

## 1. SITE LOCATION AND DESCRIPTION

- 1.1. The Site covers an area of approx. 64.89ha at Pitstock Farm and is located approximately 3km south-east of Sittingbourne. At a more local scale, the site is approximately 490m to the south-east of the village of Rodmersham Green, approximately 1.5km to the south-west of the village of Rodmersham, approximately 450m to the north-east to the village of Newbury and approximately 550m to the north of the village of Dungate.
- 1.2. The site adjoins Green Lane to the north; Pitstock Road to the east; Penfield Lane and Slough Road to the south; and agricultural fields to all sides where not bound by a road. The M2 motorway is approximately 750m to the south of the site. Small groups of residential properties are located adjacent to the north-eastern, south-eastern, southern, and western extents of the site. Pitstock Road bisects the northern area of the site in a north-south direction; until it meets an area comprising farm buildings / sheds that is central to but excluded from the site.

- 1.3. The Site is currently in agricultural use, consisting primarily of arable fields separated by hedgerows and drainage ditches. Evidently, the site is identified in the Local Plan as countryside area, outside of the built up area boundaries. Electrical infrastructure comprising pylons and overhead lines also cross east to west through the centre of the site. The site also contains a relatively small area of identified brickearth deposit and there is a Public Right of Way (PRoW) (ref. 0211/ZR212/1) that crosses the northern half of the site in a north-south direction.
- 1.4. The site does not contain any heritage assets, however the Rodmersham Green Conservation Area is located nearby to the north-west, which includes several Grade II Listed Buildings. Several Grade II Listed Buildings are also located nearby to the south.
- 1.5. The site is not located within a designated area of National Landscape, however the Kent Downs area of National Landscape is located approximately 800m to the south on the other side of the M2 motorway. The site also adjoins a designated area of high landscape value to the west.
- 1.6. Cheney Wood and Cromer's Wood Kent Wildlife Trust Reserve and Local Wildlife Site are located nearby to the east of the site. The majority of the site is within Flood Zone 1, however parts of the central and eastern areas of the site are within Flood Zones 2 and 3.

## 2. PLANNING HISTORY

### 2.1. Pitstock Farm:

**Ref no.:** 23/504540/ENVSCR - Environmental Impact Assessment (EIA) screening report and request was submitted to the Council in October 2023 in regard to the Proposed Development in line with Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).

The Local Planning Authority issued a screening opinion in November 2023, stating that an EIA for the proposals was not required.

### Highstead Park:

The Highstead Park applications are acknowledged in the assessment of this application for the potential cumulative impacts that may arise.

**Ref no.:** 21/503914/EIOUT – Live application Land South And East Of Sittingbourne - Southern Site.

Outline Planning Application for the phased development of up to 577.48 hectares at Highsted Park, Land to the South and East of Sittingbourne, Kent, comprising of up to 7,150 residential dwellings including sheltered / extra care accommodation (Use Class C2 and Use Class C3). Up to 170,000 sq m / 34 hectares of commercial, business and service / employment floorspace (Use Class B2, Use Class B8 and Use Class E), and including up to 2,800 sq m of hotel (Use Class C1) floorspace. Up to 15,000 sq m / 1.5 hectares for a household waste recycling centre. Mixed use local centre and neighbourhood facilities including commercial, business and employment floorspace (Use Class E), non-residential institutions (Use Class F1) and local community uses (Use Class F2) floorspace, and Public Houses (Sui Generis). Learning institutions including primary and secondary schools (Use Class F1(a)). Open space, green infrastructure, woodland, and community and sports provision (Use Class F2(c)).

Highways and infrastructure works including the provision of a new motorway junction to the M2, a Highsted Park Sustainable Movement Corridor (inc. a Sittingbourne Southern Relief Road), and new vehicular access points to the existing network; and associated groundworks, engineering, utilities, and demolition works.

**Ref no.:** 21/503906/EIOUT– Live application

Land to the West of Teynham, London Road, Teynham - Northern Site.

Outline Planning Application for the phased development of up to 97.94 hectares at Highsted Park, Land to West of Teynham, Kent, comprising of. Demolition and relocation of existing farmyard and workers cottages. Up to 1,250 residential dwellings including sheltered / extra care accommodation (Use Class C2 and Use Class C3), up to 2,200 sqm / 1 hectare of commercial floorspace (Use Class E(g)). Mixed use local centre and neighbourhood facilities including commercial, business and employment floorspace (Use Class E) non-residential institutions (Use Class F1) and local community uses (Use Class F2) floorspace, and Public Houses (Sui Generis). Learning institutions including a primary school (Use Class F1(a)), open space, green infrastructure, woodland and community and sports provision (Use Class F2)). Highways and infrastructure works including the completion of a Northern Relief Road: Bapchild Section, and new vehicular access points to the existing network, and associated groundworks, engineering, utilities and demolition works.

### 3. PROPOSED DEVELOPMENT

Planning permission is sought for the installation and operation of a renewable energy generating station comprising ground-mounted photovoltaic solar arrays together with inverter/transformer units, control house, substations, onsite grid connection equipment, storage containers, site access, access gates, internal access tracks, security measures, other ancillary infrastructure, and landscaping and biodiversity enhancement.

- 3.1. The Development comprises the construction, operation, management and decommissioning of a grid connected solar farm with associated infrastructure (the 'generating station') to provide renewable energy via the Distribution Network Operator (DNO) grid network. It is proposed for a temporary period of 40 years, which at the end of that period the proposed solar farm, including all equipment and associated infrastructure, would be decommissioned and removed from site. The site would also be restored to a state suitable for agricultural use.
- 3.2. The Proposed Development would provide an export capacity of up to 41 Megawatts (MW) of renewable energy at peak operation.
- 3.3. The proposed solar panels consist of fixed tilt arrays mounted on metal frames. The lower edge of the panel would be approximately 0.8m from the ground, with the upper edge of the panel up to approximately 3.0m height from the ground. The proposed development also consists of the following ancillary infrastructure:
  - 7 x transformer units located around the site, each unit housed within prefabricated metal containers measuring approx. 6m long, 2.4m wide and 2.8m tall.
  - 2 x storage single module metal container units measuring approx. 12.1m long, 2.4m wide and 2.6m tall located at the northern end of the site.
  - A Distribution Network Operator (DNO) control house located at the northern end of the site, consisting of a pre-fabricated metal kiosk and measuring approx. 7m long 4m wide and 4.1m tall.

- A customer substation located at the northern end of the site, consisting of a pre-fabricated metal kiosk and measuring approx. 6m long, 2.4m wide and 3m tall;
  - A customer control station unit located at the northern end of the site, consisting of a prefabricated metal kiosk measuring approx. 7m long, 4m wide and 4.1m tall.
  - An approx. 2m tall wire fence including timber posts and steel gates ;
  - Inwards-facing CCTV and Infrared security systems mounted on approx. 3m tall poles located alongside the fencing; and
  - Access tracks – circa. 4m wide atop a geogrid stabilisation mesh and compacted soil base.
- 3.4. The proposal also includes a comprehensive landscaping strategy comprising a variety of native species, including vegetation to be used for visual screening and glare mitigation. Grass seed is to be sown to create meadow and tussocky marginal grassland habitats around the proposed solar panels, which once established will enable the land to be used for grazing as a secondary function.
- 3.5. The proposal was revised during the application in response to various comments received, with additional documentation provided to support the revised proposal. The revisions included minor site layout changes including relocating a section of panels that were previously proposed adjoining the PROW, realignment of the internal access track, reduced height of the solar panels from 3.4m to 3m in height, and landscaping changes in response to the above changes. Additional hedgerow screening was also provided to mitigate glare impacts to properties along Penfield Lane, which is proposed to be planted at its full height to provide immediate screening at the outset.
4. **CONSULTATION**
- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. 40 letters of representation were received in relation to the consultation, including 38 objections, 1 letter of support and 1 neutral comment. Concerns / objections were raised in relation to the following matters during the first round of consultation:

Comment	Report reference
<b>Agricultural Land</b>	
The development would result in the loss of high-quality agricultural land for food production.	Section 7.1
The UK already imports a significant portion of its food, losing more agricultural land would exacerbate the UK's food insecurity issues.	Section 7.1
There are alternative sites in Swale with lower agricultural value than grade 3a. Sites are being promoted by landowners.	Section 7.1

When the panels come to the end of their life, the likelihood of the land being returned to agricultural use is almost non-existent	Section 7.16
Concern at transforming a fully viable agricultural farm (consisting of BMV Grade 1 & 2 'Excellent' rated soil) to a vast and incongruous solar farm.	Section 7.1
Concerns that the application downplays the quality of the agricultural land to suit their proposal.	Section 7.1
<b>Ecology</b>	
The assessment of the On-Site Hedge Baseline was conducted after the landowner removed an ancient hedgerow, including a large badger set, less than five years ago.	Section 7.8
Fencing around the site could become a barrier to the movement of wild mammals and amphibians and pose a collision risk for some bird species.	Section 7.8
Sparrowhawks are seen hunting for food in these fields. Buzzards nest in a wooded area adjacent to the proposed site. Bats are often seen at dusk. Green woodpeckers, great spotted woodpeckers, partridges, and pheasants nest in the land adjacent to the fields.	Section 7.8
Concern that the mitigation strategy for Skylarks will be finalised at the detailed planning stage	Section 7.8
Planting a sterile mixture of several grass species will achieve little BNG and it will be lost completely when the grass is controlled by introducing sheep or cutting.	Section 7.8
Establishing and managing wildflower meadows will be challenging and concerns with proposed management practices.	Section 7.8
Concerns at ability to monitor the achievement of proposed BNG and holding the developer accountable.	Section 7.8
<b>Highways</b>	
Access to the site is via narrow country lanes and the traffic and HGVs associated with the solar farm will have	Section 7.5

unacceptable impact on the quality and safety of the local road network.	
There is no consideration for cyclists and pedestrians on the construction route.	Section 7.5
Panteney Lane is a two-way single carriageway road with no central line markings. The speed limit varies from 30mph to the national speed limit (60mph). The road is classified as 'Unsuitable for Heavy Goods Vehicles'.	Section 7.5
Traffic associated with proposal will generate air pollution and emit CO2	Section 7.5
Vehicles will be unable to pass each other on the narrow roads which will create delays.	Section 7.5
Concerns at highways impacts on local schools	Section 7.5
<b>Amenity</b>	
The noise will have a greater impact than states and concerns with low level continuous noise.	Section 7.13
Air conditioning units necessary for battery storage systems generates significant noise.	Section 7.13
Concerns with the noise mitigation solutions for the inverter to change DC power from the solar panels to AC for the National Grid.	Section 7.13
CCTV will overlook properties.	Section 7.13
Large solar projects usually use drones as a method of visual maintenance. Due to us being surrounded this would be a huge invasion of privacy.	The application details do not mention the use of drones for maintenance. The would have vehicular access and CCTV security.
The applicant's determination that there is limited risk of reflection has no analytical base. There is no evidence of analysis showing average solar angles through different phases of the year or how these align with the proposed panel angles.	Section 7.6
Access was neither sought nor obtained by Pager Power; confirming that they did not visit neighbouring residential properties to make an informed and accurate assessment of potential impact in regard to Glint and Glare.	Section 7.6



Concern at the impact on visual amenity from neighbouring properties.	Section 7.2
Noise impacts from wind blowing through the solar farm - noises such as howling, whistling, and vibration.	Noise impacts from wind are not typically included in noise impact assessments.
Impact on wellbeing of livestock and horses.	Section 7.13
Properties not included within the glint and glare study.	Section 7.6
Concern that the screening to mitigate glint and glare is insufficient.	Section 7.6
<b>Heritage and landscape</b>	
Concern at the significant detrimental impact on the countryside landscape.	Section 7.2
The development would negatively affect scenic views and public footpaths in the area.	Section 7.4
Grade II listed buildings and their surroundings would also be impacted.	Section 7.3
Lighting will impact on the landscape at night.	Section 7.13
Concerns at the impact on the nearby Kent Downs National Landscape.	Section 7.2
Concerns at impacts on nearby conservations areas.	Section 7.3
<b>PROW</b>	
The ProW route has changed, it was diagonal but is now shown to have been changed.	Section 7.4
The PRow would be inaccessible.	Section 7.4
The solar panels would create an unpleasant tunnel along the footpath, degrading the amenity value.	Section 7.4
<b>Climate Change</b>	
The environmental benefit from the renewable energy produced by this solar farm will be minimal compared to the environmental degradation caused by the scale of this proposal.	Section 7.17
Solar farms do not produce much power for the national grid only about 5% which is small compared to nuclear or off shore wind power.	Section 7.1

The energy generation from the panels will unlikely directly benefit the residents of the surrounding villages.	Section 7.1
New build properties should include provision for roof based solar arrays.	Not a material consideration to this application.
There will considerable CO2 expelled in the construction of this site, not to mention the PV panels construction and associated components from possible foreign manufacture.	Section 7.1
In the UK the sun shines only 34% (max) in daylight hours. Typically the panels only run at 10% for standard panels or up to 20% for expensive panels	Section 7.1
Solar farms are highly inefficient and need certain temperature parameters otherwise production of energy is reduced	Section 7.1
<b>Other</b>	
Concern that there are storage containers on site that could house batteries and therefore fire risk associated with the batteries.	The proposal does not include battery storage.
The scale of the site may make it difficult to extinguishing a major electrical fire.	Section 5.9
Lack of information of the nearest suitable substation for the solar farm to connect to.	Section 7.1
Majority of solar panels are unable to be recycled.	Not a material planning consideration in this application
Many solar panels are manufactured in countries with lax environmental regulations, leading to concerns about pollution and labour conditions, especially true for the mining of materials for batteries, with child labour being used in African mines.	Not a material planning consideration in this application
Concern that the proposal would lead to future brownfield development.	Section 7.16
Concerns at the cumulative impacts associated with other nearby development proposals such as Highsted Park	Section 7.2
There would be no benefit to the local community.	Section 7.17

Concern that the proposal would not be temporary.	Section 7.16
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4.3. Support comments were made in relation to the following matters:

<b>Support comments</b>
The proposed solar farm will make excellent use of land and responds to the climate emergency.
The proposal is unlikely to increase traffic on local roads
Native hedgerows should be planted along boundaries to enhance the environment and provide shelter to wildlife.
Sheep grazing would be an added benefit.

4.4. Concerns / objections were raised in relation to the following matters during the second round of consultation:

<b>Comment</b>	<b>Report reference</b>
<b>Agricultural Land and principle of development</b>	
Loss of BMV agricultural land	Section 7.1
The carbon cost of construction would outweigh the savings from renewable energy.	Section 7.1
<b>Landscape and visual</b>	
The amendments have not addressed the landscape and visual impacts	Section 7.2
Visual impacts from neighbouring properties	Section 7.2
<b>Highways</b>	
Concern of increased traffic especially from HGVs and LGVs	Section 7.5
Concerns that transport and highways impacts are not appropriately mitigated	Section 7.5
<b>PROW</b>	
The PROW route has changed on the plans	Section 7.4
<b>Amenity impacts</b>	
Glint and Glare impacts have not been assessed correctly.	Section 7.6
Noise impacts from operation of the solar farm	Section 7.13
Increased heat radiated from the solar panels	Section 7.13

Impacts on privacy during maintenance	Section 7.13
Air quality impacts from increased traffic	Section 7.12
<b>Ecology</b>	
Impacts on local wildlife	Section 7.8
Impacts on birds from moonlight reflected from the solar panels	Section 7.8
<b>Other</b>	
Disruption from cabling and queries regarding the DNO connection point	Section 7.1
Safety implications from battery storage	Not a material consideration in this application.
Lack of benefit to the local community.	Section 7.17
The offer of a community fund is not part of the formal proposal	Not a material consideration in this application.
Concerns about the disposal of solar panels and that solar panels will not be able to be recycled.	Section 7.16

- 4.5. Objection to the application on behalf of Bapchild, Milstead and Rodmersham Parish Councils was received during both rounds of consultation, which raised the following concerns during the first round of consultation:

Concerns	Report reference
<b>Agricultural Land</b>	
Concern that the Orchards were removed in preparation for an application – rather than for issues including financial reasons and poor fruit yields.	Not a material consideration in this application.
Concern that the application does not sufficiently demonstrate that poorer quality agricultural land has been used in preference to higher quality.	Section 7.1
Disputes that the submission fully demonstrates that opportunities to enhance biodiversity have been exploited and that the analysis of impacts predicted to arise from the proposed development, including cumulative, can be seen to be minimised and mitigated by the Applicant to acceptable levels.	Section 7.8
ASA includes an unnecessarily restrictive requirement of 50 to 55ha of	Section 7.1

land and there is not sufficient justification why two smaller parcels could not be viable.	
Concern that the scope of sites assessed (restricted to the Brownfield Land Register, Strategic Housing Availability Assessment, Employment Land Review, Local Plan Allocations and Land for Sale) would result in a list of unsuitable sites for Solar Farms.	Section 7.1
Secretary of State for Energy Security and Net Zero in a ministerial statement published on the 15 May 2024 seeks to avoid solar farm developments on high quality agricultural land.	Section 7.1
<b>Landscape Impacts</b>	
Concerns of the proposal's impact on the visual appeal of the landscape character in reference to the Landscape Character Appraisal SPD.	Section 7.2
Concerns of impact to character of Rural Lanes	Section 7.2
Concern that the LVIA does not take account of impacts during construction and decommissioning phases.	Section 7.2 and 7.16
Concern at the lack of assessment of cumulative impacts.	Section 7.2
Concerns at the erosion of the rural visual scene and tranquillity.	Section 7.2
Concerns that the LVIA methodology and omissions affect the baseline and skew the findings of the LVIA.	Section 7.2
The proposed screening mitigation would not be effective due to rolling topography and incongruous to an area characterised by low hedge rows and open fields.	Section 7.2 and 7.6
The additional documents provided indicates the assessment remains inconclusive so would not support a positive decision and the above objections remain.	As above
<b>Highways</b>	
Concerns of impacts to highways safety (including cyclists, horse riders and pedestrians) from HGVs on narrow rural roads.	Section 7.5

Road sign on the A2 London Road indicates that Panteny Lane is classified as 'Unsuitable for Heavy Goods Vehicles'.	Section 7.5
Concerns of air quality impacts from HGVs.	Section 7.12
Concerns that the Transport Assessment does not consider the lack of footpaths on surrounding roads.	Section 7.4 and 7.5
Concerns with conflicts between HGVs from construction and local farms on narrow roads.	Section 7.5
<b>Amenity</b>	
The maintenance of panels and the security measures could also lead to impacts on privacy, noise and disturbance and is not fully addressed.	Section 7.13
No suitable mitigation is proposed for impacts on residential amenity and safety, with regard to noise, air quality, tranquillity or transport to acceptable levels.	Section 7.13
Glint and Glare Study has not correctly identified residential properties impacted by the proposal.	Section 7.6
Concerns that the mitigating planting will not be sufficient.	Section 7.6
<b>Biodiversity and Ecology</b>	
Concerns that the existing biodiversity has been deliberately reduced in advance of this application for development.	Section 7.8
Concerns that the proposed Emorsgate seed mix EM2 will produce a grass field which will not deliver the Biodiversity Net Gain expected.	Section 7.8
The land is ideal for fruit, vines, and arable crops - therefore, the financial justification provided by the applicant for removing the orchards is contrary to any available evidence.	Not material to this application
Concerns that the Ecological surveys were not undertaken at appropriate times of the year.	Section 7.8
Concerns raised by Redkite (Objector's Ecology Consultants) on methodology of the EcIA.	Section 7.8

Potential challenge to permission if extent of protected species not properly established.	Section 7.8
<b>Climate Change</b>	
Acknowledged that the government has declared a climate emergency and set a statutory target of achieving net zero emissions by 2050, which the proposal aligns with.	Section 7.1
<b>Other</b>	
Concerns that the EIA screening opinion is at odds with the SPD and should not be relied upon to justify its impact as has been done in the Planning Statement.	Duly noted
Concerns regarding the cumulative impact with nearby proposed developments (21/503906/EIOUT and 21/503914/EIOUT), which were called in by the Secretary of State and the Public Inquiry is due to start on the 11th March 2025.	Duly noted.
The PROW on the maps is not the walked route on the ground.	Section 7.4
Application provides misleading information with submitted factual oversights.	Not a material planning consideration.

- 4.6. The objection to the application on behalf of Bapchild, Milstead and Rodmersham Parish Councils raised the following concerns during the second and third rounds of consultation:

Concerns	Report reference
<b>Agricultural Land</b>	
Concern that the additional documents don't address the deficiencies previously identified and therefore previous concerns remain.	As above
Planning Statement addendum does not address the methodology issues in the previous objection.	As above
<b>Glint and Glare</b>	
Concern that the updated Study still incorrectly identified residential properties impacted by the proposal.	Section 7.6
<b>Highways</b>	



Disputes claims in the submitted technical note and that the previous concerns remain outstanding.	Section 7.5
<b>PROW</b>	
The PROW on the maps is not the walked route on the ground.	Section 7.4

4.7. Tonge Parish Council objected to the application on the following grounds:

Grounds	Report reference
Loss of Best and Most Versatile (BMV) agricultural land, reducing our country's ability to produce food we will need to import more from abroad and so increasing our carbon admissions.	Section 7.1
Concerned about access to the site during the construction phase, especially HGVs.	Section 7.5
Concerns with construction vehicles accessing the site every week day and Saturdays along narrow, unsuitable country lanes, inflicting congestion, noise and safety concerns for many people. We consider this dangerous and unacceptable.	Section 7.5
Concern that due to the congestion and confusion caused by this construction it will force drivers on to Dully Road, which is very narrow road.	Section 7.5
Vehicles will be travelling east along the A2, through Tonge and Teynham. This will make this already highly polluted and congested road even worse and more dangerous.	Section 7.5

4.8. The CPRE - Kent Countryside Charity objected to the application on the following grounds:

Grounds	Report reference
<b>Principle</b>	
In principle objection to ground-mounted solar farms, when the opportunity exists for rooftop solar on existing and new build development	Section 7.1
Consideration of alternative sites – radius of area of search should be increased, particularly as the site lies	Section 7.1

at the outer extremity of the current 8km zone	
Loss of productive farmland, including best and most versatile land (BMV).	Section 7.1
<b>Landscape and PROW</b>	
Adverse impact on the local landscape and setting of the designated Kent Downs National Landscape.	Section 7.2
Adverse impact on the enjoyment of public footpath ZR212 which runs through the site.	Section 7.4
<b>Biodiversity</b>	
Any Skylark mitigation proposal should be established and confirmed to be utilised by Skylarks prior to any territories being destroyed. A mitigation strategy with hypothetical ideas is not workable and not acceptable for a protected species in decline.	Section 7.8
A Dormouse survey should be carried out by a suitably qualified ecologist with a ECoW present on site were the solar farm be granted permission.	Section 7.8
At least one visit at dusk should have been carried out for both the breeding bird survey and the winter bird survey so as birds that are active around these times have a chance of being noted.	Section 7.8
Consideration should be given during the construction and decommissioning phase within the EIA to any priority habitat that lies in, near to or adjacent to the Site.	Section 7.8 and 7.16

- 4.9. The Swale Footpaths Group responded noting that no diversion of ZR 212 is to be sought.

## 5. REPRESENTATIONS

Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee. There have been two rounds of consultation for most consultees. For those individual consultees that have been consulted more than once, it is stated alongside their heading.

- 5.1 **Active Travel England:** No objection.

5.2 **Environment Agency:** No objection.

5.3 **Lower Medway Drainage:** No objection.

5.4 **National Highways (NH):** Two rounds of consultation have been carried out.

Initially raised concern about the safety, reliability, and operational efficiency of the Strategic Road Network (SRN), in this case the M2 in the vicinity of the site. The Glint and Glare Study has identified that there is a 500m stretch of the M2 where solar reflections are geometrically possible. Their concern is that the Study does not include seasonal analysis and what this means for the sufficiency of screening. Mindful that within the 500m stretch identified there is a bridge section of the M2 with even less screening.

However, further information was provided by the applicant in March 2024 demonstrating that the proposal would not result in glint and glare impacts on the M2. As such, the concerns were withdrawn and NH confirmed they have no objections.

5.5 **National Air Traffic Services (NATS):** No objection.

5.6 **Natural England:** No comments to make on this application.

5.7 **Southern Water:** No objection.

5.8 **UK Power Network:** No objection – standard information regarding underground cables which could be secured by an informative.

5.9 **Kent Fire & Rescue (KFR):** Two rounds of consultation have been carried out.

Initially requested confirmation on the isolation of the electric supply to the site or array of panels and consideration of the provision of fire appliance turning points along the dead-end access tracks.

The applicant confirmed the points requested and suggested that turning points be secured by condition. KFR responded to note that their observations have been addressed in the Planning Statement Addendum and have no objection to turning points being conditional to approval.

5.10 **KCC Minerals & Waste:** No objections - The application site includes safeguarded mineral deposit, Bricearth. Minerals Assessment submitted and seeks to justify exemptions under Policy DM7 (2) and (4). KCC consider that exemption criterion 4 does not apply, though exemption criterion 2 can be invoked to set aside the presumption to safeguard in this circumstance.

5.11 **SBC Heritage:** Two rounds of consultation have been carried out.

Agrees with applicant's assessment that 7 heritage assets experience low levels of less than substantial harm. Public benefits would likely outweigh harm. However, initially also advised that more should be done to reduce the level of identified harm further, although noted that this would come at the expense of the amount of energy the site could generate.

Following the reduction in height of the proposed panels, SBC Heritage acknowledged that the reduction in height will lessen the heritage impacts to an extent, however it does not fully remove the impact. Therefore section 215 of the NPPF is relevant, which requires the harm to be weighed against the public benefits of the proposal. Similarly, the reduction in panels in the centre of the site will only slightly alter the overall effect and does not remove the harmful impact.

5.12 **SBC Urban Design:** No comment - solar equipment is utilitarian in nature that would not require design input.

5.13 **Kent Downs National Landscape Unit (KDNLU):** Agrees with the application submission that views to the proposed solar array from the Kent Downs National Landscape would be limited. However, advises that the site is considered to sit within the setting of the Kent Downs and is an important part of the transition between the undesignated land to the north and the National Landscape to the south. The KDNLU advises that, due to the scale and nature of the proposal, it would harm the setting of the Kent Downs National Landscape area, and raises concern that the impacts are unable to be mitigated.

5.14 **KCC Archaeology:** Two rounds of consultation have been carried out.

Initially requested further information following programmed trenchwork to be carried out as there are areas to the south and south-east of Pitstock Farm where archaeology has been identified and needs to be better understood at this stage to inform the design and decision. Concern was initially raised regarding the protection of areas of archaeology sensitivity, however a condition has been proposed that secures the agreement of preservation measures in all areas of the development that have an appropriate Archaeological Sensitivity. This was agreed by KCC Archaeology and the condition amended to suitably mitigate the impacts of the proposal. A condition is also recommended to install information boards to reveal the significance of the identified assets, and a standard condition for the protection of other potential assets across the wider site.

5.15 **Mid Kent Environmental Health (Mid Kent EH):** Two rounds of consultation have been carried out.

Initially requested further information including a Low-frequency noise (LFN) assessment, construction phase noise assessment, and external lighting to be used for the construction and operational phases. Following receipt of a noise technical note the Mid Kent EH confirmed that the transformers will be below the criterion curve of NANR45 and therefore removed the recommendation for assessment of LFN. It was also agreed that lighting could be secured and controlled by conditions. Land contamination conditions also recommended.

5.16 **KCC Ecology:** Two rounds of consultation have been carried out.

Initially requested further information including the results of all further necessary surveys and a conclusion as to whether the development will achieve a net gain for biodiversity, which should be submitted within an Ecological Impact Assessment (EcIA).

A revised EcIA was submitted and confirmed by KCC Ecology to provide sufficient information for their assessment.

Skylarks: The loss of existing skylark habitat at this site needs to be compensated for off-site and cannot be provided on-site. Following confirmation of an off-site location it was accepted that Skylark mitigation is to be secured by s106.

Hedgerow: In response to concerns raised by the Parish Council, the applicant was requested to acknowledge the hedgerow removal and include it within its biodiversity net gain (BNG) calculations. Response provided (16/04/2024) clarified the timing of vegetation removal, which KCC Ecology confirmed that the hedgerow removal does not impact on BNG in this instance.

Conditions recommended to secure works carried out in accordance with EcIA, LEMP and BNG Report, a Construction Environmental management Plan (CEMP), Skylark mitigation and post completion monitoring (or via s106), Badger fencing and wildlife sensitive lighting (mitigation for hazel dormouse and bats)

- 5.17 **KCC Flooding & Drainage (LLFA):** No objection in principle to these proposals but will require more information as part of the detailed as to the specific details of interception swales and buffer zones (locations, capacities etc.). Further details should also be provided clarifying how the ancillary buildings will be drained. Conditions recommended for detailed sustainable surface water drainage scheme and verification report, which officers consider would capture the additional information requested.

- 5.18 **KCC Highways:** Three rounds of consultation have been carried out.

Initially requested that a Construction Traffic Management Plan site plan be provided which shows the location of the parking and turning areas for construction and delivery vehicles and site personnel and wheel washing facilities.

Following receipt of the construction compound plan the officer confirmed that the additional details addresses the concerns, no further objections subject to a suite of conditions to secure the gates, loading and turning facilities, the access, visibility splays, parking and wheel washing facilities during construction.

- 5.19 **KCC PROW:** Four rounds of consultation have been carried out.

Initially raised concerns regarding the following matters:

- Incorrect alignment of the PROW route ZR212 shown within Application documents
- Adverse impact on the rural highway network during construction phase giving rise to conflict with non-motorised user use, which requires greater measures to ensure safety.
- Significant impact on the amenity of the PROW network in relation to landscape and visual impacts without appropriate mitigation proposed.
- Further detail required regarding land use post decommissioning and therefore future environment of PROW

Following receipt of further information in October 2024, KCC PROW and Access Service acknowledged that the PROW route ZR212 alignment had been corrected, but advised that they maintain their holding objection.

Further justification was provided in February 2025, which the KCC PROW reviewed and advised that the issues previously raised were now considered to be resolved subject to details being secured by condition. KCC further advised that they have reviewed the outline Construction Traffic Management Plan (CTMP) and note the construction traffic routing will use Church Street & Panteny Lane (single track roads), both of which are used to access 5 other public footpaths: ZR194, ZR208, ZR199, ZR209 & ZR682. However, it was later noted that there does not appear to be an alternative for construction traffic to access the proposed site. In addition, and considering the position and routes of the connecting PRow's, the amount of non-motorised user use on Panteny Lane and Church Street is minimal. It is recommended that that CTMP include safety measures which should be secured by condition.

A condition has also been recommended to secure a PROW Management Scheme to cover detail of construction, operation and decommissioning phases.

5.20 **SBC Climate Change:** No objections.

5.21 **SBC Trees:** No objections subject to securing arboricultural details and the proposed Landscape Environmental Management Plan (LEMP) by condition.

5.22 **Kent Police:** Offered standard advice regarding secure by design measures, which could be secured by condition.

5.23 **LVIA Consultant (Peter Radmall Associates (PRA)):**

Initially advised that the LVIA is largely consistent with best practice as set out in Guidelines for Landscape and Visual Impact Assessment (GLVIA3, LI/IEMA, 2013). However, queries were identified in relation to the following, which may be sufficient to question its conclusions:

- The reliability of the visual material, and especially the technical basis and status of the modelled visualizations;
- The definition of landscape receptors and their sensitivity;
- The selection of assessment views and receptor sensitivity; and
- Variations in the predicted effects reflecting the above.

As a result, it was advised to not necessarily take all the conclusions of the LVA at face value, without considering the points raised in the review.

Several rounds of further information and review were undertaken to overcome the concerns raised.

The review of the final LVIA Addendum concludes that there continues to be deficiencies in the information provided as follows:

- The reliability of the Realm material remains subject to a “health warning”;
- Compliance with Policy DM24 remains a matter of professional opinion, reflecting differences in influences such as the sensitivity of the landscape receptors;
- These differences are particularly evident in the relationship between the Kent Downs National Landscape (NL), the Area of High Landscape Value (AHLV) and the Rodmersham Mixed Farmlands Landscape Character Area (LCA);
- Whilst PRA agree with the overall sensitivity of the application site, the sensitivity of attributes such as openness and rural character remains a matter of opinion;

- Differences over visual sensitivity also remain a matter of opinion;
- Disagreement over the Y1 landscape effects remains a matter of professional opinion;
- Some remaining disagreements over visual effects are also a matter of opinion, including the degree of reliance that can be placed on the Realm visualizations; and
- The LVIA conclusions over cumulative effects seem reasonable on the basis of a desktop review.

#### 5.24 **Reading Agricultural Consultants (RAC):**

Initially advised that much of the analysis in the Agricultural Considerations report is based on the Agricultural Land Classification (ALC) findings and that this review has identified a significant deficiency in the recorded soil profiles. It was recommended that the soil profile logs be reviewed in light of the topsoil textures as confirmed by the laboratory before any further review is undertaken of the Agricultural Considerations report.

Following the submission of several rounds of further information and justification, RAC advised that they acknowledge the ALC distribution is probably broadly representative of the site, however remained concerned it is based on data that can still not be verified. The laboratory data and the hand-texturing do not align, and the issue of the chalk is not resolved because the rooting depth was not determined from a pit, nor the confirmed textures considered.

RAC further concluded that at best, the classification of the site shown in Version 3 can only be taken as broadly representative of agricultural land quality.

### 6. DEVELOPMENT PLAN POLICIES

#### 6.1. National Planning Policy Framework

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

ST1 Delivering Sustainable Development in Swale

CP4 Requiring Good Design

CP7 Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure

CP8 Conserving and Enhancing the Historic Environment

DM6 Managing Transport Demand and Impact

DM7 Vehicle parking

DM14 General Development Criteria

DM19 Sustainable Design and Construction

DM20 Renewable and Low Carbon Energy

DM21 Drainage and Flood Risk

DM24 Conserving and Enhancing Valued Landscapes

DM26 Rural Lanes

DM28 Biodiversity and Geological Conservation

DM31 Agricultural Land

DM32 Development Involving Listed Buildings

DM33 Development Affecting a Conservation Area

DM34 Scheduled Ancient Monuments and Archaeological Sites

#### 6.2. **Supplementary Planning Guidance/Documents**

- Landscape Character and Biodiversity Appraisal, 2011
- Renewable Energy Planning Guidance Note 1: The Development of Domestic and Medium Scale Solar PV Arrays up to 50kW and Solar Thermal, 2014

- Kent Downs AONB Management Plan 2021-2026
- Renewable Energy Position Statement (2011) By Kent Downs AONB Unit
- Guidance on the Selection and Use of Colour in Development by Kent Downs AONB Unit
- Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025.

## 7. ASSESSMENT

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

- The Principle of Development
- Landscape and Visual Impact
- Heritage
- Public Right of Ways
- Transport and Highways
- Glint and glare
- Trees
- Ecology
- Archaeology
- Flood Risk, Drainage and Surface Water
- Contamination
- Air quality
- Living conditions
- Designing out crime
- Decommissioning

### 7.1. Principle

7.1.1. 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.

7.1.2. 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.

#### Proposed use for renewable energy production

7.1.3. Chapter 14 of the NPPF relates to meeting the challenge of climate change stating that the planning system should support the transition to a low carbon future. At paragraph 168(a), the NPPF says that when determining planning applications for all forms of renewable and low carbon development and their associated infrastructure, Local Planning Authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future. This is supported locally at Policies ST1(10a) and DM20 of the Local Plan.



7.1.4. The proposed solar PV installation at Pitstock Farm would generate 41MW of clean renewable electricity, which the submitted documentation states would meet the electrical needs of approximately 14,384 homes and is the equivalent of offsetting 35,681 tonnes of CO2 emissions per year. The proposed development would therefore make a significant contribution towards meeting both national and local renewable energy targets. The proposal would also create employment opportunities during both the construction and operation of the development.

7.1.5. The principle of the proposed development is therefore supported by NPPF paragraph 168(a) and Policy ST1(10a) of the Local Plan. However, the support for the development of renewable energy sources under Policy DM20 of the Local Plan is subject to the consideration of more detailed matters, which are set out below.

#### Use of Agricultural Land and Alternative Sites

7.1.6. The application site is located within the countryside and comprises agricultural land.

7.1.7. Paragraph 88 of the NPPF supports development for a prosperous rural economy stating at subsection (b) that planning policies and decisions should enable:

*b) the development and diversification of agricultural and other land-based rural businesses.*

7.1.8. Paragraph 187(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by:

*b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.*

7.1.9. Local Plan Policy DM31 seeks to protect high quality agricultural land and states the following:

*“Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:*

- 1. The site is allocated for development by the Local Plan; or*
- 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
- 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.”*

7.1.10. Local Plan Policy DM20 sets out the requirements for renewable and low carbon energy proposals to gain planning permission. Part 1 requires “*Analysis of all impacts and methods to avoid and mitigate harm from these impacts is fully addressed in any planning application for such proposals*”. Part 4 of the policy also seeks to protect high quality agricultural land, and states that proposals will be granted permission where: “*For schemes on agricultural land, it has been demonstrated that poorer quality land has been used in preference to higher quality. In exceptional cases, where schemes are*

*demonstrated as necessary on agricultural land, that they fully explore options for continued agricultural use”.*

**Agricultural Land Classification (ALC)**

7.1.11. Best and most versatile agricultural land (BMV) is defined in the NPPF as land in grades 1, 2 and 3a of the Agricultural Land Classification. At footnote 65 of the NPPF, there is a preference for the development of areas of poorer quality land over higher quality where significant development of agricultural land is demonstrated to be necessary and the availability of agricultural land used for food production should be considered, alongside the other policies in the framework when deciding what sites are most appropriate for development.

7.1.12. For planning applications, specific consultations with Natural England are required under the Development Management Procedure Order in relation to best and most versatile agricultural land. These are for non-agricultural development proposals that are not consistent with an adopted local plan and involve the loss of twenty hectares or more of the best and most versatile land. Natural England (NE) has been consulted on this application but advised that they did not wish to comment on the proposal.

7.1.13. The proposed development would be located on agricultural land that is currently in use for agricultural purposes. The Agricultural Land Classification (ALC) 2020 mapping indicates that the site contains grade 1 and 2 agricultural land – with the grade 1 land predominantly on the western side of Pitstock Road.

7.1.14. The applicant has submitted an Agricultural Land Classification Survey undertaken by Askew Land and Soil, which indicates that the site contains a mixture of land from grade 1 to Subgrade 3b land, and that 91.2% of the land within the site is classified as Best and Most Versatile (BMV). The Survey indicates the following split between ALC categories:

<b>ALC Category</b>	<b>Percentage of land on site</b>
Grade 1	19.6%
Grade 2	40.9%
Grade 3a	30.7%
Grade 3b and below	8.3%
Non-agricultural	0.5%

7.1.15. The ALC Survey was reviewed by an independent consultant, Reading Agricultural Consultants (RAC) who raised concerns with the accuracy of the information in the report. RAC concluded that given that much of the analysis in the Agricultural Considerations report is based on the ALC findings and that the RAC review identified a significant deficiency in the recorded soil profiles, it was recommended that the soil profile logs be reviewed in the light of the topsoil textures as confirmed by the laboratory before any further review is undertaken of the Agricultural Considerations report.

7.1.16. Additional information was provided by the applicant and reviewed by RAC on several occasions during the application to address the issues raised. RAC note in their response from April 2025 that the “repeat site visit and the inclusion of additional laboratory analysis are positive advances”, however there remained concerns about how this was reflected in the ALC grading across the site and lack of consideration of the chalk profiles.

7.1.17. The applicant’s consultant provided an additional letter (dated 22 May 2025) justifying their previous report. They also provided an additional set of ALC results in response to the concerns from RAC to demonstrate how this may affect the results. These are provided in the table below and indicate that there may be a higher amount of grade 2 land and less grade 3a and 3b land. The differences are not significant, and RAC concludes in their response in June 2025 that they acknowledge that the reported ALC distribution is probably broadly representative of the site. However, RAC remains concerned about the accuracy of the results.

ALC Category	Percentage of land on site
Grade 1	19.5%
Grade 2	49.5%
Grade 3a	24.9%
Grade 3b and below	5.6%
Non-agricultural	0.5%

7.1.18. It is acknowledged that this matter was not fully resolved and due to the limited progress in addressing the outstanding issues it was concluded that there was little merit in continuing the discussions with the applicant. However, it is also acknowledged that the applicant’s consultant provided ALC results assuming deeper plant root depths in chalk to address the query raised by RAC. The Planning Statement Addendum contends it is accepted by all parties that the land is classified as BMV land and that minor changes in the classification across different parts of the site are not considered to materially impact the overall planning balance. Officers were initially concerned that the submitted information puts into question whether a higher percentage of the land is grade 1, which creates difficulty in comparing this site with the alternative sites identified. However, the alternative results above demonstrate that there is almost no change to the grade 1 results and that the differences in the results of the grade 2 and 3 land are minor. As such, officers agree that the unresolved issues are unlikely to significantly change the results reported. However, in order to take a cautious approach and account for a worst-case-scenario, officers have considered both sets of ALC results in the alternative sites assessment set out below.

#### Alternative Sites Assessment

7.1.19. The proposed development would not be suitable within the built-up-area-boundaries of the Borough and therefore the proposal does not conflict with the first sentence of Policy DM31 of the Local Plan. The proposal is located on BMV agricultural land and therefore the proposal is required to satisfy either test #1, or tests #2 and #3 of Policy DM31 of the Local Plan. The application site is not allocated under the Development Plan and therefore test #1 is unable to be met. As such, both tests #2 and #3 are applicable and need to be satisfied.

- 7.1.20. To address test #2 of Policy DM31 and Policy DM20 Part 4 of the Local Plan, the applicant has submitted an Alternative Sites Assessment (ASA) in conjunction with the ALC survey. The ASA seeks to identify the availability of alternative sites that could accommodate the proposed development, with focus given to the availability of previously developed land, non-agricultural land or land of lower agricultural grade, within a defined search area based on the Point of Connection (PoC) to the electricity network, which has been agreed with the Distribution Network Operator (DNO).
- 7.1.21. The Applicant has an agreement with the DNO to connect to the Sittingbourne substation, and therefore the study area for the ASA is centred on that PoC. As such, a search area radius of 8km around the Sittingbourne substation is used for the ASA. The ASA identifies further parameters required for the proposed development, such as size, ALC grade, access, statutory and local designations, visual impacts, flooding and safety risks, topography and availability for development.
- 7.1.22. Officers note that the amount of land within each ALC grade of BMV land quality has played a role in the assessment of alternative sites. Having considered both the reported results and the alternative (worst-case-scenario) results, it is evident that the conclusions of the ASA would remain the same. As such, officers consider that sufficient information has been provided to enable the Council to determine the application. The potential alternative sites have been carefully considered taking account of the parameters and the constraints of each site and it is considered that it has been sufficiently demonstrated that there is no suitable alternative site. As such, the application complies with Local Plan Policies DM20 Part 4 and DM31 Part 2.
- 7.1.23. Neither the NPPF, nor the Local Plan policy prevent the use of BMV agricultural land, however they require that the benefits of the proposal justifies the loss of the BMV land. The proposal would change the use of the land for a period of 40 years, which accords with the life expectancy of new panels. Whilst this is a significant period of time it is not permanent.
- 7.1.24. Given the height and angle of the proposed panels, grass will be able to grow under the panels satisfactorily as well as between the rows of panels, effectively leaving the site fallow, allowing the fields to be brought back into agricultural use in the future including for food production ensuring food security is not compromised.

*Agricultural holding viability / continued use*

- 7.1.25. To address test #3 of Policy DM31 and Policy DM20 Part 4 of the Local Plan (in regard to continued agricultural use), the applicant has submitted an Agricultural Considerations Report (ACR). This sets out the methodology for the installation of the proposed solar panels, showing the limited amount of land required for the framework and foundations.
- 7.1.26. The ACR demonstrates that the land could be kept in an agricultural use such as livestock grazing and that the solar farm will create an alternative income for the farming business. It is recognised that the land can still play an important part in both agricultural and environmental purposes. Grazing could take place across the land below the proposed panels and also the land can be rested and left to develop as wildlife meadow. Therefore, there is limited the grounds to say that the agricultural land would be entirely lost during the operation of the proposed solar farm. The proposal also seeks temporary

permission and the solar farm would be decommissioned at the end of a 40 year period, whereby the land would be rehabilitated to be made suitable for agricultural use again. The decommissioning phase is recommended to be secured by condition to secure the removal of the solar farm and reversion of the land back to a state suitable for agricultural use. As such, subject to the recommended condition, officers consider that the proposal passes test #3 and therefore accords with policy DM31.

### Conclusion on Agricultural Land

7.1.27. It is considered that the proposal would not result in a harmful loss of agricultural land and that alternative sites have sufficiently been considered. The proposal would not conflict with Local Plan Policies DM20 and DM31.

7.1.28. The temporary loss of BMV agricultural land is not contrary to the policies as set out within the development plan and the NPPF and the benefits through the provision of a solar farm generating renewable energy in this location are considered to outweigh the temporary loss of this agricultural land. As such, the effect on and temporary loss of agricultural land affords limited weight in the planning balance.

7.1.29. Having taken account of the siting on agricultural land and the consideration of alternative sites, the principle of the proposal is on balance acceptable in accordance with the Local Plan and NPPF.

## **7.2. Landscape and Visual Impact**

7.2.1. The NPPF requires that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of BMV agricultural land, and of trees and woodland.

7.2.2. The NPPF also attaches great weight to conserving and enhancing landscape and scenic beauty in National Landscapes (formerly AONBs), stating that ‘the scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid and minimise adverse impact on the designated areas’.

7.2.3. Local Plan Policies ST1 and DM14 both contain parts that seek to conserve and enhance the natural environment. Policy DM 26 seeks to protect the character of rural lanes and applies to Pitstock Road, Slough Road, Cheney Hill, Bottles Lane and Green Lane.

7.2.4. Policy DM24 of the Local Plan specifically relates to conserving and enhancing valued landscapes. Part A of this Policy refers to designated landscapes including their setting. Part B relates to non-designated landscapes. The application site itself is not within any designated protected landscape; however the south-western boundary adjoins district-level character area 40: Rodmersham and Milstead Dry Valley, which is designated in the Local Plan as an Area of High Landscape Value (AHLV). In addition, the land on the opposite side of the M2 motorway to the south, which is approximately 800m from the site, is designated as the Kent Downs National Landscape. As such, both Parts A and B of the policy are relevant.

7.2.5. The site falls within the following published character types / areas:

- National character area (NCA) 119: North Downs;
- County-level character area: Kent Fruit Belt; and
- District-level character area 29: Rodmersham Mixed Farmlands.

7.2.6. The Rodmersham Mixed Farmlands local character area (LCA) is described within the Swale Landscape Character and Biodiversity Appraisal (2011) as a rolling landscape with steeply sloping, rounded, dry chalk valleys cutting north / south through the landscape. Other key characteristics of the LCA are identified as follows:

- Land largely used for grazing and arable production, with significant areas of fruit production, including traditionally managed orchards,
- Isolated properties and farmsteads, occasional small-scale historic villages,
- Occasional unsympathetic largescale modern agricultural buildings,
- Scattered remnant deciduous woodlands at field boundaries,
- Isolated long views from open grazing land, elsewhere enclosed by topography and vegetation,
- 'A' road and narrow winding lanes.

7.2.7. The published sensitivities of the Fruit Belt and Rodmersham Mixed Farmlands are stated to be "Poor" and "Moderate" respectively. This in large part reflects the hedgerow removal, decline in traditional orchards, and introduction of single species shelter-belts and dwarf root-stock fruit-growing that had occurred at the time these character assessments were undertaken. However, it should be noted that these conclusions are "generic", and do not specifically reflect the sensitivity of the area to solar energy development.

7.2.8. The application is accompanied by a Landscape & Visual Impact Assessment (LVIA). The Zone of Theoretical Visibility (ZTV) that accompanies the LVIA [LVIA Figure 5] indicates that the development would project a corridor of minimal visual influence into the National Landscape (formerly AONB), together with an area of low visual influence into elevated parts of the AHLV, to the south-west of the site. The Kent Downs National Landscape Unit agrees that views to the proposed solar array from the National Landscape would be limited.

7.2.9. The LVIA concludes that the proposed solar farm would have a moderate adverse effect on landscape character, which would be limited to the site and its immediate surrounds. This is stated to reduce to a minor adverse effect following establishment and maturation of the mitigation planting. The LVIA also concludes that there would be no material effect on the wider landscape character and no significant landscape impacts at a national, county, or district level.

7.2.10. In terms of impacts on views and visual amenity, the LVIA concludes a moderate to major adverse effect limited to the western parcel, where the PRoW passes through the site, and to dwellings that adjoin or immediately overlook the site.

7.2.11. The LVIA has been reviewed by an independent LVIA Consultant on behalf of the Council (Peter Radmall Associates – PRA). PRA's first review advised that the LVIA is largely consistent with best practice as set out in GLVIA3; however, queries were identified in relation to the following:

- The reliability of the visual material (by Realm), and especially the technical basis and status of the modelled visualisations;
- The definition of landscape receptors and their sensitivity;
- The selection of assessment views and receptor sensitivity; and
- Variations in the predicted effects reflecting the above.

7.2.12. As a result, PRA advised that the Council should not necessarily take all the conclusions of the LVA at face value, without considering the points raised in his review. In particular, PRA raises concern that the nature of landscape and visual assessment is such that seemingly marginal changes in sensitivity or magnitude can be amplified to produce different outcomes.

7.2.13. Following discussions with the applicant, a technical review of the visual material was subsequently carried out by an independent consultant, MSenvision (August 2024), which identified a series of “important errors and omissions...which need to be rectified”. Realm (the applicant’s consultant) provided a rebuttal to this review; however MSenvision and Realm were not able to come to agreement on the issues raised. As a result, PRA continue to raise concern about the reliability of the visual material and the consequence this has on the conclusions made on the visual effects of the proposal in the LVIA. PRA also advised that their concerns regarding the landscape receptors and their sensitivity, and landscape effects were not addressed.

7.2.14. Whilst the LVIA indicates that there would be some adverse landscape and visual effects, the submitted information puts into question whether there is greater landscape and visual impact than that suggested in the LVIA, including the impacts on protected landscapes. The PRA review does not provide alternative results of the effects from the proposal, except that there is a potential for the effects on the fields and the overall site to be major (rather than moderate) at Day 1. Although there is no objection raised to this effect reducing by year 15, this may be higher than ‘Minor’ given the higher starting point advised by PRA. PRA also sets out an alternative analysis of the visual receptor sensitivities, which are generally higher than those set out within the LVIA.

7.2.15. Officers also note that Red Kite (on behalf of the local Parish Councils as part of their objection to the application) have provided an alternative assessment of the landscape and visual effects.

7.2.16. The Stantec letter dated 06 February 2025 and submitted as part of the application sets out a comparison of the predicted landscape effects in Table 1.1 and a comparison of the predicted visual effects in Table 1.2 covering the results in the submitted LVIA, the alternative results in the Red Kite assessment and PRA’s advice.

7.2.17. Officers acknowledge the differing perspectives between the consultants. This matter was not fully resolved and due to the limited progress in addressing the outstanding issues it was concluded that there was little merit in continuing the discussions with the applicant. It is noted that the outstanding issues are largely a difference of professional opinion and would be unlikely to vastly change the conclusions of the LVIA, which identifies several areas of impacts. Based on the PRA advice, it is possible that in some instances those impacts are greater than stated in the LVIA. Taking a cautious approach to this matter, officers consider that the effects from the proposal are possibly higher than those set out in the applicant’s LVIA, however this is likely to be only by a small

degree higher and would not result in effects having a significant adverse impact once the proposed vegetation screening has matured enough to mitigate the impacts by year 15.

- 7.2.18. Officers note the concerns raised by Red Kite regarding the effect on the Rodmersham and Milstead Dry Valley AHLV, which adjoins parts of the site. The LVIA states that the landscape effects of the proposal would be minor during construction and negligible during operation (both at year 1 and year 15). Viewpoint 1 is taken at the junction of Slough Rd, Rawling St and Cheney Hill close to the boundary of the site at its most westerly point, which sits on the boundary of the AHLV. Given the opening created by the junction, and the elevated topography of the field behind the viewpoint, which is within the AHLV, the proposal would be highly visible within this part of the AHLV. The viewpoint demonstrates the change in character created by the proposal, which officers agree would not be negligible; but the effect would only raise to minor adverse at year 1 and year 15.
- 7.2.19. Officers conclude that the proposal would have a minor adverse impact on the setting of the Rodmersham and Milstead Dry Valley AHLV. It would also have an adverse impact on the landscape character of the site, which is a non-designated landscape and ranges from major adverse during construction and early stages of the operational phase, reducing to minor adverse by year 15 with the maturing of the proposed mitigating vegetation screening. The proposal would also have an adverse impact on the landscape character of the surrounding non-designated landscapes ranging from minor to moderate adverse during construction and the early stages of operation reducing to minor by year 15.
- 7.2.20. The Kent Downs National Landscape Unit (KDNLU) advise that they consider the site to be within the setting of the Kent Downs National Landscape (KDNL) area. The National Landscape boundary in this location is formed by the M2, which cuts through the landscape. However, KDNLU contend that the landscape character of the application site is consistent with the adjacent Kent Downs landscape character and the application site shares many of the KDNL recognised special characteristics and qualities. The KDNLU agree views to the site from the KDNL are limited, and acknowledge that the proposal would retain and supplement the existing field boundaries, which would visually screen the development. However, they advise the proposal would nevertheless change the character of the landscape and would detract from the distinctive topography and rural nature of the site. As such, mitigation screening would not address their concerns and they consider the proposal would be harmful to the setting of the KDNL.
- 7.2.21. Officers agree with the KDNLU advice, noting that this is not caused by a visual link between the site and KDNL but due to a connection created by similarities in landscape character. Furthermore, the distance between the site and KDNL, the physical barrier created by the M2, and the relative scale of the proposal in the context of the National Landscape area are also mitigating factors to this harm. As such, officers consider that the proposal would only have a minor degree of harm to the setting of the KDNL.
- 7.2.22. The proposal would also result in adverse impacts on the identified visual receptors and the effects vary depending on their nature, relative location to the site and the phase of development. The effects to most visual receptors during the construction phase are generally moderate to major adverse, which is to be expected but relatively short lived. The effects on the closest residential receptors with direct views over the site see



moderate to major adverse effects in the early stages of operation, which only reduces marginally to moderate adverse by year 15. Residential receptors further away would experience minor adverse effects, which only marginally reduces by year 15 given the proposed vegetation screening has limited effect at longer range views.

7.2.23. Vehicular road users in the area, which includes roads designated as rural lanes (Pitstock Road, Slough Road, Cheney Hill, Bottles Lane and Green Lane), would also experience minor adverse effects reducing to minor or negligible by year 15. However, officers agree to consider the effects on non-vehicle users, particularly on Bottles Lane, during the early operational phase to experience a moderate adverse effect. Although, it is acknowledged that the effects on non-vehicle users reduce in most cases to minor at worst by year 15.

7.2.24. The impacts on the PROW are discussed in section 7.4 of this report.

7.2.25. Overall, officers conclude that the proposal would be harmful to the character and visual amenity of the landscape on site and surrounding area, including rural lanes, as set out above. Furthermore, the proposal would harm the setting of the KDNL and Rodmersham and Milstead Dry Valley AHLV. Whilst their status varies, they are all valued landscapes and the proposal is unable to ensure their protection and enhancement during its lifetime. As such, the proposal conflicts with Local Plan Policies DM24 and DM26.

7.2.26. Officers acknowledge that the proposal has been amended during the application to reduce its impact, and the proposed vegetation screening would be effective in mitigating the majority of the adverse effects to a degree. It is also acknowledged that the proposal would not result in residual widespread major adverse landscape or visual effects by year 15 and therefore does not constitute as having a significant adverse impact. Furthermore, the application proposes a temporary permission for 40 years, which is a considerable length of time, but would nevertheless be a defined period at the end of which the installations would be decommissioned and the land rehabilitated back to a state suitable for agricultural purposes. The decommissioning and rehabilitation is recommended to be secured by condition. Notwithstanding these matters, it is concluded that the proposal conflicts with Policies DM24 and DM26 of the Local Plan. The overall planning balance is discussed in section 7.16 of this report.

### **7.3. Heritage**

7.3.1. 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.

7.3.2. 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.

- 7.3.3. Local Plan Policy CP8 states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Local Plan Policy DM32 sets out that development proposals affecting a listed building, including its setting, will be permitted provided that the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved. Policy DM33 of the Local Plan seeks development within, affecting the setting of, or views into and out of a conservation area, to preserve or enhance all features that contribute positively to the area's special character or appearance.
- 7.3.4. The application site is not within or adjoining a World Heritage Site or Conservation Area. The Rodmersham Green Conservation Area is located to the north-west of the site, however the proposal was not found to impact on the setting of the Conservation Area by the Council's heritage advisor. The proposal does not contain any listed and locally listed buildings, however it does adjoin a grade II listed building. This is the only heritage asset adjacent to the site.
- 7.3.5. The application proposals are supported by a Historic Environment Desk Based Assessment (HEDBA) provided by Stantec, which has an in-house heritage team. The HEDBA identifies a large number of heritage assets (designated and non-designated) within the 1km study area of the proposed solar farm site but discounts the majority of these as being too far away and/or visually separated from the proposed development by reason of intervening development, tree cover and/or hedgerow, and /or due to the varied topography of the landform in and around the application site. For the avoidance of any doubt, the proposed development would not result in direct impact on any heritage assets (designated or non-designated).
- 7.3.6. The HEDBA highlights 7 heritage assets as having their wider settings materially affected by the proposed development scheme, these being:
- Dun gate House – List Entry ID 1343919 - Grade II
  - Barn at Dungate – List Entry ID 1120916 - Grade II
  - The Forge – List Entry ID 1343954 – Grade II
  - Newbury Farmhouse North – List Entry ID 1069267 – Grade II\*
  - Pitstock Farm – HER Ref. MKE85380 - Non-designated
  - Penfield House – HER Ref. MKE85382 - Non-designated
  - Pinks Farm (Pinks Cottage) – HER Ref. MKE85381 - Non-designated
- 7.3.7. In respect of the 7 heritage assets indirectly impacted, the HEDBA identified that all the impacts would fall within the category of 'Less Than Substantial Harm' (LTS). It further suggests that on the scale or spectrum of this category of harm, it would be towards the low end in each case.
- 7.3.8. SBC Heritage agrees with the HEDBA in identifying the heritage assets that would be indirectly impacted by the development proposal (through a change to their respective wider setting) and has appropriately discounted those, further out, which would not be. SBC Heritage agrees with the assessment of harm based on a combination of the specific character/form of the heritage assets in question (informing its level of heritage significance), the current setting and the anticipated visual change to the setting.

- 7.3.9. Officers note that no specific mitigation is proposed to address the setting harm in this regard, but that mitigation measures are proposed more generally to limit the visual impact of the proposed development, most notably through site boundary planting. This would assist in limiting the harm and it is understood that this is factored into the harm assessment set out in the HEDBA.
- 7.3.10. However, SBC Heritage consider more could be done to further reduce the level of identified harm, although this would come at the expense of the amount of energy the site could generate. Examples of how harm might be reduced would be limiting the height of the solar panel arrays, cutting back the footprint of the arrays where it comes close to the heritage assets in question and/or providing tree screening on the edges of the application site where these are adjacent to the heritage assets. In response to this, the applicant revised the proposal by reducing the height of the solar panels.
- 7.3.11. SBC Heritage acknowledged that the reduction in height will lessen the heritage impacts to an extent, however it does not fully remove the impact. The applicant contends that the impacts to heritage assets would be reduced more significantly, and suggests the harm to the setting of the Barn at Dungate, The Forge, and Newbury Farm House would be removed entirely. However, officers agree with SBC Heritage and consider the identified harm to the 7 heritage assets remains, however note that, for the 4 designated heritage assets, this is at the very lower end of the scale of less than substantial harm, and for the non-designated heritage assets, at the very lower end of harm.
- 7.3.12. The identified harm to the setting of the 4 listed buildings, albeit very minor, results in the proposed development conflicting with Policy DM32 of the Local Plan. The identified harm to the setting of the 3 non-designated heritage assets along with the harm to the setting of the listed buildings also results in conflict with Policy CP8 of the Local Plan. Development plan policies relating to heritage matters do not include, within the policies themselves, the application of the balancing exercises set out in the NPPF.
- 7.3.13. In consideration of the NPPF, harm to heritage significance should be balanced with due regard to the public benefits of the proposals. Paragraph 168(a) of the NPPF states that local planning authorities should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future. As such, the public benefit from the proposed solar farm should be given significant weight in the heritage balance. The proposal would also generate employment including construction jobs, as well as solar farm maintenance jobs, and Paragraph 85 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity. Biodiversity Net Gains within the site would be 84.69% for habitats and 87.79% for hedgerow units, which is a significant uplift in biodiversity value. In accordance with the NPPF, Local Plan policies and recent appeal decisions, significant weight is also attached to this benefit.
- 7.3.14. 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 having placed great weight and importance on the fact that less than substantial harm would potentially be caused to the setting of the 4 listed buildings identified above. However, in this case the benefits are considerable and clearly outweigh the low degree of less than substantial harm.

#### **7.4. Public Rights of Way**

7.4.1.NPPF paragraph 105 seeks to protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails. This is reinforced through the Local Plan under Policies CP4 and CP7.

7.4.2.PROW (ZR212) passes through the site, linking Pitstock Farm with Rodmersham Green to the north. Two PROWs (ZR214 & ZR215) terminate at Bottles Lane to the west of the site, and users may have views towards the site upon reaching Bottles Lane. To the north, ZR199 links Rodmersham with Scuttlington Manor then onwards to Lynsted via the wider footpath network. To the east of the site, PROW ZR204 terminates at Dully Road and views towards the site may be available from this location. There are a number of PROW to south of the site, within the Kent Downs National Landscape, typically passing through or leading to Mintching Wood and Kingsdown Wood.

7.4.3.It is proposed to retain the PROW that crosses the site on its mapped alignment. The proposed perimeter fencing which surrounds the proposal would run alongside the PROW to allow continued access throughout the operation of the solar farm. The fencing would also be lined with inward-facing CCTV cameras to ensure the safety and security of the panels while not compromising the privacy of users of the footpath. It is also proposed to manage the construction to minimise impacts on footpaths to allow continued public access.

7.4.4.The KCC Public Rights of Way officer has reviewed the application. Following initial concerns raised, the applicant prepared a response to the points with a revised plan to address the concerns raised. This included correcting the alignment of the PROW on the plans, which are now confirmed to be correct.

7.4.5.Other concerns raised included the significant impact on the rural highway network during the construction phase giving rise to conflict with non-motorist users (NMU), which requires greater measures to ensure safety. The applicant responded to this advising that a comprehensive set of traffic management measures are proposed be set out in the final version of the CTMP to be agreed with KCC Highways. Outline measures are already provided in the submitted version, which KCC Highways have reviewed and raised no objections. A commitment is also made to schedule HGV deliveries outside of peak hours. In this context, it will be relevant for both the KCC PROW and KCC Highways teams to be consulted in relation to the final version of the CTMP, the submission of which will be required by condition.

7.4.6.The PROW officer also requested further detail regarding the decommissioning and the future environment of the PROW. However, the Decommissioning and Restoration Plan is recommended to be secured by condition, which would include measures related to ZR212 and the PROW officer would be consulted on the CTMP for the decommissioning phase. The PROW officer's final response acknowledges this and raised no further objection in this regard.

7.4.7.Concern was also raised that there would be significant impact on the PROW network regarding Landscape and Visual Impact without appropriate mitigation proposed. The LVIA concludes that the impacts to users of the PROW ZR212 range from minor adverse to major adverse depending on the viewpoint during all stages of its life, with some minor

effects reducing to negligible at the 15yr stage. The impacts on users of other PROWs were stated to be negligible to minor. As discussed in section 7.2 of this report, the visual impacts could be slightly higher than those stated in the LVIA.

7.4.8. The LVIA addendum notes that revisions to the proposal in October 2024 sought to improve the environment of the PROW ZR212. This included:

- A reduction in maximum panel height from 3.4m to 3m,
- Removal of panels immediately to the west of PROW ZR212 in the vicinity of Pitstock Farm to reduce the corridor effect for users of the footpath,
- The relocation of the service route through the western parcel to move the route further away from PROW ZR212, The changes to the service route also allow for the relocation of 3no. transformers further from PROW ZR212, and
- Minor changes to the security fencing within the western parcel to allow for the changes described above.

7.4.9. Further clarification was also provided in February 2025, highlighting the proposal retains at least an 18m wide corridor between the panels across the PROW route. Officers acknowledge the visual impact on the PROW network is localised to the site and its immediate context, with medium and long range views limited by topography, existing vegetation and built form. The PROW officer's final response advises that this matter is resolved and has lifted their objection to the proposal in this regard.

7.4.10. The impact on the PROW Network should be seen from two overarching perspectives: that of continued access and connectivity across both the development site and the wider area, and that of the impact on user amenity and enjoyment of the existing open countryside, the Landscape and Visual criteria. The proposal maintains continued access and connectivity of the PROW routes through the site; however there is a residual adverse impact on the open countryside, landscape and rural character of the area as perceived from the PROW route ZR212.

7.4.11. The PROW officer advised that a contribution of £40,000 would be sought towards improvements to the ZR212, ZR215, ZU39 and ZU40, which is required to offset the impacts caused to the PROW network from the proposed development. This contribution has been agreed by the applicant in the s106 heads of terms and therefore will be secured by legal agreement.

7.4.12. Whilst the proposal would have an adverse impact on the PROW network as a result of the proposed development, this would be localised to PROW route ZR212 within the site and immediate surrounding area. Furthermore, the impact would be temporary and a condition is recommended to protect and retain the PROW route through the decommissioning phase. It is acknowledged that the 40-year period proposed is a significant amount of time, it is nevertheless a temporary impact. Furthermore, the application secures a financial contribution towards the PROW network, which would offset the impacts caused to the PROW network. Overall, it is considered that the proposal does not conflict with paragraph 105 of the NPPF and Policies CP4 and CP7 of the Local Plan.

## 7.5. Transport and Highways

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. A core principle of the NPPF is that development should:

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

7.5.2. The NPPF also states that:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”*

7.5.3. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM 26 also seeks to protect the character of rural lanes and applies to Pitstock Road, Slough Road, Cheney Hill, Bottles Lane and Green Lane.

7.5.4. The application is supported by a Transport Assessment, which has been reviewed by KCC Highways and National Highways. National Highways have raised no objections to the application. KCC Highways note that the predicted movements associated with the day-to-day operations of a solar farm are low, however particular attention needs to be paid to how the construction phase of the proposed development will be managed.

7.5.5. The Construction Traffic Management Plan (CTMP) submitted with the application includes details of vehicle routing to and from site, wheel washing facilities, temporary signage and timing of deliveries; however further information was requested including a site plan showing the location of the parking and turning areas for construction and delivery vehicles and site personnel and wheel washing facilities. Additional information was provided relating to the construction phase of the proposed development, which was confirmed to be acceptable by KCC Highways, who raise no further objections subject to the conditions set out in Section 5 of this report.

7.5.6. Officers note that objections to the application raise concerns in regard to the impact of the construction of the proposed development on the local road network, in particular regarding heavy goods vehicles (HGVs) impacting highway safety.

7.5.7. The applicant has provided a technical note setting out their response to these concerns, highlighting that *“Based on an average of six deliveries HGV deliveries per day, there will be, on average, less than one HGV arriving and departing the Site per hour”*. Officers note that there could be a two-to-three-week period near to the beginning of the construction period where this would include up to two HGVs per hour. There could be 20 car arrivals and car departures outside of the peak hours; and up to 3 minibus arrivals and departures outside of the peak hours associated with construction worker trips.

7.5.8. Officers are also aware that the roads connecting to the site include rural roads with narrower sections, particularly Panteny Lane, Church Street and Green Lane (the latter

two of which are designated as rural lanes). However, existing agricultural vehicles and HGVs use these roads and there are areas where vehicles can pass. Notwithstanding that, drivers associated with construction activities will need to be briefed on safety measures to prevent conflicts with other road users including pedestrians. This could be secured within the CTMP.

7.5.9. Officers consider that, overall, the construction would not lead to an unreasonable amount of additional traffic or an unacceptable impact on highways safety, which would be for a temporary period of approximately 6 months and could be managed through appropriate controls secured by condition. In addition to this, it is considered that the additional amount of traffic would not lead to an unacceptable impact on the character of the designated rural lanes.

7.5.10. Subject to the recommended conditions, the proposal would not result in a harmful impact on highway safety, nor would the residual cumulative impacts on the local road network would be severe. The proposal is considered acceptable in terms of the impact on the local highway and in accordance with Policies DM6 and DM26 of the Local Plan and the NPPF.

7.5.11. The impact of glint on users of the strategic network is considered in the Glint section below.

## **7.6. Glint and Glare**

7.6.1. A Solar Photovoltaic Glint and Glare Study (GGS) has been submitted to show the potential effects from the proposed development. Glint and glare are often used interchangeably but are defined in the submitted report as follows:

- Glint – a momentary flash of bright light typically received by moving receptors or from moving reflectors
- Glare – a continuous source of bright light typically received by static receptors or from large reflective surfaces.

7.6.2. The GGS assessed the potential effects on aviation activity, road safety and residential amenity for nearby properties.

### Aviation Activity

7.6.3. The GGS identified two airfields within the vicinity of the site. New Orchard Farm Airfield is approximately 580m east of the proposed development, and Frinsted Airfield is approximately 4.6km southwest from the closest part of the proposed development. Both airfields are general aviation (GA) airfields where aviation activity is dynamic and does not necessarily follow the typical approaches / flight paths of a larger licensed aerodrome or airport. Therefore, the GGS focussed its assessment on the most frequently flown flight paths and the most critical stages of flight, including the runway approach path.

7.6.4. The GGS concludes that solar glare is geometrically possible towards the New Orchard Farm Airfield runway approach path and sections of the visual circuits and occur within a pilot's primary field-of view. However, the instances of glare are judged to be operationally accommodatable due to sufficient mitigating factors, and an overall low impact predicted. Mitigation is therefore not recommended.

7.6.5. The GGS also concludes that solar glare is geometrically possible towards sections of the runway visual circuits for the Frinsted Airfield. However, the glare intensities are considered acceptable in accordance with the associated guidance (Appendix D) and industry best practice. A low impact is predicted, and mitigation is not required.

7.6.6. NATS have reviewed the application and advised that they have no objections. As such, officers conclude that the proposal would not have an unacceptable impact on aviation users from glint and glare.

#### Roads

7.6.7. The site is located approximately 750m north of the M2. A 2.3km section of the M2 has been identified within the GGS assessment area with potential views of the panel area. The GGS identified that existing vegetation screening would significantly obstruct views of reflecting panels, such that solar reflections will not be experienced by road users. An updated GGS, which included further reference to seasonal analysis, was also provided and also concluded that there would be no impact on road users and therefore mitigation is not required.

7.6.8. National Highways have reviewed the application and advised that they have no objections. As such, officers conclude that the proposal would not have an unacceptable impact on road users from glint and glare.

#### Nearby Residential properties

7.6.9. Figure 11 of the GGS provides an overview of all dwelling receptors identified in the Study. In response to concerns raised by officers, the GGS was revised to clarify the residential properties included in the Study, highlighting that representative receptors are sometimes used for multiple properties with similar characteristics. In these instances, the presented modelling results cover the properties included within the receptor point. Appendix G of the report includes a table titled 'Dwelling Address Data' (pages 97-101 of the Glint and Glare report) providing a breakdown of receptors and their corresponding addresses. Pinks Farm cottage was also added to the Study at the request of officers due to its relative location adjoining the proposed development.

7.6.10. Table 5 of the GGS sets out the assessment of glint and glare impacts on the identified dwelling receptors, which consists of 68 dwelling receptor points covering 85 addresses. The Study concludes that for 48 dwelling receptors (63 addresses), screening in the form of existing vegetation and/or intervening terrain is predicted to significantly obstruct views of reflecting panels, such that solar reflections will not be experienced in practice. No impact is predicted for these 48 dwelling receptors, and mitigation is not required.

7.6.11. The GGS indicates that there would be a low impact for the remaining 13 dwelling receptors (22 addresses). It identifies in each case that existing and proposed vegetation screening are predicted to obstruct views of reflecting panels, with marginal views of reflecting panels considered possible from above ground floor levels. In addition, mitigating factors such as the separation distances and effects coinciding with the Sun are considered sufficient to reduce the level of impact. As such, additional mitigation is not recommended by the GGS.

7.6.12. Officers note that in some instances the reliance on vegetation screening may require a number of years for the vegetation to grow to be of suitable size to provide effective



screening. In particular, receptors 60, 61, and 62 are most reliant on the proposed vegetation for effective screening and officers raised concerns about this with the applicant. In response to these concerns, the applicant investigated the matter further and confirmed that additional mitigation would be needed at 2.0m in height above existing ground level to mitigate residents from glare impacts. An updated the landscape strategy was provided which includes a 2.0m-high hedgerow around dwelling receptors 60, 61, and 62. This will be planted at its full height from the outset to provide immediate screening for glint and glare purposes, avoiding the delay associated with the maturation of smaller vegetation.

7.6.13. Given that the impacts are likely to already be reduced by existing screening features on the ground and that mitigation is proposed in the form of further landscape screening, which is recommended to be secured by condition as part of an overall Landscape Scheme, it is considered that the proposal would not have an unacceptable impact on the residents of the identified properties from glint and glare in accordance with Policy DM14 of the Local Plan and the NPPF.

## **7.7. Trees**

7.7.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.

7.7.2. The application is supported by an Arboricultural Impact Assessment, which identifies that vast majority of the site's trees are desirable for retention being of moderate quality (category B), with 2 high-quality trees (category A) being located just outside of the site's redline boundary.

7.7.3. All mature trees are proposed to be retained and protected during construction. The internal access roads, positioning of PV modules, inverters, substation and associated equipment are remote from existing trees and their associated Root Protection Areas.

7.7.4. The council's Tree Officer reviewed the application and advised that there are no objections subject to conditions securing the Arboricultural Method Statement and tree protection measures. The Tree Officer also advises that the proposed landscaping as shown on the LEMP is considered acceptable and should also be secured by way of a condition.

7.7.5. Subject to the inclusion of the recommended conditions the proposal would be acceptable in accordance with Local Plan Policy DM29 and the NPPF.

## **7.8. Ecology**

7.8.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan.

7.8.2. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, paragraph 187 of the NPPF states that "*the planning system should contribute to and enhance the natural environment by (d) minimising impacts on and providing net gains for*

*biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs”.*

7.8.3.NPPF paragraph 193(a) states that “*if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.*”

7.8.4.National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), “every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity”.

7.8.5.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.

7.8.6.The application is supported by an Ecological Impact Assessment (EclA), Landscape and Ecological Management Plan (LEMP), Biodiversity Net Gain (BNG) – Design Stage Report and Outline Skylark Mitigation Strategy.

7.8.7.The initial consultation response from KCC Ecology requested further information be submitted including the results of all further necessary surveys, skylark mitigation and a conclusion as to whether the development will achieve a net gain for biodiversity. Following receipt of further information, KCC Ecology confirmed that they are satisfied that sufficient information has been submitted to adequately assess the impact on ecology.

#### Habitats

7.8.8.The proposals require the removal of the existing arable habitats, with boundary habitats largely retained and enhanced. KCC Ecology advise that intensively farmed arable habitats are generally considered of relatively low ecological value (despite often having some value for breeding and wintering birds). There is expected to be a minor loss of hedgerow habitat at the site (~21m), with a larger length of hedgerow proposed to be planted than that proposed to be lost. A minimum 10m undeveloped buffer zone will be established between off-site woodland and proposed panels. A minimum 5m wide undeveloped buffer zone will be established between hedgerows and the panels.

7.8.9.Wildflower meadows are to be seeded within the site as part of proposals along with native woodland planting, scrub planting and the installation of bird boxes, bat boxes and log piles along the boundaries. KCC Ecology advise that the proposed measures, effectively implemented, could result in a biodiversity net gain for the site.

7.8.10. Under the Environment Act 2021, all planning applications for major development submitted on or after 12th February 2024 in England will have to deliver at least a 10% biodiversity net gain. However, given this application was submitted prior to the new BNG requirement this does not apply to this application. Notwithstanding this, the BNG report indicates that the proposal achieves 84.69% BNG in habitat units and 87.79% gain in hedgerow units, which is a significant uplift in biodiversity value on site. The

proposal achieves a net gain in biodiversity and therefore complies with the relevant policies and is a public benefit to afford weight to in the planning balance, which is discussed at the end of this report.

#### Breeding Birds

- 7.8.11. KCC Ecology advise that breeding birds such as grey partridge, and many birds found within the boundary habitats at the site, or a combination of the boundary habitats and the arable field, could benefit from the proposed development due to habitat creation opportunities and more sensitive management of retained habitat. A number of bird nesting boxes, which are targeted at species of conservation interest, are proposed to be installed.
- 7.8.12. The proposals will, however, result in the loss of 8 skylark breeding territories. Skylark is a species of bird listed under Section 41 of the Natural Environment and Rural Communities Act (2006) and local planning authorities are required to have regard for the conservation of Section 41 species as part of planning decisions under their biodiversity duty. Paragraph 84 of the Office of the Deputy Prime Minister (ODPM) Circular 06/2005 states that "...The potential effects of a development, on habitats or species listed as priorities... ..are capable of being a material consideration in the ... making of planning decisions".
- 7.8.13. The submitted EclA indicates that the loss of habitat for the majority of the birds at the site can be compensated for on-site. However, the EclA indicates that compensation measures for skylark will be required off-site. The Outline Skylark Mitigation Strategy sets out the process to identify and secure off-site mitigation, which is acceptable at this stage subject to the full details and required offsite mitigation being secured through a Grampian style planning obligation, which would need to be approved in consultation with KCC Ecology to ensure that it is suitable. The mitigation strategy is to be secured by a Grampian condition and another condition to secure the monitoring reports, with a Unilateral Undertaking to be drafted to secure the mitigation off-site and monitoring fee. Subject to this, the impact on breeding birds is acceptable.

#### Wintering Birds

- 7.8.14. Based on survey information, the site is not considered to comprise functionally linked land for the Swale or Medway Estuary & Marshes SPA and Ramsar sites. Overall, habitat for wintering birds is expected to improve at the site with effective protection of retained habitats during site clearance/construction, and through the proposed habitat creation. Any wintering species not expected to benefit could be accounted for within the offsite, skylark compensation strategy, secured by an appropriate planning obligation if planning permission is granted.

#### Badgers

- 7.8.15. The proposals involve the retention and protection of several active badger setts during construction. During construction, a minimum 30m undeveloped buffer zones are proposed from all identified active badger setts and KCC Ecology recommend that this be secured by condition through a detailed Construction Ecological Management Plan (CEcMP), which would need to be clearly shown on all relevant plans.

- 7.8.16. For badgers (and other land animals) to continue to be able to use the site the proposed security fencing will not be buried. This is so that badgers can readily squeeze or dig underneath to gain access to the site. This is recommended to be secured by condition.

#### Hazel Dormouse

- 7.8.17. Hazel dormice could be present on-site. As a small length of hedgerow is to be removed, precautionary working methods are proposed during site clearance / construction to avoid impacts to dormice and is recommended to be secured through a condition for a CEcMP. New woodland, hedgerow and scrub planting, and provision of nest boxes, may benefit the local dormouse population in the long-term. A sensitive lighting plan would protect these animals from the negative effects of artificial lighting and is also recommended to be secured by condition.

#### Bats

- 7.8.18. All mature trees within the site are proposed to be retained. KCC Ecology advise that the minor hedgerow losses are not expected to significantly affect foraging and commuting bat habitat and that bat roosting habitat is not expected to be adversely impacted. Invertebrate populations, which provide a food source for bats, would be expected to increase following the development.

- 7.8.19. Bat boxes are proposed to increase roosting habitat available. Effective implementation of the LEMP and a CEcMP secured by condition would be sufficient to protect bats. The wildlife sensitive lighting condition is also recommended to minimise the potential effects of artificial lighting on the boundary habitats with regards to bats and other nocturnal mammals.

#### Great Crested Newt and Reptiles

- 7.8.20. Great crested newt and reptiles could be present within boundary habitats at the site. However, as boundary habitats are to be largely protected with an undeveloped buffer zone, and as habitats within the buffer zone are proposed for enhancement, any impacts would be expected to be confined to the minor removal of hedgerow at the site. Precautionary working methods within a CEMP would be expected to be sufficient to manage the minor hedgerow removal expected and to avoid/mitigate for impacts to these animals.

#### Brown Hare and Hedgehogs

- 7.8.21. Proposals could result in harm to brown hare and hedgehogs during site clearance and construction, but in the long-term could benefit these species. These species would need to be included within the CEcMP, which is recommended to be secured by condition.

#### Construction

- 7.8.22. KCC Ecology advise that a CEcMP – biodiversity should be secured by condition to mitigate impacts to biodiversity and help ensure compliance with relevant legislation. The suggested wording is recommended to be incorporated into the standard wording for a Construction Environmental Management Plan (CEMP), which covers other impacts from construction, such as pollution control, noise, and lighting.

### Conclusion

7.8.23. Subject to the recommended conditions, the proposal would have an acceptable impact on ecology and biodiversity in accordance with Policies CP7 and DM28 of the Local Plan and the NPPF.

## **7.9. Archaeology**

7.9.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.

7.9.2. Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.

7.9.3. An Archaeological geophysical survey was submitted with the application, which was reviewed by KCC Archaeology who advised that further information was required including an evaluation report to be provided following trial trenches. An evaluation report, technical note and mitigation plan were subsequently provided, which advises that Archaeological features were identified in each trench, including linear features, pits and possible furnace related features. Pottery dated to the later Bronze Age / Iron Age period was also recovered.

7.9.4. The Heritage Technical Note (HTN) advises that the discovery of enclosures within both fields, along with associated features, evidence for metalworking and other artefactual material dating to the late Iron Age to early Roman period is of particular significance. With the exception of Rodmersham Roman villa (870m east from the Site), there are few discoveries of Iron Age and Roman date recorded in the wider area. The HTN further states that due to the nature of the development the requested archaeological fieldwork can be secured by an appropriately worded condition.

7.9.5. KCC Archaeology advised that they are satisfied with the additional information and recommends that physical preservation be secured by condition to avoid development groundworks through design measures within the defined Areas of Archaeological Sensitivity. KCC Archaeology are also satisfied with the proposed condition, which has been amended to also include specific reference to the already identified Areas of Archaeological Sensitivity as shown on the submitted plan to clarify that the details must include design measures in those specific areas to ensure they are protected during construction, operation and decommissioning.

7.9.6. KCC Archaeology are satisfied that the potential impacts of the wider scheme can be appropriately addressed through further assessment, evaluation and design that can be secured through a condition. A condition for a staged programme of archaeological assessment, evaluation and mitigation is therefore recommended to secure the necessary mitigation required. Subject the recommended conditions, the proposal is in accordance with Policy DM34 of the Local Plan and the NPPF.

### **7.10. Flood Risk, Drainage and Surface Water**

- 7.10.1. 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 DM21 of the Local Plan.
- 7.10.2. The site lies across three different groundwater source protection zones. A small part of the site along the western boundary lies within SPZ1 – ‘Inner protection zone’. The majority of the south-western part of the site falls into Groundwater Source Protection Zone SPZ2, corresponding to the ‘outer protection zone’. The north-eastern part of the site falls into SPZ3, corresponding to the ‘total catchment’. The EA have raised no objections to the development and offer information to be relayed to the applicant regarding their approach to groundwater protection.
- 7.10.3. The site falls within Flood Zone 1 with small pockets of surface water flooding, which are restricted to low points of gulleys. A Flood Risk Assessment was submitted with the application, which advises that the risk of flooding to the majority of the site is classified as ‘Low’. The proposal avoids development with the areas of surface water flood risk and therefore does not trigger the need for a sequential test.
- 7.10.4. KCC Flood and Water Management have reviewed the submitted Flood Risk Assessment and raise no objection. They note that the proposed solar farm will have little impact on the surface water flows across the site, with the solar panels being raised above the ground allowing flows beneath them and having minimal impact of the impermeable areas. Access tracks will also be made of permeable materials. It is proposed to maintain grassland around and underneath the solar panel to reduce soil erosion and runoff rates as well creating 3-10m vegetated buffer strip between each row of solar panels and around margins. Interception swales at low points are also proposed, providing a volume of storage that exceeds the volume generated by the post development 100 (+CC) year event.
- 7.10.5. KCC Flood and Water Management advise that more information would be required as to the specific details of interception swales and buffer zones (locations, capacities etc.), and clarification on how the ancillary buildings will be drained. As such, KCC recommend that conditions securing these details, which could be included if the application were supported.
- 7.10.6. Subject to the recommended conditions being attached to any forthcoming planning permission, the proposal is considered acceptable and in accordance with Policy DM21 and the NPPF.

### **7.11. Contamination**

- 7.11.1. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 7.11.2. A Phase 1 Desk Study and Preliminary Risk Assessment (PRA) Report has been submitted with the application, which has been reviewed by Mid Kent Environmental Health (EH) who advise that the PRA shows there is low risk to future site users.

7.11.3. Whilst the site will see limited use once constructed, the proximity of former landfill to the northeast, and infilled ground to the southwest, the proposal poses some risk for the construction phase. The report also recommends further investigation for the land that the control box will occupy, as this area will see the most use. Mid Kent Environmental Health recommends conditions for additional investigation for this area, and the watching brief for the site as a whole, as the possibility for localised contamination cannot be discounted, especially for the areas mentioned above. As this site will not be residential in nature and will require a minimum level of personnel to function, Mid Kent Environment Health advises that these matters can be conditioned rather than provided during the application.

7.11.4. Subject to the imposition of the suggested condition, the proposal is in accordance with the NPPF.

## **7.12. Air Quality**

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

7.12.2. The NPPF and Policy DM6 of the Local Plan seek to ensure that the effects of air pollution and the potential sensitivity of the area to its effects are taken into account in planning decisions.

7.12.3. Due to the nature of the proposed development there would be limited activity during its operation and therefore is unlikely to result in adverse air quality impacts. Mid Kent Environmental Health advises that a Code of Construction Practice would be required to demonstrate the controls for dust and other construction-related activities to be implemented on site during the construction phase. This would be secured through a detailed Construction Method Statement (CMS), which could be secured by condition.

7.12.4. Therefore, subject to conditions to control construction activities, the proposal is considered to be in accordance with Policy DM6 of the Local Plan and the NPPF.

## **7.13. Living Conditions**

7.13.1. The NPPF and Policy DM14 of the Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

7.13.2. The visual impact and the impact of glint and glare has been considered above. Given the distance of residential properties from the compounds on the site where small structures/buildings would be located, it is considered there would be no harm to living conditions in terms of loss of light, outlook and overshadowing. This section therefore relates to the potential effect on living conditions from noise, vibration and lighting. It is noted that an objection was raised regarding heat emissions from the proposed solar panels, however these are designed to absorb heat light energy, not to emit it.

7.13.3. The application is supported by a Noise Impact Assessment (NIA), which demonstrates that the operations of the Solar Array would be 5dB below measured background. Mid

Kent Environmental Health have reviewed the NIA and raises no objection for this aspect. However, an assessment of Low-frequency noise (LFN) and construction phase impacts were requested to be provided.

7.13.4. A technical note on LFN (dated 13/02/2024) was subsequently provided. Mid Kent Environmental Health reviewed the note and advised that the transformers will be below the criterion curve of NANR45 and therefore a full assessment for LFN would not be required.

7.13.5. Mid Kent Environmental Health initially raised concern that there are no details for any external lighting to be used on site for either the construction or operational phases. The applicant clarified that the only circumstances in which any fixed lighting will be required during operation will be if the network operator specifies a requirement for lighting to be attached to the proposed substation. If required, this will comprise of one or two 60 W equivalent LED lamps, operated by PIR sensors, attached to the side of their building. This would only be used during rare out of hours maintenance visits and an internal switch would be fitted to override PIR circuitry. No other lighting is required / proposed anywhere else on the site.

7.13.6. During construction, whilst working hours are proposed to be limited to daytime hours only, some lighting may be required during the winter months, for safety reasons. Any lighting would be mobile, used only in the areas where works were taking place, and downward facing to avoid spill in accordance with best practise and relevant guidance.

7.13.7. Mid Kent Environmental Health advised that in response to the clarification provided lighting could be dealt with as a condition.

7.13.8. As noted above, a Code of Construction Practice would be required to demonstrate the controls for construction-related activities to be implemented on site during the construction phase, which would mitigate adverse noise impacts. This would be secured through a detailed Construction Method Statement (CMS), which could be secured by condition.

7.13.9. Subject to the inclusion of the recommended conditions, the proposal would be unlikely to result in unacceptable amenity impacts to nearby residents from noise, vibration, lighting, outlook, privacy or loss of light in accordance with Policy DM14 of the Local Plan and the NPPF. Officers have also considered the potential amenity impacts to livestock on neighbouring properties in response to the objection received on this matter and arrive at the same conclusion.

#### **7.14. Designing Out Crime**

7.14.1. The NPPF aims to achieve healthy, inclusive and safe places, so that crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. The Local Plan reinforces this requirement through Policy CP4.

7.14.2. The proposed layout includes a gated access point and fencing along all boundaries at a height of 2.0m. Fencing will comprise wire deer control fencing with wooden fence posts. The fencing will include mammal gates to allow for movement of small animals through the site. CCTV and infrared security systems will be fixed onto a galvanised steel pole at a total height of 3m at regular intervals to ensure effective coverage. All



cameras would be inward facing towards the site and equipment to ensure the security of the site without intruding on any private views.

7.14.3. The proposal does not pose an unacceptable crime risk in accordance with Policy CP4 of the Local Plan and the NPPF.

## 7.15. Community Infrastructure

7.15.1. Planning Obligations need to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations. These stipulate that an obligation can only be a reason for granting planning permission if it is:

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

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

Requirement	Obligation	Reason
PROW		
	<ul style="list-style-type: none"> <li>• £40,000 - contribution towards improvements to the PROW routes ZR212, ZR215, ZU39 and ZU40</li> </ul>	To offset the impacts to the PROW network from the proposed development.
Ecology		
	<ul style="list-style-type: none"> <li>• Secure the implementation of offsite Skylark Mitigation and Compensation Strategy</li> <li>• £1020 - Skylark post-completion monitoring fee paid on approval of the Skylark Mitigation and Compensation Strategy.</li> </ul>	To compensate for the loss of skylark habitat on site.

7.15.3. Subject to the above planning obligations being secured in a legal agreement associated with any planning permission, the proposals would mitigate impacts and make the development acceptable in planning terms and comply with Local Plan Policies DM6 and DM28 and the NPPF.

## 7.16. Decommissioning

7.16.1. Policy DM20 of the Local Plan states that in cases of temporary planning permission, detailed proposals for the restoration of the site at the end of its functional life should be set out as a part of any application.

7.16.2. The development would have a lifespan of 40 years. The submitted details indicate that at the end of the useful life of the facility it will be decommissioned, and all the

associated equipment will be removed and recycled where possible. The land could then be reverted back to agricultural use.

- 7.16.3. Details of the decommissioning phase are set out within the Design and Access Statement, and Agricultural Considerations statement. The details indicate that the objective is to remove panels and restore all fixed infrastructure areas to return the land to the same ALC grade and condition as it was when the construction phase commenced.
- 7.16.4. In order to secure the suitable restoration of the land a detailed Decommissioning Plan could be secured by condition.

### **7.17. Planning Balance and Conclusion**

- 7.17.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 7.17.2. The proposed development would have a negative impact on the rural landscape and would be harmful to the setting of the KDNL and Rodmersham and Milstead Dry Valley AHLV. It would also have a harmful impact on several designated and non-designated heritage assets, resulting in a very lower degree of less than substantial harm for the designated assets and a very low degree of harm for the non-designated assets. As described in the appraisal above, there are conflicts identified with the relevant policies of the Local Plan in this regard.
- 7.17.3. However, there is support for the development in national policy, particularly in regard to the provision of renewable energy, supporting the transition to net zero by 2050 and ecological benefits through a significant uplift in ecological value on site. Taking this into account, the benefits of the proposed development need to be weighed against the harm identified.

#### **Benefits**

- 7.17.4. The applicant has advised that it is estimated that the proposed development would generate approximately 40MW of renewable energy, which could provide enough clean renewable energy to meet the equivalent needs of approximately 14,384 homes. It is also estimated that the proposed development would save approx. 35,681 tonnes of CO<sub>2</sub> over its 40-year operational period. Renewable energy using modern technology will also use less area to produce higher amounts of electricity and will contribute towards an independent, secure energy supply in the UK (which is particularly necessary in the current geopolitical climate). In accordance with paragraphs 161 and 168 of the NPPF, Local Plan policies and recent appeal decisions, significant weight is attached.
- 7.17.5. The proposal would also generate employment including construction jobs, as well as solar farm maintenance jobs, and Paragraph 85 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity.

7.17.6. Biodiversity Net Gains within the site would be 84.69% for habitats and 87.79% for hedgerow units, which is a significant uplift in biodiversity value. In accordance with the NPPF, Local Plan policies and recent appeal decisions, significant weight is attached to this benefit.

7.17.7. Diversification of Farm Business – The proposal would allow for coinciding use of the land for both energy production and agriculture and will provide the landowner with a secure supply of income to reinvest in their agricultural business. The resting of agricultural land which will also potentially improve soil health to the benefit of future cultivation activities. In accordance with recent appeal decisions and Paragraph 187 of the NPPF, moderate weight is attached to this benefit.

#### Harm

7.17.8. Officers conclude that the proposal would have a minor adverse impact on the setting of the Kent Downs National Landscape and the setting of the Rodmersham and Milstead Dry Valley AHLV, which are designated landscapes. It would also have an adverse impact on the landscape character of the site, which is a non-designated landscape and ranges from major adverse during construction and early stages of the operational phase, reducing to minor adverse by year 15 with the maturing of the proposed mitigating vegetation screening. The proposal would also have an adverse impact on the landscape character of the surrounding non-designated landscapes ranging from minor to moderate adverse during construction and the early stages of operation reducing to minor by year 15. Given the importance of the landscape designations significant weight is attached to this disbenefit.

7.17.9. Roads designated as rural lanes (Pitstock Road, Slough Road, Cheney Hill, Bottles Lane and Green Lane), would also experience minor adverse effects reducing to minor or negligible by year 15. However, officers agree to consider the effects on non-vehicle users, particularly on Bottles Lane, during the early operational phase to experience a moderate adverse effect. Although, it is acknowledged that the effects on non-vehicle users reduce in most cases to minor at worst by year 15. Moderate weight is afforded to this disbenefit.

7.17.10. The effects on the closest residential receptors with direct views over the site see moderate to major adverse effects in the early stages of operation, which only reduces marginally to moderate adverse by year 15. Residential receptors further away would experience minor adverse effects, which only marginally reduces by year 15 given the proposed vegetation screening has limited effect at longer range views. Moderate weight is afforded to this disbenefit.

#### Balance and conclusion

7.17.11. In terms of the heritage balancing exercise that is required to be undertaken, as set out in the Heritage section of this report, it is considered that the abovementioned public benefits identified are sufficient to outweigh the very low degree of heritage harm that would be caused. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990.

7.17.12. The proposed development conflicts with Local Plan Policies CP8, DM24, DM26 and DM32. However, the principle of the proposed development is supported by NPPF paragraph 168(a) and Policies ST1(10a) DM20 and DM31 of the Local Plan. Furthermore, more detailed aspects of the proposal such as biodiversity improvements and employment generation also comply with local and national policy as set out within this report. Overall, it is considered that the proposal would accord with the development plan when it is taken as a whole. Moreover, other considerations, including the NPPF, also suggest that the application should be supported. As such it is recommended that planning permission be granted subject to conditions and planning obligations.

## 7.18. RECOMMENDATION

7.18.1. GRANT PLANNING PERMISSION subject to the conditions set out below and the prior completion of a Section 106 agreement.

### Conditions

#### 1. Time Limit

The development hereby permitted shall be commenced before the expiration of three (3) years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

#### 2. Drawings

The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below.

Drawing Numbers:

- Site Location Plan – PTI01-001
- Site Layout Plan - PTI01\_DV\_EL\_DRA\_GEN\_IMP-03-01
- Inverters - 003C Rev 01
- Transformer Elevation – 003B Rev 01
- CCTV Detail - DV\_SEC\_411\_02\_00 Rev 01
- Customer Substation Detail - PTI01-DV\_HV\_201\_02\_00 Rev 01
- DNO Substation - 004PIT01-DV\_HV\_101\_02\_01
- Storage Container Detail - DV\_CS\_402\_02\_00 Rev 01
- Fence And Gate Detail - PTI01-DV\_CS\_202\_02\_00 Rev 01
- Array Detail - DV\_CS\_105\_02\_01 Rev 01
- Control House - 004PIT01-DV\_HV\_101\_02\_01 Rev 02
- Access Track Detail - NTW01-SD-03 Rev 01
- Landscape Strategy Plan – LN-LP-06 Rev F

Documents:

- Ecological Impact Assessment (EcIA)
- Landscape and Ecological Management Plan (LEMP)
- Biodiversity Net Gain – Design Stage Report

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

### 3. Temporary Permission

The planning permission hereby granted shall be for a temporary period only, to expire 40 years after the first export date of the development except for the substation and its ancillary infrastructure, which may remain on the site in perpetuity. Written confirmation of the first export date shall be provided to the Local Planning Authority within 14 days after the event.

Reason: In the interests of the rural character and appearance of the area and to ensure that the 40-year period is complied with.

### 4. Decommissioning

Within 6 months of the cessation of the export of electrical power from the site, or at least 6 months prior to 40 years following the first export date (whichever is the sooner), a Scheme for the Decommissioning of the solar farm (with the exception of the substation and its ancillary infrastructure which may be retained) and detailed land restoration plan, including a programme for the completion of the decommissioning and restoration works, shall be submitted to and approved in writing by the Local Planning Authority. The solar farm shall be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales. The scheme shall also include the management and timing of any works and a Traffic Management Plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, details of safety measures in respect of interaction with Public Rights of Way (PRoW), and details of site restoration measures.

Reason: In the interests of the rural character and appearance of the area and to ensure no adverse impact on the local or strategic road network in accordance with the National Planning Policy Framework.

### 5. Protection of Areas of Archaeological Sensitivity

(A) Prior to the commencement of the development, full details of the final location, design and materials to be used for the panel arrays, transformers / inverter cabins, storage / communication / switch room cabins, switchgear unit, CCTV cameras, fencing and gates, and any other auxiliary buildings or structures shall be submitted to the Local Planning Authority.

(B) For Areas of Archaeological Sensitivity as shown in Figure 1 Rev A (dated 24 September 2024) and any additional Areas of Archaeological Sensitivity identified through the archaeological evaluation referenced in Condition (6) the final details will:

(i) define areas of archaeological interest within which below and above ground development will be excluded and/or

(ii) provide sufficient design mitigation including but not limited to the use of above ground cables, concrete shoes or other means to avoid any impact on archaeological deposits if required.

(iii) set out protection measures during construction, operation and decommissioning work.

These details shall be approved in writing by the Local Planning Authority in consultation with their archaeological advisor. The development shall be carried out in accordance with the approved details and maintained for the lifetime of the development unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that features of archaeological interest are properly examined and protected. The objectives and purposes of this condition are such that it is required to be complied with before commencement in accordance with the National Planning Policy Framework.

#### 6. Archaeology across wider scheme:

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

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

C) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.

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

a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development.

b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same.

c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

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

Reason: To ensure that features of archaeological interest are properly examined and recorded. Specific objectives and purposes of this condition are such that it is required to be complied with before commencement in accordance with the National Planning Policy Framework.

## 7. CTMP

No development shall take place (including any ground works, site or vegetation clearance) until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Notwithstanding the December 2023 CTMP prepared by TPA, this report should be updated to include the following additional information:

- a) Routing of construction and delivery vehicles to / from site
- b) Timing of deliveries
- c) Site Plan showing the construction compound layout, including the following:
  - Provision of the vehicle loading/unloading, parking and turning areas for construction and delivery vehicles and site personnel
  - Gates to open away from the highway and to be set back a minimum of 5.5 metres from the edge of the carriageway.
- d) Provision of wheel washing facilities
- e) Temporary traffic management measures / signage
- f) Details of safety measures in respect of interaction with Public Rights of Way (PRoW), with particular attention to Public Footpath ZR212, and shall include (but not be limited to) the following:
  - Clear signage warning Non Motorised Users (NMU) of construction traffic.
  - Drivers of construction vehicles to be given awareness briefings on speed limits, awareness of possible NMU on the lanes and to reduce speed where sighted.
  - A point of contact on site for drivers to report any issues identified on the lanes i.e. missing signs, safety hotspots, so they can be investigated accordingly.
  - Hotline in place for the public to report any issues identified with moving construction traffic, missing signage, and any other safety concerns.
  - Details of the approach to repair or reinstatement of any PRoW should this be directly affected.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter for the duration of the construction phase.

Reason: Required prior to commencement of development to ensure no adverse impacts on the local and strategic highway network during construction.

## 8. Construction Method Statement (CMS)

No development shall take place (including any ground works, site or vegetation clearance) until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include the following:

- Construction hours
- Reporting of complaints
- Temporary lighting
- Dust management

A Code of Construction Practice shall be included within the CMS and shall include:

- An indicative programme for carrying out the works

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

The CMS 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 thereafter be carried out in accordance with the approved CMS.

Reason: Required prior to commencement of development to ensure no adverse impacts on the residential amenity during construction.

#### 9. Land Contamination (For the site of the Control Box)

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 approved Preliminary Risk Assessment (by Enzygo Ltd) dated December 2023, 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 (1). 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 (2). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source / destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.



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

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

#### 10. Land Contamination (For the site as a whole)

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

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

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

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

#### 11. Construction ecological management plan (CEMP - biodiversity)

Prior to the commencement of works (including site clearance), a construction ecological management plan (CEMP - biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP - biodiversity will be based on the recommendations in section 3 of the Clarkson and Woods Ecological Consultants Ecological Impact Assessment report (August 2024) and will include the following:

- Risk assessment of potentially damaging construction activities;
- The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs. This shall include a suitable buffer zone(s) (as set out by a suitably qualified ecologist) to protect the main badger sett and any other badger setts to be retained;
- Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats;

- Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during construction (may be provided as a set of species or habitat-specific method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- Details of any necessary protected species licences or other relevant documents (e.g., Arboricultural Method Statement/ updated species surveys if required);
- Responsible persons and lines of communication; and
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

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

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

## 12. Skylark Mitigation Strategy

No development shall be undertaken (including any site clearance) before a detailed Skylark Mitigation and Compensation Strategy has been submitted to, and approved in writing by, the local planning authority. The Strategy shall be based on the Clarkson and Woods Outline Skylark Mitigation Strategy for Pitstock Solar Farm, Sittingbourne, Kent (13th August 2024; Ref: 8896). The Strategy shall ensure off-site habitat is provided for the projected loss of at least eight skylark territories (as identified in the Clarkson and Woods Ecological Consultants Ecological Impact Assessment report (August 2024) (Reference: 8149/8814). The Strategy shall ensure the mitigation and compensation measures with regards to habitat improvements proposed, and the area of land required, are based on available scientific research (such as The SAFFIE Project Report by Clarke et al., June 2007; BTO Research Report No. 129 by Wilson and Browne, October 1993; and Journal für Ornithologie article on Territory density of the Skylark (*Alauda arvensis*) in relation to field vegetation in central Germany by Toepfer and Stubbe, December 2001). If the proposed compensation site already has existing skylark territories and/or is already proposed as skylark compensation for other development, evidence shall be provided to demonstrate that the measures proposed are additional to any existing territories. The Strategy shall include the following:

- Up-to-date breeding bird survey data for the proposed compensation site;
- The means by which any off-site compensation land and its management shall be secured;
- Purpose and conservation objectives for the proposed works;
- Review of site potential and constraints;
- Detailed design(s) and/or working method(s) to achieve stated objectives;
- Extent and location/area of proposed works on appropriate scale maps and plans;

- Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- Details of the body or organisation(s) responsible for implementing the Strategy;
- Details of initial aftercare and long-term maintenance; and
- Details for monitoring (to be undertaken by a suitably qualified ecologist(s)) and remedial measures.

The Skylark Mitigation and Compensation Strategy shall be implemented in accordance with the approved details and no later than the commencement of construction or site clearance if earlier. All features shall be retained as approved thereafter, unless remedial measures are required.

Approval for any remedial measures shall be sought from the local planning authority in writing through condition 13 and thereafter implemented as approved.

Reason: To provide alternative foraging and nesting opportunities for skylarks displaced by the development.

#### 13. Skylark Mitigation Monitoring:

Post-completion of the habitat improvement / creation works as secured by condition 12, monitoring of the number of skylark breeding territories at the off-site compensation site shall be carried out in years 2, 5 and 10 by a suitably qualified ecologist and in line with standard professional survey guidelines. Year 1 shall be said to commence subsequent to a dated written statement from a suitably qualified ecologist to confirm that the habitat improvement/creation works have been completed and which shall be submitted to the local planning authority.

After each monitoring period full breeding skylark survey results shall be submitted to, and be approved in writing by, the local planning authority, including details of any required remedial management. The approved remedial measures shall be implemented.

Reason: To monitor the mitigation measures for skylarks displaced by the development.

#### 14. Tree Protection

The development hereby approved shall be carried out in strict accordance with the construction control measures to protect retained trees and tree groups (including hedgerows) within, and adjacent to, the site in accordance with British Standard (BS) 5837:2012 'Trees in Relation to Design, Demolition and Construction - Recommendations' as set out within the approved Arboricultural Impact Assessment by Barton Hyett Associates (dated: 19/12/2023).

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

#### 15. Surface water drainage details:

Prior to the commencement of the development a detailed sustainable surface water drainage scheme for the site shall be submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment prepared by PFA Consulting (12/12/2023) and shall demonstrate that the

surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

#### 16. Surface water drainage - verification:

The development hereby permitted shall not be brought into use until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 175 of the National Planning Policy Framework.

#### 17. Archaeological setting – information boards

Prior to operation of the development a scheme of archaeological interpretation that includes information boards in publicly accessible areas of the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with their archaeological advisor. The scheme shall include the location for information boards, their content and timetable for their installation. The interpretation boards shall be installed in accordance with the approved details.

Reason: To ensure that the archaeological interest of the development site is appropriately interpreted and presented in the public realm.

### 18. Turning Points

Prior to the operation of the development hereby approved, details of fire appliance turning points along the dead-end access tracks shall be submitted to and approved by the Local Planning Authority.

The development shall be carried out in accordance with the approved details prior to its operation and shall be maintained for the lifetime of the development.

Reason: In the interests of fire safety and access for emergency services.

### 19. External Lighting

No external lighting shall be installed until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This scheme shall refer to the Institute of ILP Guidance Note 01/21 The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme shall also include the following biodiversity protection measures:

- The identification of areas/features on-site where disturbance could occur to bat and hazel dormouse roosting/nesting sites and/or foraging/commuting routes;
- The provision of an appropriate plan(s) to show how and where external lighting will be installed;
- The provision of technical specifications for the external lighting;
- The provision of lighting contour plans to show expected lux levels so that it can be clearly demonstrated that areas to be lit will not disturb bat/dormouse activity.

All external lighting shall be installed prior to first occupation of the development in accordance with the specifications and locations set out in the approved scheme, and these shall be maintained and operated in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of minimising the landscape and biodiversity impact of the development and to protect the amenity of neighbouring residents.

### 20. Wildlife fencing

The security fencing associated with the development hereby approved shall not be buried or extend all the way to the ground, and shall incorporate small gaps at appropriate points to enable access for small animals into the site as shown in the Fence and Gate Details (drawing ref: PTI01-DV\_CS\_202\_02\_00 rev 01).

Reason: To enable badgers (and other land animals) to continue to gain access to the site in the interests of minimising the ecological impact of the development.

### 21. Landscaping / Ecology

The development hereby approved shall be carried out in accordance with the approved Landscape Strategy Plan by Stantec (ref: LN-LP-06 rev F) and in accordance with the measures detailed within the Ecological Impact Assessment by Clarkson & Woods

(dated August 2024), Landscape and Ecological Management Plan by Clarkson & Woods (dated August 2024) and Biodiversity Net Gain – Design Stage Report by Clarkson & Woods (dated August 2024).

The hard and soft landscaping of the site shall be implemented within the first planting season following construction of the development hereby approved and shall be maintained and managed for the lifetime of the development.

Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Any hedgerows on site that are removed or become seriously damaged or diseased during the lifetime of the development shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the proposed landscaping, biodiversity enhancements and screening measures on-site are secured.

## 22. Vehicular Access

Prior to the operation of the development hereby approved, details of the following vehicular access facilities shall be submitted to and approved by the Local Planning Authority:

- a) Vehicular access to the site.
- b) Details of access gates, ensuring they open away from the highway and are set back a minimum of 5.5 metres from the edge of the carriageway.
- c) Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.9metres above carriageway level within the splays, prior to the use of the site commencing.
- d) Provision and retention of the vehicle parking spaces and turning areas within the site area.

The development shall be carried out in accordance with the approved details prior to its operation and shall be maintained for the lifetime of the development.

Reason: In the interests of highways safety and convenience.

## 23. PROW Management Scheme

Prior to the operation of the development hereby approved, a Public Rights of Way (PROW) Management Scheme shall be submitted to and approved by the Local Planning Authority. The scheme shall set out measures to address safety, traffic, noise, and amenity impacts of the PROW network during the operation of the development.

The development shall be operated out in accordance with the approved details and any measures shall be maintained for the lifetime of the development.

Reason: In the interests of the PROW network safety and amenity.

## 24. Materials

Prior to their erection on site details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to and approved in writing by the Local Planning Authority. The development

shall subsequently be carried out in accordance with the approved details and be maintained as such for the lifetime of the development hereby permitted.

Reason: To assimilate the apparatus into its surroundings, in the interests of amenity.

## **INFORMATIVES**

### UK Power Network:

Please note there are HV and LV underground cables on the site running within close proximity to the proposed development. Prior to commencement of work accurate records should be obtained from our Plan Provision Department at UK Power Networks, Fore Hamlet, Ipswich, IP3 8AA.

In the instance of overhead cables within the vicinity, GS6 (Advice on working near overhead powerlines) and a safety visit is required by UK Power Networks. Information and applications regarding GS6 can be found on our website

<https://www.ukpowernetworks.co.uk/safety-equipment/power-lines/working-near-power-lines/advice-on-working-near-overhead-power-lines-gs6#Apply>

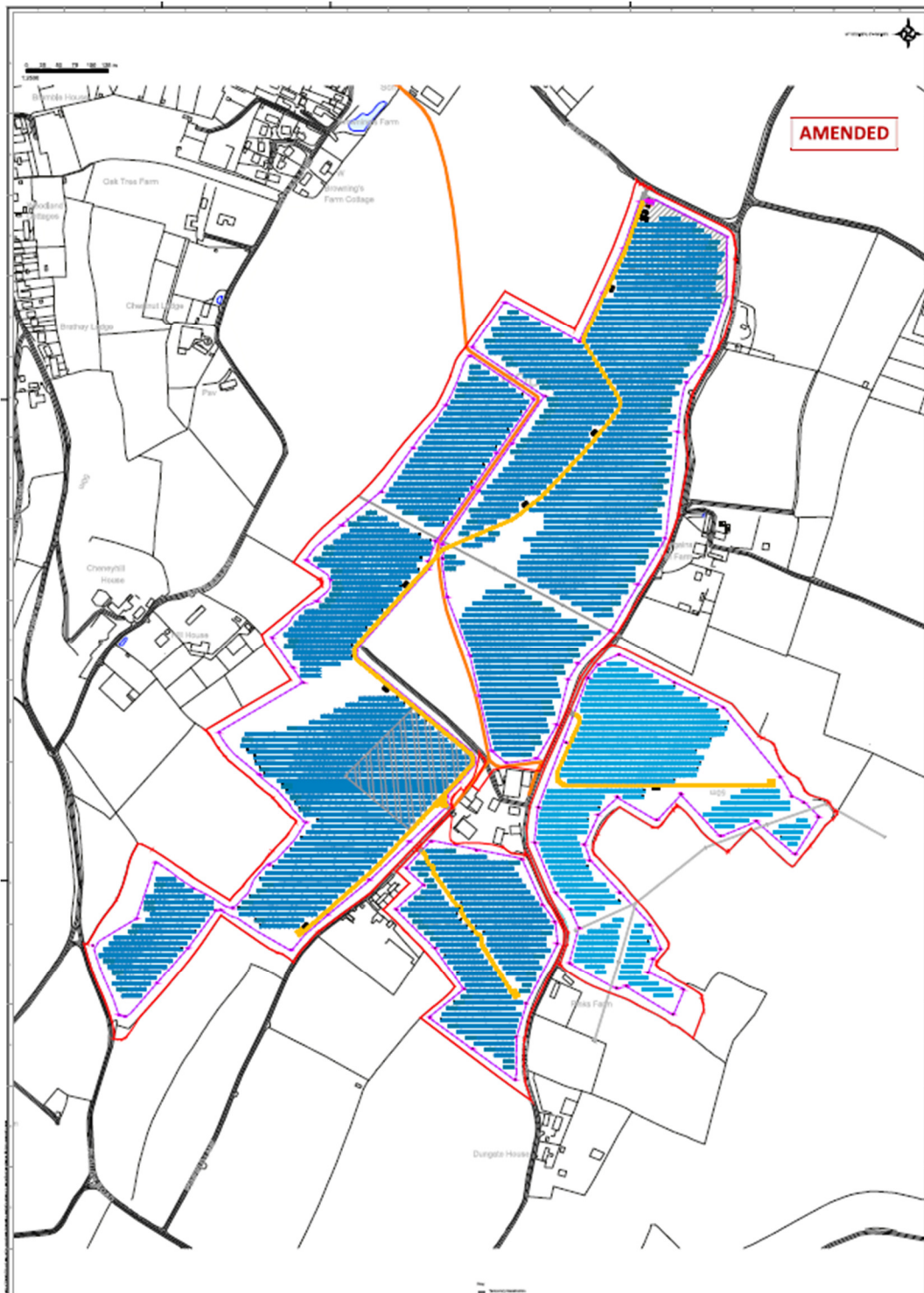
All works should be undertaken with due regard to Health & Safety Guidance notes HS(G)47 (Avoiding Danger from Underground services). This document is available from local HSE office.

Should any diversion works be necessary as a result of the development then enquiries should be made to our Customer Connections department. The address is UK Power Networks, Metropolitan house, Darkes Lane, Potters Bar, Herts, EN6 1AG.

You can also find support and application forms on our website [Moving electricity supplies or equipment | UK Power Networks](#)

### Code of Development Practice

As the development involves demolition and / or construction, I recommend that the applicant be supplied with 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-code-of-development-practice>





<b>2.3 REFERENCE NO</b> 24/502717/OUT		
<b>PROPOSAL</b> Outline Application (with all matters reserved) for erection of a care home (Class C2), with associated parking, landscaping and substation.		
<b>SITE LOCATION</b> Land West of Borden Lane, Sittingbourne, Kent, ME9 8HR		
<b>RECOMMENDATION</b> 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 / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be necessary and appropriate.		
<b>APPLICATION TYPE</b> Major, Outline		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Borden Parish Council object to the proposal and have requested the application be determined by Planning Committee and called in by Ward Councillor Ann Cavanagh.		
<b>Case Officer</b> Carly Stoddart		
<b>WARD</b> Borden and Grove Park	<b>PARISH/TOWN COUNCIL</b> Borden	<b>APPLICANT</b> Aspire LPP  <b>AGENT</b> Mr L.Wilkin, Aspire LLP
<b>DATE REGISTERED</b> 06/08/24		<b>TARGET DATE</b> 23/01/25
<b>BACKGROUND PAPERS AND INFORMATION:</b> Documents referenced in report are as follows: -  All drawings submitted. All representations received.  Care Home Need Assessment, dated August 2024 (uploaded on 5 September 2024) Archaeological Desk-Based Assessment, reference PN4338/DBA/1, dated August 2024 (uploaded on 5 September 2024) Arboricultural Implications Assessment, dated August 2024 (uploaded on 19 September 2024) Transport Statement, reference 23/7357/TS01, dated August 2024 (uploaded on 5 September 2024) Drainage Strategy Report, reference 8134-RGP-ZZ-00-RP-C-0501, P3 dated November 2024 (uploaded on 4 April 2025) Phase 1 Desk Study and Risk Assessment Report, reference J15790, Issue 1, dated 13 August 2024 (uploaded on 5 September 2024)		

Phase 2 Ecological Survey Report, reference 5839E/24/02, dated 17 June 2025 (Confidential due to protected species information – KCC Ecological Advice Service and Borden Wildlife Group consulted)

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

[24/502717/OUT | Outline Application \(with all matters reserved\) for erection of a care home \(Class C2\), with associated parking, landscaping and substation. | Land West Of Borden Lane Sittingbourne Kent ME9 8HR](#)

## 1. SITE LOCATION AND DESCRIPTION

- 1.1. The site lies on the northwestern side of Borden Lane, adjacent to the residential property at 124 Borden Lane which is to the southwest. To the northeast and northwest is the Borden Nature Reserve. The southeast boundary adjoins Borden Lane and there are dwellings and paddocks on the opposite side of the road.
- 1.2. The site is accessible on foot from Borden and Sittingbourne. There is a footpath to both sides of Borden Lane to the front of the site, although the path to the side of the application site is narrow with some large trees occupying the width between the site and Auckland Drive. The footpath on the opposite side ends at the first house as you travel south in the direction of Borden. There is no bus route through Borden Lane. The nearest stop is within Adelaide Drive.
- 1.3. The site is outside of a defined settlement area, is within an Important Local Countryside Gap (ILCG) and comprises Priority Habitat in the form of traditional orchard.
- 1.4. The site is roughly rectangular in shape, extending northwest from its Borden Lane frontage. Towards the southwestern corner of the site is a single storey brick workshop building. Most of the site is grassed however there are areas having been used as storage.
- 1.5. The frontage of the site to Borden Lane comprises trees and boundary hedging, which largely screen views into the site. The northeastern and northwestern boundaries are also largely screened by boundary landscaping. There are no trees within the site protected by a preservation order.
- 1.6. The land level of the site is higher than Borden Lane and continues to rise gently towards the rear. Levels drop off steeply beyond both the northeast and northwest boundaries of the site.
- 1.7. Vehicular and pedestrian access is a shared arrangement located to the northeastern corner of the site via Borden Lane.

- 1.8. The site is not within a Conservation Area. There are two listed buildings on the opposite side of Borden Lane at Riddles House and Posiers which are both Grade II listed.

2. PLANNING HISTORY

- 2.1. SW/07/0072 - Provision of a pavement crossing and access to the orchard.

Approved      Decision Date: 13.03.2007

3. PROPOSED DEVELOPMENT

- 3.1. Outline planning permission is sought for the construction of a care home (Class C2) with associated parking, landscaping and substation. All matters are reserved (layout, scale, access, appearance and landscaping).
- 3.2. For clarity, the proposal does not include any dwellinghouses (Class C3).
- 3.3. Although the application is submitted with all matters reserved, indicative drawings have been provided to demonstrate how the proposed development for up to 70 bedrooms could be achieved on site. As currently shown by the indicative drawings, the building would comprise an 'H'-shaped footprint measuring a maximum width of approx. 58.8m wide by a maximum depth of approx. 58.5m.
- 3.4. The building would be set back from the front boundary by approx. 34m. The car parking area and turning space would be to the rear of the building. 29 parking spaces would be provided, two of which are currently shown for disabled users. An ambulance bay is also proposed.
- 3.5. Access would be provided from Borden Lane, from the northeastern end of the site frontage and would run adjacent to the northeastern boundary of the site to the rear. The separation between the access road within the site as currently shown and the northeastern boundary with the nature reserve is approx. 2.8m.
- 3.6. The sub-station is currently shown to the northernmost corner of the site and measures approx. 4.8m wide by approx. 4.7m in depth.

4. CONSULTATION

- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper in the initial consultation stage. Full details of representations are available online.

First Round

- 4.2. Sixty-one letters of representation objecting to the proposal were received in relation to the consultation including a letter written on behalf of another care provider. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Mass, scale and density – overdevelopment, impact upon living conditions – overshadowing, loss of light.	7.6.2 - 7.6.3, 7.14.2
Impact on the character of the area – two storeys will be higher than the trees.	7.6.3 - 7.6.4, 7.6.6
Overlooking – loss of privacy.	7.14.2
Light pollution.	7.14.4
Noise.	7.14.3
Smells.	7.14.3
Increased vehicle movements and traffic.	7.9.4
Increased parking pressures on surrounding roads due to inadequate parking provision.	7.9.7 - 7.9.8
Highways safety – dangerous access so close to dangerous bend in the road.	7.9.5
Impact on local wildlife, loss of habitat including traditional orchard, impact from substation – noise and vibration, lighting.	7.8.7 – 7.8.11, 7.8.12 – 7.8.17
Impact on nature reserve, a priority habitat as per KCC's 'Making Space for Nature' – light, air and noise pollution.	7.8.18 – 7.8.21
Offsetting loss of biodiversity in another location is inadequate.	7.8.16 - 7.8.17
Loss of countryside.	7.2.3 – 7.2.12
Encroachment into Important Local Countryside Gap, a green buffer that provides visual amenity.	7.2.3 – 7.2.12, 7.3.4 – 7.3.5
Coalescence between Borden and Sittingbourne.	7.2.3 – 7.2.12
Proximity for former landfill site – release of gas and other toxic substances – health risk.	7.13.1 – 7.13.2
Increased pressure on existing infrastructure – doctors, hospitals, dentists, schools, waste management, water supply, sewerage, waste.	7.11.1 – 7.11.4
Already sufficient care homes provision within the area – question the need.	7.2.18 – 7.2.25
Respite is required from continual building within the locality.	7.16.1 – 7.16.2, 7.17.10

Loss of agricultural land.	7.2.13 – 7.2.16
No public transport.	1.2, 7.9.3
Noise and disturbance including dust from construction activity.	7.14.3
Air quality.	7.10.1 – 7.10.6
Ambiguity as to whether 5 houses are proposed.	3.2
Surface water run off.	7.12.3 -7.12.4
Path only on one side.	1.2
Insufficient information.	4.4
Pressure on care worker supply.	Not a material consideration.
Not in sustainable location.	1.2, 7.9.8
Loss of trees.	7.7.1 – 7.7.5

4.3. Borden Parish Council objects to the application on the following grounds:

Comment	Report reference/ clarification
Impact on wildlife including from the development including from noise and vibration from the substation.	7.8.7 – 7.8.11, 7.8.12 – 7.8.17
Ambiguity as to the proposal – does it include 5 houses?	3.2
Impact of light to the nature reserve.	7.8.18 – 7.8.21
Increased pressure on existing infrastructure – doctors.	7.11.1 – 7.11.4
Buffer zone will be diminished.	7.2.3 – 7.2.12
Lack of bus service and public transport in general area.	1.2, 7.9.3
Insufficient car parking provision will lead to indiscriminate parking on Borden Lane and highway safety issues.	7.9.7 - 7.9.8
Cumulative impact of overdevelopment within Borden is adversely affecting the health of residents and surrounding wildlife.	7.16.1 – 7.16.2, 7.17.10

### Second Round

4.4. Following receipt of further information, fourteen letters of representation objecting to the proposal were received in relation to the second consultation. The following additional concerns were raised:

Comment	Report reference
Overdevelopment.	7.6.2 – 7.6.3
Biodiversity off-setting elsewhere is nonsense.	7.8.11, 7.8.16 – 7.8.17
Insufficient detail due to application being outline.	4.9

Contrary to the opinion given in a letter regarding development of the site from a Planning Officer in 2003.	4.9
Commentary regarding the duty of Councillors and Planners and the role within the planning application process, lack of transparency, unfairness, no opportunity for public debate, inadequacy of consultation, potential bias towards the applicant and failure to uphold due process.	4.8 - 4.11

4.5. Borden Parish Council objected to the application on the following additional grounds:

Comment	Report reference
Lack of ecology and habitat surveys.	7.8.7 – 7.8.26
The 10% increase in biodiversity should be on site.	7.8.16 – 7.8.17
Report of gas emissions from nature reserve.	7.13.2 -7.13.3
Report on groundwater vulnerability.	7.12.1 – 7.12.4
Submission says no waterbody within 250m, there is a pond in the nature reserve approx. 60m away.	7.8.10

4.6. Borden Wildlife Group have objected to the application on the following grounds:

Comment	Report reference
Proposal for Biodiversity Net Gain is unclear. It should be on site or close to the site to benefit the wildlife affected by the proposal.	7.8.16 – 7.8.17
If the mitigation area in Throwley is still proposed it is unacceptable being too far away, too close to a main road and the site includes electricity pylons.	7.8.16 – 7.8.17
The loss of habitat on site should not be considered in isolation, the impact on traditional orchard on the site and within the vicinity now means its protection is vital. Traditional orchards are irreplaceable habitats, and its loss means the application should be refused in accordance with Local Plan policy.	7.8.12 - 7.8.17
Bird species such as tawny owl have been displaced and others are likely to be displaced.	7.8.6
Reducing nature to units and biometrics – appalling ignorance.	7.8.23

Inadequate reports and surveys – failure to identify the protected species and the habitats in and around the immediate area of the site.	7.8.6
Works already undertaken without a licence.	It is understood that the Police were notified of this matter.

### Third Round

- 4.7. Borden Parish Council objected to the application on the following additional grounds:

<b>Comment</b>	<b>Report reference</b>
Conflict between statement regarding mitigation measures to be taken against the effect of gas on the site and the statement there is no gas on the site.	7.13.1 – 7.13.2
Would like time to review KCC Ecology report.	Received 25 June 2025
Concern regarding future of identified bat roost and foraging areas – no evident mitigation.	7.8.7 – 7.8.8
Detrimental to the nature reserve habitat and species including slow worms.	7.8.18 – 7.8.21

- 4.8. Borden Wildlife Group have objected to the application on the following additional grounds:

<b>Comment</b>	<b>Report reference</b>
More accurate badger survey – incorrect with what is active and not active. Loss of badger setts and persecution of badgers remains an issue	7.8.9
Loss of bat roosting potential	7.8.7 -7.8.8
Translocation of slow worms	7.8.11
Impact on the Nature Reserve	7.8.18 – 7.8.21

- 4.9. In accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), consultation and publicity has carried out and account has been taken of the content of representations received.

- 4.10. The application is submitted in outline form which is a legitimate way of submitting a planning application and follows pre-application engagement with the Local Planning Authority where advice was sought. Pre-application advice is encouraged by national policy and is given on a without prejudice basis. Assessment of the impacts of the proposal against relevant planning policy and material considerations are set out in the assessment section of the report below applying the planning balance accordingly.

- 4.11. The application will be determined by Planning Committee in accordance with the Council's scheme of delegation. The Planning Committee process allows for public speaking and for the debate to viewed in person and online.
- 4.12. The Council has followed due process and does not consider it has acted unfairly or with bias towards any interested party.

5. REPRESENTATIONS

- 5.1. Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee. There have been two rounds of consultation for most consultees. For those individual consultees that have been consulted more than twice, it is stated under their heading below.

- 5.2. **Ward Cllr Cavanagh** requested that the application be determined by Members of the Planning Committee due to the community interest in the application. Has also commented that the application needs to contain up-to-date information with regard to contamination, bus stops/routes and the impact on a local badger sett and other local wildlife.

- 5.3. **KCC Highways** - Three rounds of consultation have been carried out.

The initial response requested further information which was subsequently submitted.

The predicted traffic movements, the general access arrangements and parking arrangements are acceptable. The internal layout required alteration to allow for larger vehicles to turn within the site.

The internal layout has been adjusted to allow for larger vehicles, therefore no objection and conditions recommended.

- 5.4. **KCC Flood and Water Management** - Five rounds of consultation have been carried out.

The initial response requested further information which was subsequently submitted.

The proposal to discharge surface water from the site is in line with the Drainage and Planning Policy and it is noted that surface level SuDS in the form of attenuation basins are proposed as the major feature on site, supported by permeable paving and geocellular tanks. Advisory comments are provided for the applicant and conditions recommended.

- 5.5. **KCC Development and Investment**

Initial request for contributions towards libraries, registrations and archives service and waste disposal and recycling, subject to application confirming if a commercial waste contract is in place for the care home.



Following confirmation from the applicant that library facilities will be provided to residents with the development and subject to a condition requiring details of the waste contract, it was agreed the contributions are no longer necessary given the nature of the development.

**5.6. KCC Minerals and Waste**

The site is coincident with a safeguarded mineral deposit in the area. Following the submission of further information, there are no land-won minerals or waste management capacity safeguarding objections.

**5.7. KCC Ecological Advice Service (KCC EAS)** Three rounds of consultation have been carried out.

The initial response requested further surveys be carried out and further information was required, which was subsequently submitted, particularly with regard to the impact of the proposal in terms of bats, badgers, and Great Crested Newt (GCN), lighting and the loss of traditional orchard adjacent to Borden Nature Reserve.

Whilst it is stated there is likely to be a negative impact on the nature reserve, no objection is raised. Conditions are recommended.

**5.8. SBC Heritage and Design**

The proposed development would preserve and enhance the setting of designated heritage assets, and no objections are raised.

**5.9. SBC Tree Officer**

No objection. Recommend conditions.

**5.10. Mid-Kent Environmental Protection**

The initial response requested further information in relation to air quality which was subsequently submitted. It was agreed that an air quality assessment was not required. No objection is raised, and conditions are recommended with regard to air quality, contamination, noise, lighting and extraction.

**5.11. Environment Agency**

Initially objected to the application as not enough information submitted to demonstrate no harmful risk to groundwater resources.

Following submission of further information, the objection was removed subject to conditions being attached to planning permission if granted.

**5.12. Natural England**

Advises of the potential to have a harmful impact on terrestrial Sites of Special Scientific Interest (SSSIs) and those Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin.

There are measures in place to manage these potential impacts. It is recommended that an appropriate assessment is undertaken.

**5.13. Lower Medway Internal Drainage Board**

The site is outside the drainage district of the Lower Medway Internal Drainage Board and a river catchment that would drain into the Board's district.

**5.14. Southern Water**

The proposed development is likely to result in a minor increased risk of impact on the sewer network. Any further network reinforcement deemed necessary to mitigate this will be provided by Southern Water with no further input from the developer, therefore a connection may be made to the network.

Southern Water can provide a water supply to the site.

**5.15. Kent Police**

Recommend the site follow secured by design guidance.

**5.16. UK Power Networks**

Advise of underground power cables within close proximity to the site and provide information regarding obtaining guidance.

**5.17. KCC Archaeology**

Agrees the submitted assessment provides a reasonable description but potential for archaeological remains from periods other than Roman could be greater than low. Satisfied any potential impact can be addressed by further assessment which could be secured by condition.

**5.18. NHS**

Advise that the impact from care home developments is a workforce impact and not infrastructure as the residents do not attend a primary/community healthcare facility. As such, the NHS do not generally request infrastructure contributions.

## 6. DEVELOPMENT PLAN POLICIES

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

- ST1 Delivering sustainable development in swale
- ST3 The Swale settlement strategy
- CP3 Delivering a wide choice of high quality homes
- CP4 Requiring good design
- CP5 Health and wellbeing
- CP6 Community facilities and services to meet local needs
- CP7 Conserving and enhancing the natural environment – providing for green infrastructure
- CP8 Conserving and enhancing the historic environment
- DM6 Managing transport demand and impact
- DM7 Vehicle parking
- DM14 General development criteria
- DM19 Sustainable design and construction
- DM21 Water, flooding and drainage
- DM25 The separation of settlements – Important Local Countryside Gaps
- DM28 Biodiversity and geological conservation
- DM29 Woodland, trees and hedges
- DM31 Agricultural land
- DM32 Development involving listed buildings
- DM34 Scheduled Monuments and archaeological sites

### **Supplementary Planning Guidance/Documents –**

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025.

Parking Standard Supplementary Planning Document, 2020.

## National Policy

National Planning Policy Framework, 2024

### 7. ASSESSMENT

7.1. This application has been reported to the planning committee due to the comments received from Borden Parish Council who have objected to the application and requested it be determined by the planning committee. Ward Councillor Ann Cavanagh has also requested that application be determined by Members of the planning committee. The main considerations involved in the assessment of the application are:

- Principle
- Landscape and Visual
- Heritage
- Archaeology
- Character and appearance
- Trees
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy

### 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 NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan. Local Plan Policy ST1 continues the theme of a presumption in favour of sustainable development.

### Countryside Location and Important Local Countryside Gap (ILCG)

7.2.3. The site is located outside of the defined settlement boundaries and not allocated within the development plan. The site is therefore considered to be a countryside

location. Policy ST3 of the Local Plan seeks to focus new development at Sittingbourne. Policy ST3(5) of the Local Plan states that in such locations [open countryside], development will not be permitted unless supported by national policy and where it would contribute to protecting the intrinsic value, setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

- 7.2.4. Although some development exists on site, the proposal will result in a larger extent of built form which will have an urbanising impact for most of the site. With the site being outside of a settlement boundary, the proposal is in conflict with Policy ST3 of the Local Plan.
- 7.2.5. Although the Local Plan does not identify sites to meet specialist accommodation needs for the elderly, Policy CP3 sets out that development proposals will meet the housing requirements of specific groups, including older persons. The supporting text to the policy at paragraph 5.3.17 states that the Council will seek to support proposals which improve the levels of extra care accommodation in the Borough. The policy does also state that development proposals will be steered to locations in accordance with Policy ST3 as referred to above.
- 7.2.6. The site also sits on land that was previously in agricultural use and within the ILCG where the purpose of the designation is to prevent coalescence and along with Policy ST3(5) of the Local Plan, prevent the erosion of the intrinsic character of settlements close by.
- 7.2.7. The ILCG is a local spatial tool addressing settlement identity, not a landscape designation. The purposes of the ILCGs are set out at paragraph 7.7.34 of the Local Plan. Policy DM25 of the Local Plan emphasises that ILCGs have been defined on the Policies Map to retain the individual character and setting of settlements and says that planning permission will not be granted for development that would undermine one or more of their purposes.
- 7.2.8. The location of the site within the ILCG is in conflict with Policy DM25 of the Local Plan. However, due to the housing land supply, Policy DM25 is out of date. The objective of the policy is generally consistent with the NPPF in terms of optimising the use of land, particularly within urban areas, and, by avoiding coalescence of settlements, maintaining a strong sense of place. As such the policy should be given significant weight.
- 7.2.9. Although designated as open countryside, as per the boundaries within the Local Plan, the site is located between an existing dwelling (No. 124) to the southwest (within the settlement boundary of Borden) and Borden Nature Reserve to the northeast. Beyond both these two adjacent sites, development continues along Borden Lane, southwest towards the village of Borden and northeast towards Sittingbourne. The settlement boundary of Sittingbourne lies approximately 150m to the northeast of the site. The new eastern link road which connects the main spine road of the Wises Lane development to Borden Lane is soon to be constructed to the northeast of and adjacent to the nature reserve, within the built-up boundary of Sittingbourne.

- 7.2.10. Given the siting of the application site in this context, although the development would narrow the ILCG, the presence of the Nature Reserve ensures a landscape gap and separation is maintained. There would be no merging or actual coalescence between Sittingbourne and Borden.
- 7.2.11. The frontage of the site would comprise a soft landscaped edge with native planting and the retention of part of the traditional orchard. This is considered to minimise the impact of the proposal and adhere, in part, to the landscape guidelines of conserving the structure of hedgerows and remnant orchards. For these reasons the harm and degree of conflict with the second and third purposes of the ILCG would be modest.
- 7.2.12. The proposal would also pre-empt any decision on this ILCG through strategic plan-making (the fourth purpose). But given a new Local Plan remains some way off and the spatial strategy of the Local Plan is not delivering against the scale of housing (in general) needed, the conflict with this purpose is considered significantly diminished in accordance with recent appeal decisions. Therefore, the cumulative extent of the conflict with Policies ST3(5) and DM25 of the Local Plan would be limited.

#### Agricultural Land

- 7.2.13. The site was formerly in agricultural use and comprises Grade 2 agricultural land. Policy DM31 of the Local Plan restricts development on best and most versatile (BMV) agricultural land (i.e. grades 1, 2 and 3a) stating it will only be permitted where there is an overriding need that cannot be met within the built-up area boundaries. The need for the development is set out below. The policy also states that development on BMV agricultural land will not be permitted unless three specific criteria are met.
- 7.2.14. Paragraph 187(b) of the NPPF requires planning decisions to recognise the economic and other benefits of BMV agricultural land.
- 7.2.15. The application site is a discrete, isolated and relatively small piece of land that is no longer in productive agricultural use. It is considered that the development of the site would not directly lead to any further agricultural land being lost nor would it result in a larger agricultural holding becoming unviable. It is worthy of note that in the appeal decision APP/V2255/W/23/3333811 for the nearby Ufton Court Farm proposal for 290 dwellings, the loss of agricultural land for that development was considered not to be significant.
- 7.2.16. Nevertheless, this proposal does constitute a loss of BMV land and as such, there is a degree of harm and the proposal is therefore in conflict with Policy DM31 of the Local Plan. In accordance with other appeal decisions (such as APP/V2255/W/23/3333811 – Ufton Court Farm) limited weight is attached due to the small area of loss.

### Minerals and Waste Safeguarding

- 7.2.17. Brickearth Deposits are listed as present within the application site. Policies CSM5 and DM7 of the KM&WLP seek to safeguard mineral resources. The KCC Minerals and Waste Officer has reviewed the application and advises there are no land-won minerals or waste management capacity safeguarding objections to the proposal. This is neutral in the planning balance.

### Need

- 7.2.18. The Local Plan does not identify specific sites to meet specialist accommodation needs for the elderly. The NPPF at paragraph 61 states that the needs of groups with specific housing requirements are to be addressed. The NPPG states when assessing planning applications for specialist housing for older people (residential care homes and nursing homes meets this definition), that where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.
- 7.2.19. In the preamble to Policy CP6 of the Local Plan, Statement 6 provides some definitions of infrastructure, identifying supported accommodation as social infrastructure. Policy CP6 of the Local Plan supports the provision of such infrastructure where there are deficiencies.
- 7.2.20. Paragraph 5.3.18 (in the supporting text to policy CP3) of the Local Plan identifies a need for 481 additional care home places across the Local Plan period and states support for appropriate proposals for nursing and residential care home spaces.
- 7.2.21. More recently, Swale's Housing Market Assessment, June 2020 (HMA) indicates Swale's population is predicted to increase by 20% across the plan period. Within this, the number of people 75 or over is expected to rise from 14,437 in 2022 to 20,742 in 2038, an increase of 43.7%.
- 7.2.22. The HMA indicates there will be a requirement of 1004 people needing Registered Care in Swale in 2038. The calculations in the HMA states a requirement for an additional 305 Registered Care spaces in the Borough emphasising the need for specialist accommodation.
- 7.2.23. A Care Home Needs Assessment has been submitted with the application. This document sets out a district-wide need, at the time of the assessment, of 411 spaces of appropriate accommodation. This is broken down to a need of 90 in the locality (3-mile radius from the site). In both cases, this is set to increase with an aging population. It is noteworthy that the population forecast for the over 85s is set to increase by 60% by 2035 which is above the national average and increasing.
- 7.2.24. Whilst there have been planning applications granted for new care homes and extensions to existing care homes within the Borough, there is still insufficient capacity

to address the existing and rising need in this housing category. It should also be noted that a proportion of the existing care homes within the Borough are not purpose-built accommodation.

- 7.2.25. It is important to recognise that care home accommodation such as that proposed also contributes towards housing land supply. The Housing Delivery Test Measurement Rule Book, updated 12 December 2024 sets out that the provision of 1.9 care beds (previously 1.8) is equivalent to a single dwelling. This means that the proposed development could provide the equivalent of up to 37 dwellings towards the Council's housing shortfall. As Members will be aware, the Council is currently unable to demonstrate a five-year housing land supply, such that paragraph 11.d of the NPPF is engaged. This sets out that where the policies which are most important for determining the application are deemed out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The overall planning balance is assessed in the conclusion section at the end of this report.

#### Summary of Principle

- 7.2.26. In summary of this section, there are significant social factors weighing in favour of the principle of the development at this site. There are conflicts with Policy ST3 of the Local Plan in terms of the scheme not complying with the Council's spatial strategy for the location of development and the introduction of built form into the countryside. Harm has also been identified through the loss of BMV agricultural land (Policy DM31) and the reduction of the ILCG (Policy DM25). However, the proposal is subject to further assessment of policies and any other relevant material considerations as set out below. The planning balance in accordance with paragraph 11(d) of the NPPF is set out below.

### **7.3. Landscape and Visual**

- 7.3.1. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. The site is located in a non-designated landscape. Local Plan Policies ST1, ST3(5), DM14 and DM24 seek to protect, conserve and enhance non-designated landscapes. In non-designated landscapes Policy DM24 of the Local Plan states planning permission will be granted subject to the minimisation of adverse landscape impact; and when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.3.2. As defined by the LCA&BA the application site is located within the Tunstall Farmlands Landscape Character area where the landscape is described as a diverse rural landscape, which includes small patchworks of enclosed orchards and open large-scale fields where hedgerows have been lost. The LCA&BA states that many mature



hedgerows are still maintained in good order with some fragmentation and loss along lanes. Orchards tend to be mature or remnant with some grazed by sheep.

- 7.3.3. The application site is a largely undeveloped plot that is currently overgrown with vegetated boundaries. Given the vegetated frontage, the trees on the site, some of which form a traditional orchard, and its pleasant green feel, the site has an attractive landscape character and appearance. Guidelines set out in the LCA&BA aim to conserve and restore the features as described above.
- 7.3.4. The proposed development would result in the loss of some traditional orchard. It is acknowledged that all matters are reserved matters for future consideration, however the submitted details indicate the provision of soft landscaping along the majority of the site frontage, along the boundary with Borden Lane, with the retention of part of the traditional orchard behind this front boundary, and to the front of the building (in its indicative location within the site).
- 7.3.5. Some harm will result in that the proposal would not entirely conserve or enhance the existing traditional orchard on site, and the building will be more visible within the winter months, however whilst the building will be visible, it would be largely screened by the vegetation to the front which coupled with the building being set back from the main frontage is considered sufficient mitigation to result in an acceptable impact upon the landscape in accordance with Policies ST1, ST3(5), DM14 and DM24 of the Local Plan and the NPPF.

#### 7.4. **Heritage**

- 7.4.1. 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.
- 7.4.2. 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. The application site itself does not include any heritage assets. There are two listed buildings within the vicinity of the site on the opposite side of Borden Lane. Posiers is a Grade II listed 15th century Wealden Hall house located to the south of the proposed development and Riddles House to the north-east is a 17th century former farmhouse.

- 7.4.4. SBC Heritage have reviewed the application and are of the view that the development as proposed would not have a material impact on the significance or setting of the listed building, Posiers. They also state that Riddles House & Cottage is located over 100m to the proposed development with no intervisibility to the application site due to intervening development and significant planting on the north and south sides of Borden Lane. Therefore, the proposed development would not meaningfully affect the setting or significance of this building.
- 7.4.5. SBC Heritage conclude that overall, the proposed development would preserve and enhance the setting of designated heritage assets, and no objections are raised. Having regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990 the proposal is considered to be in accordance with Policies CP8 and DM32 of the Local Plan and the NPPF.
- 7.5. **Archaeology**
- 7.5.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.5.2. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.5.3. The application is supported by the submission of an Archaeological Desk Based Assessment. This has been reviewed by KCC Archaeology alongside their own records and other documentation available to them. Whilst the submitted Assessment is considered to provide a reasonable description of the archaeological baseline for the immediate vicinity of the site, it does not recognise the extensive cropmark complexes that can be seen on aerial photographs of land around Harmans Corner showing multi-period archaeological landscapes.
- 7.5.4. There is some reference to the Roman villa to the west of Borden Lane in Blue House Field. KCC Archaeology state that it should be noted that there is another at Wrens Road further south. These have been confirmed by aerial photographic evidence or sample investigation and it is considered were likely connected along a communication route that would extend to the burial site noted on London Road. This is likely to run in a corridor between Cryalls Land and Borden Lane. Very recent evaluation which has involved trenching across this strip as part of the Wises Lane development has identified Roman features on a ridge that may be associated with this potential route. Trenching in the field north of the present site and west of Borden Lane has had limited results though has not been extensive.
- 7.5.5. The cropmark sites around Harmans Corner seem to be focused on elevated land either side of a dry valley marked by Wrens Road. Topographically the present site lies on the lower slope of the western side of the valley. Generally, KCC Archaeology

would agree that there is moderate potential for roman archaeology, possibly associated with the Blue House Field villa site and would argue that there is greater than low potential for prehistoric remains. Recent work at Cryalls Lane has also identified a localised medieval settlement site and the potential for remains of that date in this landscape are greater than low.

- 7.5.6. As indicatively shown, the proposal involves mostly built development on the rear two thirds of the site with retention of orchard on the Borden Lane frontage. It is likely that development works would affect archaeological remains if present as they are likely to be shallow buried. Given the content of the Assessment and the extent of potential KCC Archaeology advise they are satisfied that the impacts on any archaeology present can be appropriately addressed through further assessment, evaluation and mitigation which can be secured by condition, with evaluation works being undertaken in a timely manner so that it informs the detailed proposals and therefore the subsequent reserved matters submission.
- 7.5.7. With the inclusion of the suggested condition, the proposal is considered to be in accordance with Policy DM34 of the Local Plan and the NPPF.

#### **7.6. Character and appearance**

- 7.6.1. The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement through Policies CP4 and DM14.
- 7.6.2. The built form in Borden Lane close to the site has a consistent spatial character of detached dwellings along a similar building line with long rear gardens. The character shows the properties set back from the main frontage allowing for generous areas to the front. Whilst there is parking visible to the front of some properties, and in some cases most of the frontage is hard landscaped, it is not a dominant feature. This is primarily due to the integration of soft landscaping and that there are a limited number of vehicles parked to the frontage due to these properties predominantly being in single household occupation.
- 7.6.3. Layout, appearance, scale and landscaping are all reserved matters subject to future applications should outline planning permission be granted. However, indicative drawings have been submitted to demonstrate how the development could be achieved on the site and how it might appear. The car park to serve the care home is shown to be located to the rear of the building and the building is shown to be set back behind a landscaped front boundary and a traditional orchard that is to be retained. Although shown to be retained, the extent of landscaping along the frontage will be likely be reduced following the creation of vision splays at the access.
- 7.6.4. It is acknowledged that the landscaped boundary is likely to largely screen the care home building from the street scene of Borden Lane, however the development will be visible through the landscaping at times, particularly in winter.

- 7.6.5. The layout with the parking to the rear means this will be screened by the building and is unlikely to be visible from the street scene, ensuring the building with soft landscaping and the traditional orchard will provide a more attractive sense of arrival upon entering the site for the residents and those visiting.
- 7.6.6. Architecturally, a traditional approach is shown on the indicative elevational drawings which is encouraged in this location. It is acknowledged that there is a need for a certain type of footprint (H or T shaped) to achieve the optimal running and viability of such accommodation. The indicative elevations show how the inevitable wide frontage can be broken up architecturally with the use of recessed elements and varying roof forms to introduce vertical rhythms and give the impression of three large residential properties when viewed from the front. This technique also serves to provide an appropriate impression to the scale of the building that is akin to its surroundings. It is recommended that should outline planning permission be granted, this approach to the architectural design be followed through in the submission of reserved matters for appearance and scale.
- 7.6.7. In terms of future details, it is recommended that the materials reflect the character of the area. Guidance for materials for development within the Tunstall Farmlands character area as is provided in the LCA&BA.
- 7.6.8. Whilst reserved for future consideration, the indicative drawings are considered to be an acceptable approach towards the proposed development and is considered to accord with Policies CP4 and DM14 of the Local Plan and the NPPF.

## 7.7. **Trees**

- 7.7.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.
- 7.7.2. The application is supported by an Arboricultural Impact Assessment which has been reviewed by the Councils Tree Officer who raises no objection. Based on the indicative layout, 6 trees are required to be felled to facilitate the development, of which 2 trees are assessed as category 'U' trees which will require removal within ten years irrespective of the proposal, due to their defective or decayed condition. 3 trees are category 'C' trees of low quality and value which should not be considered a constraint to development. 1 tree is category 'B' of moderate quality and value. 1 category C hedge is to be trimmed to facilitate the access. The AIA concludes that the tree removals will not have a significant impact on the site's appearance from external viewpoints or on the overall character of the area.
- 7.7.3. An Arboricultural Method Statement is also provided within the report which sets out measures for tree protection during construction and removal of those trees identified above.

- 7.7.4. The loss of trees as part of a traditional orchard is considered in the Ecology section below.
- 7.7.5. Landscaping is a reserved matter, but there is ample space within the site to include additional tree planting as well as a mix of other soft landscaping. Conditions are recommended to ensure the implementation of the tree protection measures and for a scheme of landscaping what will seek to improve the biodiversity of the site. On this basis (and in not assessing the traditional orchard as part of this section) the scheme complies with Policy DM29 of the Local Plan.

## 7.8. **Ecology**

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

### Appropriate Assessment

- 7.8.2. Although the site is within 6km of the Medway Estuary and Marshes SPA and the Swale SPA and Ramsar Sites, proposals for residential care homes will be assessed on a case-by-case basis in terms of their potential implications for recreational disturbance. The proposal is for a care home in C2 use which will provide 24-hour care for elderly and infirm residents with limited mobility, also suffering from conditions such as dementia. As a result, those living in the care home will not be able to leave the care home independently and will not be predisposed to undertake activities such as jogging, cycling or walking, which are the activities identified as having a potential impact on the integrity of the nature conservation status of the SPA sites. In this context, the residents will not be physically fit or able to leave the site to visit or walk on the SPA. In addition, the proposed care home does not include staff accommodation and consequently the proposals would avoid a likely significant adverse effect resulting from increased recreational disturbance to the Medway Estuary and Marshes SPA and Swale SPA and Ramsar site, therefore mitigation is not required and a 'bird disturbance contribution' (or SAMMS payment as it is otherwise known) is not required in this instance.
- 7.8.3. Section 40 of the Natural Environment and Rural Communities Act (2006) states "*For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England*" and "*A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.*" Furthermore, the NPPF states that 'the planning system should contribute to and enhance the natural environment by minimising

impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’

- 7.8.4. 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.
- 7.8.5. The site contains Priority Habitat in the form of traditional orchard and is adjacent to the Borden Nature Reserve. Reports and surveys have been undertaken in relation to protected species in and around the application site. Following requests by KCC Ecology for further information, the most recently submitted information has been reviewed and is considered by KCC Ecology to provide a good understanding of the ecological interest of the site.

#### Bats

- 7.8.6. The ecological report shows there to be at least 5 species of foraging bats and suitable habitats for roosting bats through the site.
- 7.8.7. The preliminary ecological appraisal indicates tree assessments / emergence surveys were only carried out on trees T6, T11 and T12. No evidence was recorded during the emergence survey of T11 and the endoscope survey of T6, T11 and T12. It was explained that further surveys were not carried out on other trees as they will be retained. This is accepted by KCC Ecology.

#### Badgers

- 7.8.8. As a result of information provided by residents it was understood that since the badger survey was carried out an active badger sett has established on site. An updated walkover survey was carried out on the 3rd June 2025 covering a 150m buffer from the site. No description of the current conditions of the on-site badger setts have been provided. The information has only stated the on-site sites were considered disused. However, as the ecologist did confirm that active setts were present within the wider area it is accepted this information is sufficient.

#### Great Crested Newts (GCN)

- 7.8.9. On the request of KCC Ecology, a Habitat Suitability Assessment (HAS) was carried out on the pond within the adjacent Nature Reserve. The HAS considered that it was unlikely to support GCN.

### Reptiles

- 7.8.10. Surveys to identify a reptile receptor site are underway and there are 3 potential sites within the Swale District which could be used as the receptor site. At this time, less than half of the survey visits have been completed but current results are indicating that the sites do not support or support low populations of reptiles. As such KCC Ecology are confident that a suitable receptor site can be identified and are satisfied that this can be addressed via a condition. However, the current results of the surveys suggest that the potential sites may require enhancements to increase the carrying capacity prior to any translocation commencing. Depending on the level of enhancements required it may take at least 2-3 months before the translocation can commence.

### Priority Habitat – Traditional Orchard

- 7.8.11. The site contains traditional orchard which is a Priority Habitat and listed within the preamble to Policy DM28, at Statement 10 in the Local Plan, as a UK Biodiversity Action Plan Habitat. The Phase 2 Assessment states that the site was considered to have been neglected as a traditional orchard and left unmanaged for some time. All cherry trees within the orchard were considered to be either dead or dying, and either no longer producing fruits or only producing an unviable harvest. Furthermore, the land use of the site had been changed from orchard to storage of materials and the south-western section was used to keep a small herd of goats.
- 7.8.12. For clarity, whilst traditional orchards are considered irreplaceable habitat within Part B(1c) of Local Plan Policy DM28, traditional orchards do not fall within the definition of irreplaceable habitat within The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024).
- 7.8.13. Part of the priority habitat will be lost to facilitate the proposal except for an area to the southeast of the site which is to be retained. The traditional orchard is directly adjacent to Borden Nature Reserve and the loss of part of the orchard as a biodiversity rich source is likely to have a negative impact on the Nature Reserve. As a result, there is some conflict with Policies CP7, DM28 and DM29 of the Local Plan.
- 7.8.14. The Local Plan Policies CP7, DM28 and DM29, only allow for planning permission to be granted where the benefits of the proposal significantly and demonstrably outweigh the harm. In such cases, Policy DM28 of the Local Plan requires compensation measures. The harm will be weighed against benefits in the planning balance below.
- 7.8.15. In accordance with Policy DM28 of the Local Plan, and following the BNG hierarchy, the submitted information contains details of mitigation and compensation. To mitigate the impact, the majority of traditional orchard will be retained. This is shown on a plan. It is recommended this plan be conditioned as one of the parameter plans to secure the retention. To compensate for the loss of part of the traditional orchard, it is proposed to create a traditional orchard and manage it as such within an agricultural

field on Dayton Road to the south of Faversham. Whilst it is acknowledged this will take some time to establish, there is no objection from KCC Ecology with regard to the proposed approach to compensation. As this forms part of the proposals for BNG, it will be secured by the BNG condition, which will require off-site provision to be secured by s106 agreement or conservation covenant. As by its nature, BNG is a post decision process, any legal agreement required should be in place prior to the discharge of the Biodiversity Gain Plan condition. As it is not a requirement to have a legal agreement in place before that, it would not be appropriate to withhold the decision notice for the planning application.

- 7.8.16. The adverse impact of the development in terms of the loss of Priority Habitat can be adequately addressed through the mitigation and compensation measures proposed, such that limited weight is attached to it in the planning balance.

#### Borden Nature Reserve

- 7.8.17. As part of the ecological mitigation the ecological report recommends a 5m minimum 'no construction' buffer zone between the development footprint (currently shown as the access road and sub-station) and the Nature Reserve. A plan showing the construction buffer has been provided showing a minimum width of 5m. It is recommended that this drawing be secured as part of a construction environmental management plan condition.
- 7.8.18. Mitigation is also proposed in the form of tree and shrub planting. The Phase 2 Ecological Survey Report has stated the following: *Prior to the development becoming operational, the buffer zone should be enhanced through tree and shrub planting. This will provide a natural screening barrier to mitigate the anticipated increased noise and visual disturbance from the proposed development on the Nature Reserve.* This approach is supported subject to this planting reflecting the area covered by the construction buffer plan. A condition is recommended to secure this.
- 7.8.19. Given the location of the site at the edge of a ribbon of built form adjacent to the Borden Nature Reserve it is recommended that a Lighting Strategy be submitted. The Lighting Strategy will need to demonstrate it is fit for purpose in terms of providing security and a safe, comfortable environment for the amenities of the staff and residents of the care home, but also take account and show how the lighting will be such that it minimises any harm to any ecological interest within the area that may adversely affected. A condition is recommended.
- 7.8.20. The abovementioned measures will reduce the impact on the adjacent Nature Reserve, but the impact will not be completely addressed so there will still be a degree of harm in conflict with Policy DM28 of the Local Plan. Given some harm will remain despite the mitigation proposed, moderate weight is attached to the harm.



### Ecological Enhancements

- 7.8.21. Ecological enhancement features must also be incorporated within the site. If planning permission is granted a condition is recommended to ensure an ecological enhancement plan is provided. Enhancements should include bat and bird boxes within the site and the buildings, insect hotels or log piles within the site and the inclusion of planting to benefit pollinators with the ground level planters.

### BNG

- 7.8.22. This application was submitted after the commencement of Mandatory Biodiversity Net Gain and is therefore required to deliver at least a 10% biodiversity net gain under the Environment Act 2021.
- 7.8.23. The proposal will result in the loss of an area of traditional orchard. The metric also details that an area of traditional orchard will be retained. This is confirmed by a plan demonstrating the area of orchard to be retained. However, as this an outline application, the plan must be included in the list of parameter plans within the relevant condition to ensure that relevant reserved matters application(s), if granted, will retain the orchard area.
- 7.8.24. A BNG assessment has been submitted and it has detailed that due to the proposal to create traditional orchard in an agricultural field to the south of Faversham a BNG of over 10% can be achieved. KCC Ecology are satisfied that sufficient information has been provided to meet the requirements of mandatory BNG.
- 7.8.25. In light of the above, it is concluded that, the proposed development would result in some harm to habitats or protected species. However, with the proposed mitigation and compensation measures secured by condition, the extent of harm can be reduced and in accordance with Policies CP7, DM28 and DM29 and the NPPF the impact on ecology will be weighed in the planning balance below.

## **7.9. Transport and Highways**

- 7.9.1. 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 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.”*

- 7.9.2. Local Plan Policies CP2 and DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7

of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD.

- 7.9.3. Whilst access and the internal layout of the site is reserved for future consideration, a Transport Statement (TS) has been submitted with the application to allow for the impact of the proposal on the highway network to be assessed. KCC Highways have reviewed the TS. It is also noted that there is currently no bus route through Borden Lane. A bus stop is located in nearby Adelaide Drive, providing the closest opportunity for connection to the local bus network.
- 7.9.4. The predicted traffic movements as evidenced in the TS are not of a scale that would be considered problematic with regard to its impact on the wider highway network especially as traffic movements associated with the Care Home are commonly outside of the peak traffic hours.
- 7.9.5. Although access is a reserved matter, an access arrangement plan has been provided which shows adequate visibility splays can be delivered from the site access. These have been drawn 2.4m x 59m in both directions to the nearside carriageway and are in accordance with recorded vehicle speeds following Automatic Traffic Counts (ATCs) carried out in January 2024 and therefore acceptable.
- 7.9.6. It is noted that the existing access (field entrance) will be upgraded to a 5.5m bell mouth to allow 2-way vehicle movements and will include a pedestrian footpath into the site. Initially vehicle tracking did not provide sufficient detail. The indicative layout showed that larger vehicles would need to use the ambulance bay to turn on site to egress in a forward gear back onto Borden Lane, which would not have been appropriate if there was an ambulance occupying the bay. Further details were submitted and the swept path drawings now show sufficient turning space within the development including turning into the site access from Borden Lane which is acceptable.
- 7.9.7. Para. 6.1.1 of the TS details that 29 parking spaces are proposed for the Care Home including 2 disabled bays which is in line with the parking standards at a ratio of:
- Staff – 1 space per resident staff (staff with direct responsibility for looking after residents) + 1 space per 2 other staff (staff who don't have direct responsibility for looking after residents); and
  - Visitors – 1 space per 6 beds or residents.
- 7.9.8. In addition to this, the applicant has provided a further assessment of the specific requirements of the care home. Peak periods of parking accumulation have been assessed which established during a typical weekday at approx. 13:00 hours a maximum of 11 vehicles will be expected to park on the site and weekend peaks could see 19 vehicles. The SPD states the development would be required to provide a total of 22 spaces, the additional 7 spaces will help to cater for the busier periods. Details regarding secure cycle parking have been provided that is acceptable.

- 7.9.9. Conditions are recommended in relation to both the construction and operational periods to maintain highway safety. With the inclusion of the recommended conditions, the proposal is considered to be in accordance with Policies CP2, DM6 and DM7 of the Local Plan and the NPPF.

7.10. **Air Quality**

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

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

- 7.10.3. The Planning Practice Guidance on Air Quality states that

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

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

- 7.10.5. The submitted Transport Statement has been reviewed. It is acknowledged by the Council's Environmental Protection Team that as the expected Annual Average Daily Traffic (AADT) is 125 vehicles, which is well below the trigger for an air quality assessment, an assessment is not needed. However, there may be a temporary impact locally through fugitive dust during construction and so a condition is recommended.

- 7.10.6. With the inclusion of the suggested condition, the proposal is considered to be in accordance with Policy DM6 of the Local Plan and the NPPF.

### 7.11. **Community Infrastructure**

- 7.11.1. The NPPG: Planning obligations explains that planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.
- 7.11.2. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:
- Necessary
  - Related to the development
  - Reasonably related in scale and kind
- 7.11.3. Initially KCC Development and Investment team requested contributions towards libraries, registrations and archives service and waste disposal and recycling, subject to the applicant confirming if a commercial waste contract is in place for the care home.
- 7.11.4. Following confirmation from the applicant that library facilities will be provided to residents within the development and subject to a condition requiring details of the waste contract, it was agreed by the KCC Development and Investment team that the contributions are no longer necessary given the nature of the development.

### 7.12. **Flood Risk, Drainage and Surface Water**

- 7.12.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM21 of the Local Plan.
- 7.12.2. The site is located within a high vulnerability groundwater area and source protection zone 1, where development proposals are carefully monitored by the Environment Agency (EA) to ensure safeguarding of potable water supplies. As such, the application submission included a Phase 1 Desk Study and Risk Assessment Report and a Drainage Strategy Report. The EA has reviewed these documents and consider planning permission could be granted subject to conditions which includes an instructive investigation on the site in accordance with the recommendations set out in the Phase 1 Desk Study.
- 7.12.3. The Drainage Strategy has also been reviewed by KCC Flood and Water Management who have noted the proposal to discharge surface water from the site in accordance with KCC's Drainage and Planning Policy. Surface level SuDS in the form of attenuation basins are proposed as the major feature on site, supported by permeable paving and geocellular tanks.
- 7.12.4. No objection is raised with regard to drainage and a suite of conditions are recommended to control infiltration, ensure the detailed proposals are developed in accordance with the strategy and that the drainage measures are implemented on

site. With the inclusion of the recommended conditions, the proposal is considered to be in accordance with Policy DM21 of the Local Plan and the NPPF.

### 7.13. Contamination

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

- 7.13.1. The land adjacent to the application site to the north-west is known to be a historic landfill site and there is a workshop/storage unit currently on the site. Storage of materials (scaffolding for example) is also mentioned.
- 7.13.2. A 'Phase 1 Desk Study and Risk Assessment Report' by STC dated 13 August 2024 (report Ref: J15790) has been submitted. This has been reviewed by the Council's Environmental Protection Officers. The report advises that as a landfill site existed close to the site to the north/northwest, further investigation is required which should include intrusive sampling and gas monitoring. The conclusion of the report is agreed, and it is considered that this can be dealt with by condition.
- 7.13.3. With the inclusion of the suggested conditions, the proposal is considered to be in accordance with the NPPF.

### 7.14. Living Conditions

#### Existing residents

- 7.14.1. The Local Plan at Policy DM14 requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.14.2. The care home would be sited to the northeast of 124 Borden Lane and the indicative details show that it would be set away from the boundary with this property. It appears a sufficient separation distance can be achieved to ensure privacy is maintained but this will be fully assessed when floor plans are submitted as part of future reserved matters applications. The submitted details appear to show that outlook would not be adversely affected and given the location to the northeast, the proposal would not result in any detrimental impact in terms of overshadowing and loss of daylight. However, again, this would be assessed when these matters of detail are submitted.
- 7.14.3. It is expected that there will be plant and equipment associated with the use. For example, a kitchen extract system and condensers, chiller units will be needed, and air conditioning may be fitted. In addition, it is noted that a substation is also referred to in the description, and the indicative site layout drawing shows this to be located in the north of the site. This is a good location as it is distanced from the nearby dwellings as electricity substations can result in low frequency noise. Conditions are

recommended to ensure there will be no detrimental impact on the living conditions of surrounding neighbours as a result of both construction and operational noise.

- 7.14.4. Given the location of the site close to an existing residential area, and with the building being set back, any external lighting will need to be designed carefully so that the lighting does not impact on the living conditions of the occupiers of these dwellings. A condition is recommended to ensure the level of any lighting within the site is satisfactory and does not give rise to unacceptable harm to the living conditions of surrounding residents.

#### Future residents

- 7.14.5. New development is expected to offer future occupiers a sufficient standard of accommodation.
- 7.14.6. The Care Quality Commission (CQC) is the regulator of health and adult services. The CQC sets out requirements involving the provision of single-room accommodation with en-suite facilities and a generous ratio of communal/recreational space to residents. It is recommended that compliance with design parameters covered by other relevant legislation and/or guidance should be detailed within a Planning Statement / Design and Access Statement accompanying reserved matters applications.
- 7.14.7. With the inclusion of the suggested conditions, the proposal would not result in any harm to the living conditions of the existing residents of nearby properties nor the future occupiers of the development and the proposal is considered to be in accordance with Policy DM14 of the Local Plan and the NPPF.

#### **7.15. Sustainability / Energy Efficiency**

- 7.15.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Given the proposal is made in outline form, no detailed information is available at the stage. It is expected that when the proposals are progressed to detailed reserved matters submissions measures to address climate change are to be incorporated. A condition is recommended to secure this. With the inclusion of the condition, the proposal is considered to be in accordance with Policy DM19 of the Local Plan and the NPPF.

#### **7.16. Planning Balance – Benefits and Harm**

- 7.16.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case

conflict with policies in the development plan have been identified as set out above. However, the NPPF is a material consideration and as the Council are unable to demonstrate a 5 year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

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

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*

- 7.16.2. In this case, as per part (i) the application of policies that protected areas or assets of particular importance do not provide a reason for refusing the development. Therefore, as per part (ii) it is necessary to consider if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This assessment is carried out below.

#### Benefits

- 7.16.3. The social benefits are that the proposed development would contribute to providing much needed care accommodation in the Borough. This public benefit is given **substantial weight** in accordance with appeal decisions such as APP/J2210/W/24/3351458 (Land adjacent to Old Thanet Way, Whitstable). Moreover, the Housing Delivery Test Measurement Rule Book, updated 12 December 2024 sets out that the provision of 1.9 care beds (previously 1.8) is equivalent to a single dwelling. This means that the proposed development could provide the equivalent of up to 37 dwellings towards the Council's housing shortfall. This public benefit is also given **substantial weight**. Additionally, there would also be other benefits, including employment during construction and following completion of the development which attract public benefits of **significant weight** as set out in paragraph 85 of the NPPF.

#### Harm

- 7.16.4. The Swale settlement strategy at Policy ST3 of the Local Plan seeks to focus new development at Sittingbourne. The site is not allocated within the Local Plan and is outside of the built-up area boundary. As such the proposal to introduce built form and the urbanisation of a countryside site is in conflict with Policy ST3 of the Local Plan.

The weight given to this conflict is **limited** due to the age of the Local Plan, the built-up boundaries not delivering the required level of development and therefore the Council's lack of 5-year land supply of housing. The built-up boundaries are currently considered out-of-date.

- 7.16.5. Reflecting recent appeal decisions, the loss of a small area of BMV agricultural land and the reduction of the ILCG is given **limited weight**.
- 7.16.6. The harm to the Nature Reserve has been minimised through mitigation, but not completely addressed. **Moderate** weight is given to the harm.
- 7.16.7. There would be a loss of Priority habitat through the loss of two thirds of traditional orchard on the site but given the condition of the orchard and that compensation is to be provided, the weight attached to this harm is **limited**.

## 7.17. **Conclusion**

### 7.17.1. Planning balance

- 7.17.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.
- 7.17.3. In addition to the benefits and harm set out above, the proposal would not result in harm to the local highway; it would not result in harm in terms of any potential impact on listed buildings; and the proposal would not result in increased flooding.
- 7.17.4. Both national and development plan policy recognise that a need for proposals such as this, may result in the application of the planning balance. This is a matter of planning judgement.
- 7.17.5. Applying this judgement, it is considered that the impacts of the proposed development can be made acceptable through a combination of existing and proposed screening and landscape and ecological mitigation. The lessened adverse effect on the Nature Reserve would be limited and localised.
- 7.17.6. In these circumstances the substantial weight attached to the demonstrated need for the care home both locally and within the wider Borough outweigh the adverse impacts identified. The other benefits identified add to the balance of positive matters in this case.
- 7.17.7. As the existing and proposed planting matures and is managed appropriately, any adverse effects, would continue to be progressively mitigated.



- 7.17.8. In conclusion, and in considering paragraph 11.d(ii) of the NPPF, there would be conflict with Policy ST3 of the Local Plan with the development being outside of the built-up area boundary and the urbanisation of a countryside site. There would be some localised harm through the loss of a small area of BMV agricultural land, and the narrowing of the ILCG in conflict with Policies DM31 and DM25. The proposal would also result in the loss of an area of traditional orchard which in turn impacts on the biodiversity and ecological interest of the adjacent Nature Reserve, in conflict with Policies CP7, DM28 and DM29 of the Local Plan.
- 7.17.9. However, the mitigation and compensation proposals and the imperative to address the need for care home provision as recognised within planning policy, and the HMA, are very significant benefits which alongside the employment benefits of the scheme outweigh the harm that has been identified.
- 7.17.10. Taking the NPPF as whole, this indicates that planning permission should be granted as the Council cannot demonstrate a 5 year housing land supply and the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. From this basis, and noting that the NPPF can be afforded considerable weight, it is considered that the harm arising from the conflict with the development plan is outweighed by other considerations and, as such, it is recommended that planning permission is granted.

## **Conditions**

### Reserved Matters

1. Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping (hereinafter called “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.

### Time Limit: Reserved Matters

2. Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

### Time Limit: Reserved Matters

3. The development to which this permission relates must be begun no later than the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

Approved Drawings

4. The development hereby permitted shall be carried out in accordance with the following approved plans:
- PL001 - Location Plan
  - PL103 - Construction Buffer Plan
  - PL105 - Parameter Plan Retained Orchard

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

Within Reserved Matters: Landscaping

5. Any reserved matters application for landscaping shall include full details of both hard and soft landscape works and a timetable for implementation. These details shall include existing and proposed finished ground levels; all paving and external hard surfacing; decking; minor artefacts and structures (seating, refuse receptacles, planters, tree grilles, any other decorative feature(s)). Soft landscape works shall include details of planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The soft landscaping should be designed to increase biodiversity value. The development shall be implemented in accordance with the approved details and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with the NPPF.

Within Reserved Matters: Buffer Zone Landscaping

6. Any reserved matters application for landscaping shall include details of how the construction buffer zone will be enhanced through tree and shrub planting to provide a natural screening barrier to mitigate the anticipated increased noise and visual disturbance from the proposed development to Borden Nature Reserve. The landscaping within the construction buffer zone shall be implemented prior to the building becoming operational.

Reason: To prevent harm to ecological interest in accordance with the NPPF.

Within Reserved Matters: Building Height

7. Any reserved matters application for scale and layout shall show no more than a total of 70 bedrooms and the building shall be no more than 2 storeys in height.

Reason: To ensure the scale is appropriate to the locality and without prejudice to conditions of amenity in accordance with the NPPF.

Within Reserved Matters: Lighting

8. Any reserved matters application for layout and/or landscaping shall include a detailed scheme of lighting to minimise impacts on residential amenity and biodiversity. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The plan shall demonstrate that areas to be lit shall not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and shall be maintained thereafter.

Reason: To ensure conditions of amenity and to prevent harm to ecological interest in accordance with the NPPF.

Within Reserved Matters: Parking

9. Any reserved matters application for layout shall include details of the provision of vehicle parking spaces in accordance with the Council's adopted parking standards. No building shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: Development without provision of adequate parking of vehicles is likely to lead to hazardous on-street parking and in accordance with the NPPF.

Within Reserved Matters: Materials

10. Any reserved matters application for appearance shall include details of all materials to be used externally and in the design of the building. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality in accordance with the NPPF.

Within Reserved Matters: Secured by Design

11. Any reserved matters application shall include a statement setting out how the development incorporates security and safety measures in compliance with Secured By Design principles. The development shall be implemented in accordance with the approved details which shall thereafter be retained.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in excising its planning functions; to promote the well-being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000 and the Construction (Design and Management) Regulations 2007.

Prior to Approval of Reserved Matters: Archaeology

12. To assess and mitigate the impacts of development on significant archaeological remains:
- A) Prior to the submission of any Reserved Matters Application, the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
  - B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.
  - C) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
  - D) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:
    - a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
    - b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;

c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

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

Reason: Required prior to commencement of development to avoid any irreversible detrimental impact on any archaeological interest in accordance with the NPPF.

Pre-commencement: Construction Management Plan

13. No development shall take place until a Construction Management Plan (CMP) has been 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 Management Plan shall include the following detail:

- Parking facilities for site personnel and visitors.
- construction vehicle loading/unloading and turning facilities.
- Timing of deliveries.
- Provision of wheel washing facilities. Details should also be provided of contingency working protocol for action taken should the wheel washing be ineffective and spoil is dragged onto the highway.

The construction of the development shall be implemented in accordance with the CMP throughout the entire construction phase.

Reason: Required prior to commencement of development to protect the amenity of nearby occupiers and prevent pollution in accordance with the NPPF.

Pre-commencement: Construction Environmental Management Plan

14. No development approved by this permission shall be take place until a Construction Environmental Management Plan (CEMP), incorporating the construction buffer zone plan and details of pollution prevention measures along with a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be implemented in accordance with the approved CEMP and approved timetable.

Reason: Required prior to commencement of development to prevent pollution of the water environment and harm to ecological interest in accordance with the NPPF.

Pre-commencement: Road Layouts and furniture

15. No development shall take place until details proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and a timetable for implementation have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be retained thereafter.

Reason: Required prior to commencement of development to ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with the NPPF.

Pre-commencement: Tree Protection Measures

16. No development, ground excavation or ground clearance works shall take place until the tree protection measures as identified in the Arboricultural Method Statement (AMS) and Appendix 2 – Drawing number TPP01, Tree Protection Plan contained within the Arboricultural Implications Assessment, dated August 2024 has been implemented on site. The tree protection measures shall thereafter remain in place throughout the construction phase.

Reason: Required prior to commencement of development to protect trees to be retained and enhance the appearance and character of the site and locality in accordance with the NPPF.

Pre-commencement: Ecology

17. No site clearance or development shall take place within the site until an Ecological Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. It must include the following:
- Preliminary ecological appraisal (if existing survey data is over 18 months old)
  - Recommended species surveys
  - Habitat/species plans of the site
  - Details of locations of off-site mitigation sites
  - Overview of the mitigation required
  - Detailed methodology to implement the mitigation
  - Details of habitat enhancement/creation works required for the species mitigation
  - Details of management required for the mitigation areas.
  - Timings of the works
  - Details of who will implement the mitigation

The plan must be implemented as detailed.

Reason: Required prior to commencement of development to prevent harm to ecological interest in accordance with the NPPF.

Reptile Mitigation

18. Prior to the implementation of the reptile mitigation as detailed within the Ecological Mitigation Strategy a letter must be submitted to and approved in writing by the Local Planning Authority. The letter must demonstrate that the reptile receptor site is suitable to support the translocated reptile population.

Reason: Required prior to commencement of development to prevent harm to ecological interest in accordance with the NPPF.

Pre-commencement: Habitat Management and Monitoring Plan (HMMP)

19. No development shall take place (except for demolition works) until a Habitat Management and Monitoring Plan (the HMMP), that has been prepared in accordance with the approved Biodiversity Gain Plan, has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall include:

- (a) a non-technical summary;
- (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- (e) the monitoring methodology and frequency in respect of the created or enhanced habitat.

The habitat creation and enhancement works set out in the approved HMMP shall be completed in the first available planting season following the commencement of development.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with the NPPF.

Pre-commencement: Industrial/Commercial Noise Rating Level

20. No development shall take place until an acoustic assessment and subsequent report has been submitted to and approved in writing by the Local Planning Authority. The acoustic assessment and report shall be completed by a suitably qualified and competent person to demonstrate that the rating level of noise emitted from any plant and equipment to be installed on the site (determined using the guidance of the current version of BS 4142 for rating and assessing industrial and commercial sound) is 5dB below the existing measured background noise level LA90, T. Where the background sound level is below 30dB(A) or where assessment penalties total above 5dB the applicant's consultant shall contact the Environmental Protection Team to agree a site-specific target level. The equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic

report, whenever it is operating. After installation of the approved plant no new plant shall be used without the prior written permission of the Local Planning Authority.

Reason: Required prior to the commencement of development to safeguard conditions of amenity in accordance with the NPPF.

Pre-commencement: Internal/External Sound Levels – Residential

21. No development shall take place until a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in gardens and other relevant amenity areas will conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings – has been submitted to and approved in writing by the Local Planning Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation and thermal comfort for future occupants. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: Required prior to the commencement of development to safeguard conditions of amenity in accordance with the NPPF.

Pre-commencement: Contamination Investigation and Remediation

22. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
1. A preliminary risk assessment as set out in Phase 1 Desk Study and Risk Assessment Report (Ref: J15790, dated 13th August 2024) which has identified:
    - all previous uses;
    - potential contaminants associated with those uses;
    - a conceptual model of the site indicating sources, pathways and receptors; and
    - potentially unacceptable risks arising from contamination at the site.
  2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation



strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 187 of the National Planning Policy Framework.

#### Pre-commencement: Surface Water Drainage

23. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Drainage Strategy Report by RGP (Sep 2024) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

Reason: Required prior to the commencement as the details form an intrinsic part of the proposal 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 in accordance with the NPPF.

#### Pre-commencement: Foul Drainage

24. No development shall take place until a foul drainage strategy, detailing how the developer intends to ensure that appropriate foul drainage is implemented with a connection to foul sewer, has been submitted to and approved by, the local planning authority in consultation with the water undertaker and EA. The development shall be constructed in line with the agreed detailed design and recommendations of the strategy.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 180 of the NPPF.

No Development Above Slab Level: Ecological Enhancement

25. No development shall take place above slab level until an Ecological Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan must demonstrate how the site will enhance biodiversity through ecological enhancement features within the buildings and site and include a timetable for implementation. The ecological enhancement features must be implemented in accordance with the approved Ecological Enhancement Plan.

Reason: To ensure enhancement to ecological interest in accordance with the NPPF.

No Development Above Slab Level: Energy and Efficiency

26. No development shall take place above slab level until details of the materials and measures to be used to increase water efficiency, energy efficiency and reduce carbon emissions have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained thereafter.

Reason: To ensure the development delivers energy efficiency measures to address climate change in accordance with the NPPF.

Pre-Occupation/Use: Vision Splays

27. No building shall be occupied until visibility splays have been provided in accordance with details approved by a reserved matters application for access. No obstruction of sight, including any boundary treatment, over 1.05m above carriageway level shall be permitted within the splays thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with the NPPF.

Pre-Occupation/Use: Cycle Parking

28. No building shall be occupied until details of secure covered cycle parking has been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be implemented in accordance with the approved details before the building is occupied and shall thereafter be retained.

Reason: To ensure the provision and permanent retention of bicycle spaces in accordance with the NPPF.

Pre-Occupation: EV Charging

29. No building shall be occupied until all electric vehicle chargers have been provided to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection) (or to a subsequent equivalent amending standard). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-listing>. All electric chargers shall thereafter be retained.

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

Pre-Occupation/Use: Low Frequency Noise

30. Prior to the first use of the electricity substation an acoustic report assessing the impact shall be submitted to and approved in writing by the Local Planning Authority. The report shall address the issue of noise (including low frequency noise) and vibration from the station to ensure that there is no loss of amenity to residential or commercial properties. For residential accommodation, the scheme shall ensure that the low frequency noise emitted from the substation is controlled so that it does not exceed the Low Frequency Criterion Curve for the 10 to 160Hz third octave bands inside residential accommodation as described in The DEFRA Procedure for the assessment of low frequency noise complaints 2011 (NANR45). The assessment can be a measurement or a calculation to demonstrate internal levels. The equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report, whenever it is operating. After installation of the approved plant no new plant shall be used without the written consent of the local planning authority.

Reason: To safeguard conditions of amenity in accordance with the NPPF.

Pre-Occupation/Use: Extraction/Treatment of Fumes/Odours

31. Prior to the first occupation of the premises, a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed in accordance with the EMAQ Publication Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2022. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first operation of the premises and these shall thereafter be operated and retained in compliance with the approved scheme.

Reason: To safeguard conditions of amenity in accordance with the NPPF.

Pre-Occupation/Use: Contamination – Verification Report

32. Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing,

by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 187 of the NPPF.

Pre-Occupation/Use: Private Waste Strategy

33. No building shall be occupied until details of a Commercial Waste Disposal Strategy which includes details of private commercial waste disposal contract(s) is submitted to and approved in writing by the Local Planning Authority. The waste collection and disposal shall be implemented in accordance with the approved details upon first occupation and a private commercial waste disposal contract shall thereafter be in place.

Reason: To ensure adequate waste disposal in the interest of amenity in accordance with the NPPF.

Pre-Occupation/Use: Boundary Treatment

34. No building shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the dwelling is occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality in accordance with the NPPF.

Compliance: Hours of Construction

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

Reason: To protect the amenity of nearby occupiers in accordance with the NPPF.

Compliance: Unexpected Contamination

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

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

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 187 of the NPPF.

Compliance: No Piling

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 187 of the NPPF.

Compliance: Surface Water

38. No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in accordance with paragraph 187 of the NPPF.

Compliance: Surface Water Verification Report

39. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall

demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 182 of the NPPF.

Compliance: Habitat Management and Monitoring Plan Frequency

40. Monitoring reports shall be submitted to the Local Planning Authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with the NPPF.

Compliance: BNG

41. The Biodiversity Gain Plan shall be prepared in accordance with the Biodiversity Net Gain Feasibility Report Reference, 5620E/24/01, dated 5<sup>th</sup> April 2024).

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with the NPPF.

Compliance: Landscaping Retention

42. Upon completion of the soft landscaping works, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within the next planting season unless an alternative timetable for planting is otherwise agreed in writing by the Local Planning Authority.

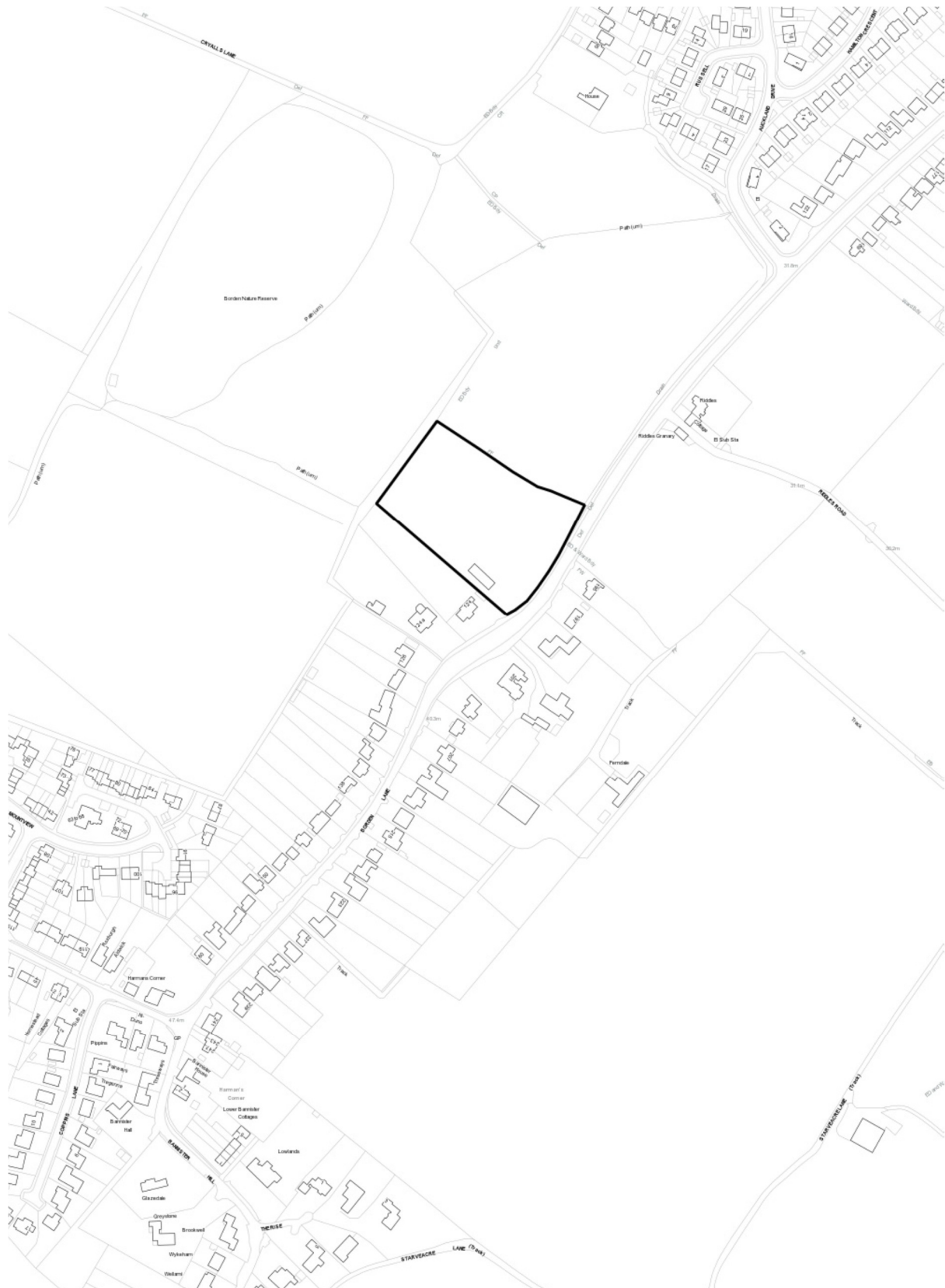
Reason: To ensure the retention and maintenance of landscaping in the interests of visual amenity and in accordance with the NPPF.

Compliance: Use

43. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order with or without modification) and the Town and Country Planning (Use Classes) Order 1987 (as amended) the development herein approved shall remain in use as a C2

care home and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity and the impacts on the highway in accordance with the NPPF.





<b>2.4 REFERENCE NO - 24/503677/FULL</b>		
<b>APPLICATION PROPOSAL</b> - Erection of 38 no. residential dwellings, together with associated two access points, open space, landscaping, drainage, infrastructure works and the provision of car parking for allotment users.		
<b>ADDRESS</b> Land Off Riddles Road Sittingbourne Kent		
<b>RECOMMENDATION</b> – Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be necessary and appropriate.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> – This application is reported to the Committee on the basis that the recommendation is contrary to the view of Borden Parish Council, who have specifically requested the application be decided by the Planning Committee.		
<b>WARD</b> Homewood	<b>PARISH/TOWN COUNCIL</b> Unparished	<b>APPLICANT</b> Fernham Homes Operations Limited <b>AGENT</b> DHA Planning
<b>DECISION DUE DATE</b> 04/12/24		<b>PUBLICITY EXPIRY DATE</b> 17/10/24
<b>BACKGROUND PAPERS AND INFORMATION:</b> <b>Documents and drawings referenced in report are as follows: -</b> Landscape Masterplan, 6444-LLB-XX-XX-DR-L-0001 rev. P07, Emission Mitigation Assessment, Redmore Environmental, January 2025, Revised Proposed Site Plan, 051_100 rev. P2, Acoustic Report, August 2024, Landscape Visual Impact Assessment P.1-4 with subsequent Addendum, Arboricultural Implications Assessment, Broad Oak Tree Consultants Limited, August 2024, Ecological Impact Assessment, Native Ecology, August 2024, Energy and Sustainability Statement, Stroma, August 2024. Transport Statement, DHA, August 2024.  The full suite of documents submitted pursuant to the above application are available via the link below: -  <a href="https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=document&amp;keyVal=SJ6Y0OTYLM00">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=document&amp;keyVal=SJ6Y0OTYLM00</a>		

## 1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site comprises two parcels of undeveloped land, which are broadly rectangular and divided centrally by Riddles Road. The application site is located to the south of Borden Lane, which marks the transition between the Urban Area of Sittingbourne to the east and rural Borden to the west. To the west is Borden Nature Reserve. To the east/southeast are allotments and countryside beyond. In total, the site area is 3.2 hectares in size. The site forms part of the Important Local Countryside Gap, as designated by Policy DM25 of the Swale Bearing Fruits Local Plan 2017, although it does not form a designated landscape.
- 1.2. In the broader context, directly adjacent to the northeast of the site is the location of the access to be constructed to connect Borden Lane with the Wises Lane development (ref:17/505711/HYBRID), a mixed-use allocation proposing up to 675 dwellings, that is currently under construction. Houses and commercial buildings that will be provided as part of that site are separated from the application site boundaries by approximately 263 metres.
- 1.3. Further south-east is Ufton Court Farm, which has been granted permission for housing development at appeal under reference APP/V2255/W/23/3333811. As part of the Ufton Court Farm development, the western end of Riddles Road between Starveacre Lane and Borden Lane is to be closed, and this matter is further explored in the highways section of the report.
- 1.4. The application site is classified as Grade II agricultural land, which historically comprised orchards and, more recently for around 20 years, has been used for the grazing of horses.
- 1.5. The application site is located within Flood Zone 1 (lowest risk of flooding), and there is no high/medium risk of surface water flooding.
- 1.6. Located centrally at the crossroad of Borden Lane and Riddles Road, is a two-storey listed building, known as Riddles Cottage, Riddles House, which is Grade II listed.

## 2. PLANNING HISTORY

- 2.1. The relevant planning history for this site is set out below:
  - 2.1.1. **SW/01/1043:** Approved application proposing stable livery in 4 stables and change of use of redundant farmyard to grazing land.

- 2.2. There is also planning history in the surrounding area that is of relevance to this application: -

*Ufton Court Farm*

- 2.2.1. **22/505646/OUT** – Refused, but allowed at appeal. Outline application with access being sought for the erection of up to 290 dwellings, the formation of a new means of access onto Minterne Avenue, new footpaths and cycle routes, the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure.

*Swanstree Avenue*

- 2.2.2. **21/505498/OUT** – Allowed at appeal (against non-determination) for outline planning application for up to 135no. dwellings with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point (All matters reserved except for means of access).

*Wises Lane*

- 2.2.3. **17/505711/HYBRID** – Secretary of State decision to allow appeal for up to 675 dwellings to include: outline planning permission for up to 595 dwellings including affordable housing; a 2-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq. m GIA and up to 560 sq. m GIA of “flexible use” floorspace that can be used for one or more of the following uses – A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse/community building up to 375 sq. m GIA, 3 standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street/A249; allotments: and formal and informal open space incorporating SUDS, new planting/landscaping and ecological enhancement works; and full planning permission for the erection of 80 dwellings including affordable housing, open space, associated access roads vehicle parking, associated services, infrastructure, landscaping and associated SUDS.

3. PROPOSED DEVELOPMENT

- 3.1. Full planning permission is sought for the construction of 38 dwellings arranged across two parcels of development – A and B. 39.5 % of the housing proposed as part of this application will be provided as affordable housing, equating to 15 affordable dwellings. The location of affordable housing is within parcel B and the tenure type proposed is:
- 50% affordable rent dwellings,
  - 50% shared ownership dwelling.

- 3.2. Relating to the layout, the proposed built form would incorporate two different character areas depending on their location. Parcel A would adjoin Borden village and include 20 dwellings. These would be arranged more loosely within the site, representative of lower density, and would be located within a perimeter block, providing access links through to Parcel B and the urban area of Sittingbourne. Dwellings fronting Borden Lane are set away from the road, separated by a generous landscaping strip with tree planting but following the established building line. The proposed houses are large, detached dwellings with separate garages and more spacious gardens.
- 3.3. Parcel B would be separated from Parcel A by Riddles Road and a substantial planting buffer between the two parcels. Parcel B would continue development in the Sittingbourne Urban Area and would represent a higher-density scheme, featuring a row of terraces, semi-detached properties or maisonettes.
- 3.4. The majority of houses will be two-storey in height, but a couple of bungalows are also proposed (plots 34, 35). Houses in Parcel A will feature clay hanging tile faces, brick detailing, and white and black weatherboarding, as well as chimneys. Parcel B would focus more on render, brick, clay and concrete roof tiles.
- 3.5. Turning to the vehicular access, two access points are proposed off Borden Lane. The proposed access road to Parcel B will be 5.5 meters wide. Regarding parking provision, the submission confirms that 97 parking spaces will be provided, including 8 visitor parking spaces. Cycle parking will be provided in accordance with the standard, as set out in the Transport Assessment.
- 3.6. The central part of the site would be retained as usable open space. This would incorporate the provision of orchard planting surrounding the listed building, a circular walk and informal landscape features such as a maze and timber trails. A new attenuation pond is proposed as part of the drainage strategy in the southern part of the site, and this is proposed to be permanently wet for biodiversity benefits.

#### 4. CONSULTATION

- 4.1. Three rounds of consultation were 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 press. Full details of representations are available online.
- 4.2. During the lifetime of this planning application, **Borden Parish Council** provided three representations and objected to the application on the following grounds:-

Comment	Report Reference
Identified a need for this development towards improvements for Playstool Playing Pitches and the recreational area in Borden.	7.12.3, 7.12.4
Further clarification should be provided on access to and from Riddles Road and any closures made as part of the Ufton Court Farm appeal.	7.10.2
Lack of integration between social and private housing.	7.5.5
Loss of countryside gap between Borden and Sittingbourne.	7.29, 7.2.10, 7.8.6, 7.8.7, 7.8.8, 7.8.9,
The harmful effect on the setting of listed buildings	7.6.6, 7.6.11
Loss of light and privacy to current residents on Borden Lane	7.16.2, 7.16.3, 7.16.4, 7.16.5, 7.16.6, 7.16.7
Failure to provide 10% BNG	7.9.10
The green space proposed is insufficient to mitigate the habitat loss.	7.12.3, 7.9.5, 7.9.8
Insufficient wildlife surveys	7.9.5, 7.9.8
Transport surveys do not account for the lack of public transportation.	7.10.4, 7.10.5

- 4.3. In total 36 letters of representation from neighbouring occupiers, all objecting to the application, have been received. In response to the first round of consultation, 22 objections were received, which raised the following points:-

Comment	Report reference
The rural character of the site would be lost and the character of the area would be changed by the addition of this Housing estate which will appear urban and incongruous.	7.2.10, 7.2.11
Inaccuracies within the planning	

submission in terms of road alignment (Riddles Road and Borden Lane)	7.10.11
The proposed development is clearly contrary to this settlement policy and national policy preventing development in the open countryside	7.19.1 – 7.19.6
There is insufficient GP service in Swale, and new development will exacerbate this problem.	7.13.5
Site is not allocated for development and no more houses are needed in this area	7.19.1 – 7.19.6
Borden will become suburb	7.8.10 – 7.8.12
No ecological reports were provided	7.9.5, 7.9.8
The site is not located in accordance with Policy ST 1 to Policy ST 7	
Wildlife in the nearby area is reduced as a result of new development, particularly butterflies.	7.9.5 – 7.9.8
There will be a high reliance on private car usage as Kent County Council have reduced funding for rural services and therefore the number of buses has reduced.	7.10.4
Repetitive design is not characteristic of the area.	7.8.10 – 7.8.12
There is insufficient community infrastructure (schools, healthcare) to support the additional population.	7.13.4 – 7.13.5
Loss of privacy, loss of views, overlooking and overshadowing on 195 and 197 Borden Lane	7.16.2, 7.16.3, 7.16.4, 7.16.5, 7.16.6, 7.16.7
Increased noise levels arising from the additional traffic.	7.16.8
Impact upon the protected species and ecological habitats and species such as badgers, foxes, dormice, bats and birds.	7.9.5 – 7.9.8
There is a high reliance on 3 and 4 bed properties and there should be a higher focus on 2 bed and 3 bed properties.	7.4.4
Affordable housing is segregated	7.5.5

Evasive impact of construction pollution, sound/noise, air quality, and poor quality of modern housing	7.11.5 – 7.11.7, 7.17.2-7.17.3
The application should not be further considered due to far more suitable 'brownfield' areas of Sittingbourne needing to be considered before green lands	7.19.1 – 7.19.6
The footway along Borden Lane is not 2 metres wide	7.10.5
Not sustainable due to limited bus service	7.10.4
The exit of the estate onto the part of Borden Lane where there is a blind bend will become an accident hot spot	7.10.11
Impact on the listed building	7.6.6, 7.6.11
Increased pressure on water supply, sewage, and drainage systems, emergency services and power grid.	7.14.3 – 7.14.6
There are inaccuracies in the submitted plans; It shows Riddles Road as open whilst it will be closed under the Ufton Court Farm development;	7.10.2
No information regarding the boundary treatment between No. 195 Borden Lane and the new development	7.16.7
This development would merge Borden with Sittingbourne and permanently damage the village's character.	7.29, 7.2.10, 7.8.6, 7.8.7, 7.8.8, 7.8.9,

- 4.4. Following receipt of the application, amendments to the scheme were requested, including revisions to the quantum of development and its layout, to which 10 objections have been received. In addition to the above comments, the following new concerns were raised: -

Comment	Report reference
Questions whether sufficient ecological surveys were carried out, particularly around bat presence and protection of great crested newts.	7.9.5, 7.9.8
Permanent loss of agricultural land	7.3.3
Local Authority has duty of care and obligation to prioritise the	7.18.2

health and well-being of residents	
The application proposes drainage works, but there is limited information on the long-term effectiveness of these measures. Increased impermeable surfaces from 38 new homes may elevate flood risks to the area, especially during periods of heavy rainfall.	7.14.3 – 7.14.6
Impact on the peaceful character of allotments	7.18.3

- 4.5. Subsequent to the above, final revisions were submitted in May 2025, to which 4 objections were received, raising no new matters beyond those reported above.

## 5. REPRESENTATIONS

- 5.1. **Health & Safety Executive** – The proposal do not fall within the remit for comments from Health & Safety Executive so no comments offered.

- 5.2. **KCC Highways** – No objections, for the following reasons:-

- The proposed additional vehicle activity would not cause concern regarding its impact on the wider highway network;
- Further details were provided to include a Refuse Strategy Plan, which proposes acceptable dragging distance for proposed units, and a refuse strategy plan which is acceptable.
- The proposal introduces two priority junctions designed to a required standard and with sufficient visibility splays;
- The proposal provides parking in accordance with policy requirements;
- Recommendation has been provided that for each dwelling where tandem parking is proposed, an additional 0.5 visitors parking spaces should be provided

- 5.3. **National Highways** – Raised no objections on the basis that the scale and size of the proposed development would have no material impact upon the strategic road network, subject to a safeguarding condition requiring a Construction Traffic Management Plan prior to commencement.

- 5.4. **KCC Ecology** – No objections were raised, as the proposed development has been accompanied by sufficient ecological information to inform the proposals and mitigation measures. KCC noted that there may be additional recreational impacts resulting from increased visits to Borden Nature Reserve and lighting impacts. Therefore, lighting needs to be designed to minimise spill, and financial mitigation be secured for additional management measures that



minimise increased recreational impacts. KCC recommends that BNG be secured through a legal agreement, due to on-site gains.

It is recommended that safeguarding conditions are imposed requiring the submission of an updated ecological report if development is not commenced within 18 months, submission of LEMP (Landscape and Ecological Management Plan), submission of sensitive lighting plan, provision of on/off site BNG and implementation of mitigation prior to works commencing and implementation of landscaping scheme.

5.5. **KCC Lead Local Flood Authority (LLFA)** – No objections subject to conditions requiring further infiltration testing and detailed drainage scheme prior to commencement and submission of verification report prior to occupation.

5.6. **KCC Economic Development** – No objections, subject to financial mitigation towards community infrastructure, including:-

Type of infrastructure	Cost	Project
Primary Education	£208,895.40	Towards a new Primary school in Southwest Sittingbourne (Local Plan Policy MU3) and/or increased capacity in the Sittingbourne
Secondary Education	£164,822.11	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups
Special Education Needs & Disabilities (SEND)	£16,514.99	SEND contribution to be applied towards additional places in the Swale district.
Community Learning and Skills (Adults)	£1,060.51	Contributions requested towards additional equipment and resources for Adult Education Centres and outreach provision serving the development.
Integrated Children's	£2,295.55	Contributions requested

Services		towards additional resources for Integrated Children's Services to enable expansion of capacity within the hubs and provision of outreach work in the vicinity of the development.
Libraries, Registrations and Archives Service	£1,941.53	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development, including Sittingbourne Library.
Adult Social Care	£5,607.28	Towards Specialist Housing Provision in the district, adaptation of community facilities, technology to promote independence, multi sensory facilities and changing place facilities in the vicinity of the development.
Waste	£6,018.03	Towards additional capacity at Sittingbourne HWRC & WTS.
All homes to be built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part <b>M 4 (2)</b>		
All to be index-linked by the All-In Tender Price Index from Q1 2022 to the date of payment.		

- 5.7. **NHS** – No objections, subject to financial mitigation being secured in s.106 agreement to mitigate pressure on healthcare arising from the proposed development, as set out below:-

Amount of contribution	Mitigation project
£37,620	Towards refurbishment, facilities and equipment reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development <u>or</u> new premises for general practice or healthcare services provided in the

	community in line with the healthcare infrastructure strategy for the area.
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- 5.8. **Southern Water** – Acknowledges that network reinforcement will be required to accommodate additional capacity for the proposed development. This would be done after planning permission is issued and under separate legislation. No objections were raised, and notes that separate applications under Section 106 of the Water Act will have to be submitted, as well as further maintenance details of suds should be required via condition.
- 5.9. **Kent Police**—No objections, subject to information requiring engagement with Designing Out Crime Officers (DOCOs) to incorporate Secured By Design (SBD) as appropriate.
- 5.10. **Natural England** – No objections, subject to financial contributions towards mitigation of additional recreational pressure upon North Kent Special Protection Areas (SPA).
- 5.11. **UK Power Network**— No objections, but notes that high/low voltage underground run within close proximity to the proposed development. Prior to commencement of work accurate records should be obtained from our Plan Provision Department at UK Power Networks.
- 5.12. **Mid Kent Environmental Protection Team** – No objections raised, subject to the noise mitigation and air quality standard mitigation as set out in the Emission Mitigation Assessment, being secured. A verification report shall be submitted to the Local Planning Authority after approved measures have been installed.
- 5.13. **Historic England** – No comments offered – deferred to the Council's Heritage Officer.
- 5.14. **Environment Agency** – No objections raised and information provided in relation to measures to reduce contamination of groundwater and piling foundations.
- 5.15. **Lower Medway Internal Drainage Board** – No objections - KCC Flood & Drainage is the relevant authority to comment in relation to this application. Nonetheless, recommends that a detailed drainage scheme and a suds maintenance schedule be secured via a safeguarding condition.
- 5.16. **SBC Urban Design** – Following revisions to the scheme, raises no objections and has the following observations: -
- The density and pattern of development in parcel A respond to the Borden edge,
  - The lower density and revised layout allow retention of more of the undeveloped settlement gap and provides additional opportunities for

landscape buffer and woodland planting to help soften and screen the development

- Whilst parcel A does not relate to the existing pattern of development along Sittingbourne Urban Area entirely, the proposed design provides active frontages onto open space and this will help to create successful open space and create a 'bookend' of the settlement, and so is acceptable.

5.17. **SBC Heritage** – Identified a less than substantial level of harm (at a lower end of the scale) to the setting of listed buildings, known as Riddles Farmhouse, Grade II listed and Posier (Grade II listed).

5.18. **KCC Archaeology** – No objections raised, subject to safeguarding conditions requiring field evaluation work prior to submission of the reserved matters application.

5.19. **KCC PROW** – No comments to make.

5.20. **SBC Active Travel** – No objections, but encouraged consideration to be given to lighting and widening of a footway along Borden Lane.

5.21. **SBC Climate Change** – No objections, subject to the Applicant confirming water consumption will be limited to 110 w/l/p/p and EV charging points installation for visitor's parking spaces.

5.22. **SBC Affordable Housing** - Supports the proposed development, including a deviated tenure split of 50% affordable rent and 50% shared ownership.

5.23. **Kent Fire & Rescue** – No objections.

5.24. **SBC Trees**— No objections, as the impact upon existing vegetation is minimal. Brings Officers' attention to the close proximity of units 5-8 to Leyland Cypress (G34 in Tree Survey) and raises concern that it may lead to overshadowing.

5.25. **SBC Green Spaces** – No objections, subject to a financial contribution to enhance the open space provision through financial contributions, as identified in the current Open Space and Play Strategy:  
£713.99 per dwelling towards formal sports provision within The Playstool, Borden

## 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

**ST2:** Development targets for jobs and homes 2014- 2031

**ST3:** The Swale settlement strategy

**ST4:** Meeting the Local Plan development targets  
**ST5:** The Sittingbourne area strategy  
**CP2:** Promoting sustainable transport  
**CP3:** Delivering a wide choice of high-quality homes  
**CP4:** Requiring good design  
**CP5:** Health and wellbeing  
**CP6:** Community facilities and services to meet local needs  
**CP7:** Conserving and enhancing the natural environment – providing for green infrastructure  
**CP8:** Conserving and enhancing the historic environment  
**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 drainage and construction  
**DM21:** Water, Flooding and drainage  
**DM24:** Landscape  
**DM25:** Important Countryside Gap  
**DM28:** Biodiversity and geological conservation  
**DM29:** Woodlands and Trees  
**DM31:** Agricultural Land  
**DM32:** Development involving listed buildings  
**DM33:** Development in a conservation area  
**DM34:** Scheduled Monuments and Archaeological Sites

## 6.2 **Supplementary Planning Guidance / Document:**

- Swale Landscape Character and Biodiversity Appraisal SPD
- Swale Parking Standards SPD
- Developer Contributions SPD

## 6.3 **Other relevant material considerations:**

- Open Space Strategy
- Air Quality and Planning Technical Guidance
- Planting on New Developments
- Borden Harman's Corner Conservation Area Appraisal

## 7. ASSESSMENT

7.1. This application is reported to the Committee due to Borden 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
- Size and type of housing
- Affordable Housing
- Community Infrastructure
- Open Space

- Character and appearance and landscape impacts
- Heritage
- Archaeology
- Ecology
- Transport and Highways
- Air Quality
- Sustainability
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Other Matters

## 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. For these reasons, the starting point for policies in the adopted Local Plan are that they afforded significant weight.

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. Paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Local Plan policies are considered out-of-date due to the fact that the Council is unable to demonstrate 5-year housing land supply.

7.2.4. Paragraph 124 of the NPPF states that planning decisions should promote effective land use, which contributes to the environmental objective of sustainable development, as defined by paragraph 8.

7.2.5. Policy ST1 of the Local Plan supports sustainable development on both identified and suitable sites within the borough.

7.2.6. The application site is a 3.2-hectare parcel of agricultural land in the open countryside between Borden village and the urban area of Sittingbourne. There are existing pavements along the application site's boundaries, and although these are narrow, supplementary walking routes are provided within the open space, offering alternative and sustainable walking options. The existing bus

stop in Adelaide Drive is within walking distance from the site (approximately 360 metres) and provides some level of regular service to the nearby settlements. In addition, whilst the site clearly is located in the countryside, it is adjacent to an urban area and within reach of the Sittingbourne town centre, where there is a vast availability of all services. Balancing all considerations, it is considered that the site represents a suitable location for housing.

7.2.7. The site is not isolated as it adjoins a settlement on both ends of the site boundaries (south west and north east). Notwithstanding, as the site is located outside of any defined settlement boundary and, therefore, in the open countryside, Policy ST 3 of the Local Plan is applicable to the proposals.

7.2.8. Policy ST 3 states that at locations in the open countryside outside the defined built-up area boundaries, development will not be permitted unless *'it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.'*

7.2.9. As the site is situated within the area of the Important Local Countryside Gap, policy DM 25 is also applicable. This policy aims to preserve the separation of settlements, thereby maintaining their character and unique settings. Policy DM 25 stipulates that within these gaps, *'planning permission will not be granted for the development that undermines one or more purposes of the countryside gap'*. The purposes of the gaps are to:-

- maintain the separate identities and character of settlements by preventing their merging;
- safeguard the open and undeveloped character of the areas;
- prevent encroachment and piecemeal erosion by built development or changes to the rural open character; and
- to influence decisions on the longer-term development of settlements through the preparation and review of Local Plans;

7.2.10. Notwithstanding the site's accessible location, the proposed development would result in partial expansion of settlements on either side and lead to their encroachment into countryside, contrary to two of the purposes of Policy DM 25 of the Local Plan 2017. Both settlements will maintain their individual characters, through the retention of open space and the use of different design approaches. The buffers at the front and open space in the middle will assist in retaining the open character of the area, albeit it will be reduced by half. By introducing the built form into these undeveloped areas, the proposal inevitably leads to the partial loss of the countryside gap and provides a level of urbanisation to the site, thus failing to preserve the countryside. As a result, a conflict with Policies DM 25 and ST 3 is identified.

7.2.11. Due to the Local Planning Authority's inability to demonstrate a 5-year housing land supply, the presumption in favour of sustainable development

applies. This means that Policies ST 3 and DM 25 are out of date, as confirmed by Planning Inspectors as part of recent appeals (the Swanstree Avenue and Ufton Court farm appeals, relating to the same gap). The level of harm has been reduced through revisions to the proposal, whereby the design has been amended and the overall scale of development reduced. This successfully retains separate identities of settlements by the provision of open space and different layouts within parcels A and B, as endorsed by the landscape assessment and the SBC Urban Design Officer comments. In the absence of a five year housing land supply, the conflict with Policies ST3 and DM25 will need to be balanced against the sustainable location of the site, and other relevant planning considerations at the end of the report.

### **7.3. *Loss of Agricultural Land***

7.3.1. Policy DM 31 of the Local Plan states that development on agricultural land will only be permitted where there is an overriding need that cannot be met within the built-up area boundaries. The policy states that development on the Best and Most Versatile (BMV) agricultural land will not be permitted unless three specific criteria are met.

7.3.2. Paragraph 187(b) of the NPPF requires planning decisions to recognise the economic and other benefits of BMV agricultural land.

7.3.3. The site is undeveloped land, classified as Grade 2 agricultural land and urban land, although it is currently used for grazing horses. The site covers approximately 3.2 ha of undeveloped land. Whilst the viability of any agricultural holding would not be impacted by the proposal (the site is not used for food growing), the potential for use as agricultural land will be lost. The site in question comprises a very small proportion of the overall BMV resource (0.02%) within the Borough, is an isolated parcel of land not linked to an agricultural holding and not used for food growing, but for equestrian use, so the conflict with Policy DM31 is attached very limited weight. This position aligns with the approach taken by the Planning Inspector during the Ufton Court Farm appeal, which is a significantly larger site.

### **7.4. *Size and Type of Housing***

7.4.1. The NPPF recognises that to create sustainable, inclusive, and diverse communities, a mix of housing types, based on demographic trends, market trends, and the needs of different groups, should be provided.

7.4.2. The Local Plan Policy CP3 requires the mix of tenures and sizes of homes provided in any particular development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types that reflects the Strategic Housing Market Assessment (SHMA). Subsequent to the adoption of the Local Plan, the Council's Housing Market Assessment (HMA) was prepared



in 2020 (i.e., more recently than the Local Plan) after the introduction of the standard method for calculating the objectively assessed need. As such, officers have considered the proposed and indicative housing mix against that set out in the HMA:-

Tenure – HMA	1 Bed	2 Bed	3 Bed	4 Bed
Market Required	7%	33%	41%	19%
Market Proposed	0 (0%)	0	8 (36%)	15 (64%)
Affordable Required	27%	23%	30%	20%
Affordable Proposed	7 (47%)	5 (33%)	1 (7%)	2 (14%)

7.4.3. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes. It should be remembered that this reflects the Borough wide need.

7.4.4. In terms of private housing (market tenure), the proposal is indicated to deliver a greater proportion of 4-bed dwellings and fewer 3-bed houses. The mix of dwellings set out in the HMA and Policy CP3 is borough-wide, and for Borden, the supporting text to Local Plan Policy CP3 states that the objective is for the development of good quality family housing, for which the greatest local demand exists. Four-bedroom units, of which the majority of the dwellings are, would partially cater for this demand. The provision of four-bed units is substantial, but the tenure mix facilitates the delivery of a development that is able to respond to the more spacious character of Borden, with larger plots set in a lower density arrangement. As a result, it is considered that the mix is appropriate in this case. On the basis of the above, whilst not delivering a mix exactly in line with the HMA, it would contribute to the provision of a mix of housing requirements for different groups, in accordance with Policy CP3 of the Local Plan.

## 7.5. ***Affordable Housing***

7.5.1. 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 10% of affordable housing from developments in Sittingbourne town and urban extensions, whereas it requires 40% from extensions to rural areas. Having analysed the viability evidence underpinning the Local Plan policies, together with the conclusions of appeal reached at Ufton Court Farm, the policy position is therefore to require:

- 40% of the affordable from Parcel A (Borden), equating to 8
- 10% of the affordable from Parcel B (Sittingbourne), equating to 2

7.5.2. In view of the above, the required provision of affordable housing would be 10, but the application proposes 15 dwellings as affordable, equating to 39.5% of dwellings being affordable. The following tenure type for affordable housing will be incorporated within the scheme:-

- 50% shared ownership
- 50% affordable rent

7.5.3. Upon receipt of additional evidence which has demonstrated that Registered Providers would not be able to provide affordable housing at a different tenure mix, the Council's Affordable Housing Officer is satisfied with this approach and considers the scheme acceptable.

7.5.4. The affordable house sizes and types offer some variety, with smaller houses alongside two larger houses, which are highly needed. All affordable house types will be required to comply with the National Described Space Standards and meet the requirements of Part M4(2) of the Building Regulations, which can be reasonably secured through safeguarding conditions.

7.5.5. In terms of the design, the policy requires the proposed affordable homes to be indistinguishable from the houses proposed in the private tenure. Whilst the division between affordable housing and market housing is apparent, in terms of density and also size of gardens and dwellings, this takes clues from the urban form in the settlement that the parcel adjoins. Furthermore, the cluster of affordable housing would be easier to manage from a management perspective; therefore, on balance, this is considered acceptable and in accordance with Policy DM8 of the Local Plan.

## **7.6. *Heritage***

7.6.1. The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise, and this is endorsed by the Local Plan.

7.6.2. Local Plan Policy CP8 sets out various requirements proposals must accord with to sustain and enhance the significance of Swale's designated heritage assets. The policy states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity.

7.6.3. Policy DM32 of the Local Plan relates to development involving listed buildings and states that development proposals affecting a listed building, or its setting will be permitted provided that the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved.

7.6.4. In assessing heritage impacts, the first step is for the decision-maker to consider each of the designated heritage assets which would be affected by the proposed development in turn and assess whether the proposed development would result in any harm to the significance of such an asset. The site is near two listed buildings, therefore having the potential to impact their setting. The following heritage assets have been identified as being potentially impacted by the proposal:

- Grade II Riddles, located adjacent to Riddles Road and centrally between both parcels of development,
- Grade II listed Posiers, located approximately 104 metres away from the site.
- Borden Conservation Area;

7.6.5. The NPPF makes it clear that a heritage asset's setting is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to an asset's significance, may affect the ability to appreciate that significance, or may be neutral. Given the separation in character and distance to Borden – The Street Conservation Area and Borden - Hearts Delight Conservation Area, the proposal is not considered to form part of their setting and so has no harmful impact upon their character and appearance.

7.6.6. In the case of the Riddles Farmhouse, the application site, including both parcels of development, contributes to the setting of a listed building in a positive way by allowing for understanding of its historic position surrounded by former agricultural land. Currently, 'Riddles' can be experienced within a still somewhat rural setting due to the degree of separation the listed building benefits from the Sittingbourne and Borden settlements, which allows one to recognise its former functional relationship of the farmhouse to the landscape, albeit the former landscape character (that of an orchard) has been lost. The Posiers, located approximately 104 metres away from the site, is currently experienced within a more urban setting, having buildings on both sides of it; however, the proximity to open countryside and former historic ownership contributes to its former relationship.

7.6.7. The introduction of buildings within the application site leads to a level of impact that is harmful to its setting, as the setting would appear more urban in form and lead to a reduction of the gap between settlements. SBC Heritage identified less than substantial harm at a lower level arising from the proposed development, as the new dwellings would impose and detract from the wider views gained from Riddle Road of the listed building within the rural landscape.

- 7.6.8. Through design revisions, the scale of development was reduced, buildings moved away from the heritage asset and a level of landscaping was introduced that reinforces the historic relationship between the listed building and landscape orchards (fruit tree planting). Generous landscaping buffers will assist in integrating the proposed development within the surrounding area; however, the low level of less than substantial harm to the setting of Riddles and Posiers remains. The harm needs to be balanced against public benefits, as stipulated by the NPPF. In accordance with Paragraph 212 of the NPPF, great weight is placed on the conservation of designated heritage assets. Although at the lower level of less than substantial harm, considerable importance and weight is attached to this impact upon the setting of two listed building: Riddles and Posiers (at lesser degree of harm).
- 7.6.9. As set out at Paragraph 215 of the Framework, where there is less than substantial harm to designated heritage assets, this harm should be weighed against the public benefits of the proposal.
- 7.6.10. The public benefits arising from the scheme would include the delivery of housing development. As the site is of moderate size and does not depend on any significant infrastructure project, the houses can be delivered relatively quickly, thus meaningfully contributing to improved housing stock within the district and the Council's 5-year land supply. The positive contribution to the housing stock is afforded significant weight in favour of the scheme. Furthermore, this application proposes 15 affordable houses, which exceeds policy requirements by 5. This is attached substantial weight, due to the shortfall of affordable housing within the district and the significant need for affordable homes. There would be short-term benefits to the economy from the construction of the proposal and additional expenditure in the local area, but as this is a smaller development, moderate weight is attached to these benefits. There would be limited positive benefits arising from biodiversity enhancements and the provision of a play area.
- 7.6.11. In view of the above benefits identified, it is considered that the significant public benefits would outweigh the limited and low level of harm to the setting of Riddles and Posiers.
- 7.6.12. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the duties off the Council pursuant to the Planning (Listed Buildings and Conservation Areas Act) 1990.

## **7.7. *Archaeology***

7.7.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

7.7.2. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ; however, where this is not justified, suitable mitigation must be achieved.

7.7.3. The application site is a greenfield area with some archaeological presence established in the surrounding area, including extensive and multi-period cropmark complexes, and Roman villa (to west of Borden Lane and at Wrens Road). Therefore, the potential for archaeological remains cannot be ruled out at this stage. Given this archaeological potential and potential for disturbance due to groundworks proposed, further archaeological evaluation is considered necessary, as recommended by KCC Archaeology.

7.7.4. Although there are limited archaeological remains known within the application site, given the wider background, there is potential for the development to impact archaeological remains. As recommended by KCC Archaeology Officer, the potential impact can be appropriately mitigated through further assessment, evaluation and, if necessary, mitigation to be secured via a safeguarding condition.

7.7.5. As such, subject to the imposition of safeguarding conditions, the proposed development would have an acceptable impact on the archaeology, in line with Policies DM34 of the Local Plan.

## **7.8. *Character and appearance and landscape impacts***

7.8.1. 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 through Policy CP4.

7.8.2. Policy DM14 of the Local Plan sets out general development criteria, requiring, amongst other elements, developments to be well-sited and the scale, design and appearance to be sympathetic and appropriate to the location.

7.8.3. Policy DM24 of the Local Plan states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed. For an undesignated landscape, which this site is, permission will be granted subject to:-

- The minimisation and mitigation of adverse landscape impacts; and
- 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.

7.8.4. Policy DM24 of the Local Plan reiterates that visual assessments should inform the scale, layout, and design, considering the Council's Urban Extension Capacity Study and Landscape Character and Biodiversity Appraisal SPD

7.8.5. The proposed development would be arranged in two parcels of development to appear as a continuation of settlement on each end, and with an open space in the middle. Through revisions (that were informed by the LVIA that was independently assessed), the following revisions to the scheme were proposed:-

- Reduce the scale of development by reducing the total number of residential units by seven to a total of 38,
- Provision of open space in perpetuity,
- Provision of orchard planting to reflect the historic context of the site,
- Leave the central parcel undeveloped and move buildings away from Riddles Road to retain the level of openness and provide views towards the south and countryside.
- Provide a generous buffer along Borden Lane, to reduce the prominence of buildings and reflect the character of development fronting the main road,
- Provide high-quality landscaping features, such as a landscaping maze and a walking route.

7.8.6. The site is not located within or adjacent to a designated landscape, but falls within the area designated as an Important Local Countryside Gap. The ILCG is a local spatial tool addressing settlement identity, not a landscape designation. The proposal has been supported by LVIA, which has undergone independent testing. The Council's Landscape and Biodiversity Appraisal SPD identifies the site as part of the Tunstall Farmlands, which is in moderate condition. Given the presence of adjacent housing, road infrastructure and other urbanising influences, the sensitivity of the landscape is low, and its importance stems from the physical separation it provides to both settlements of varied character: Borden and Sittingbourne.

7.8.7. The LVIA concludes that at the site level, there would be an evident change in character due to the proposed residential land uses and associated accesses. The proposed buildings in Parcel A would align with the existing building line of the residential properties in Borden and be consolidated between Riddles Granary and Riddles Road. The proposed development would remain physically separate from Sittingbourne via Riddles Road and Borden

Lane. In Parcel B, the proposed dwellings would feature a rectangular layout, reflecting the geometric patterns of layouts in Sittingbourne and responding to the local character, with the rest of the site remaining as accessible open space. The development includes additional orchard planting within Parcel B, reinstating the historic association between the listed building and the historic land use of orchards. The scale of the development also responds to the surrounding context, by providing two-storey dwellings that are adequately spaced and do not lead to overdevelopment or a cramped form of development.

7.8.8. The surrounding landscape is enclosed in most aspects, whether by existing buildings to the east or west or by high Leyland cypress to the south. The main and only longer-distance view of the open countryside is from Borden Lane across parcel A (adjacent to the urban area). This view would be retained as open through the introduction of open space centrally within the site.

7.8.9. Notwithstanding the visual reduction in the gap width, the landscape is already contained and of a localised nature. The proposed development would maintain the sense of Sittingbourne as being a distinct settlement from Borden, by retaining open space between the development in Parcels A and B, alongside the physical divide of Riddles Road. The visual impact upon the landscape is therefore minimised through the design approach.

7.8.10. The development on either end of the application site would be seen as a continuation of existing settlements, which already provide a level of containment. The scheme's layout follows sound design principles, such as following established building lines, providing active frontages to open space, introducing walking routes, spacious plots and keeping key vistas identified as undeveloped and free from development, as well as introducing landscaping features that draw on the historic context of the site. For these reasons, the development is well-designed and meets the expectations of high-quality development, as stipulated in Policies DM24, and landscape harm is minimised through design.

7.8.11. It is noted that one of the recommendations from SBC Urban Design Officer is that the double-hedge boundaries and materials samples are secured via safeguarding conditions. Officers agree that this will be required at a detailed condition stage. The current masterplan demonstrates that the quantum of development can be comfortably accommodated within the site.

7.8.12. To conclude, the broader visual and landscape impact would not be adverse and subject to safeguarding conditions, the proposed development is considered appropriate to its context and complies with Policies CP4, DM14 and DM24 of the Local Plan and NPPF.

## 7.9. **Ecology**

- 7.9.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies 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.
- 7.9.2. The application has been the subject of an Appropriate Assessment (AA) under the Habitats Regulations. The AA concluded that there is a potential risk of harm arising from increased recreational pressure. As such, an AA was prepared in consultation with Natural England, which concluded that these impacts can be mitigated through financial mitigation (SAMMS payment). The applicant agreed to pay this, and the mitigation will be secured in the s.106 agreement. The AA is adopted on this basis.
- 7.9.3. Section 40 of the Natural Environment and Rural Communities Act (2006) states *"For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England"* and *"A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective."* Furthermore, the NPPF states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.' The NPPF states that 'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'
- 7.9.4. 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.
- 7.9.5. The application site comprises grazing fields, where, during my site visits, horses were grazed. Given the greenfield nature of the site, there is potential for ecological habitats to be present within the site. This potential impact has been examined through the submitted Ecological Appraisal Report, which included a site survey and concluded that the impact upon birds, hedgehogs and badgers cannot be ruled out. Following the ecological appraisal of the site, there were no trees that offered potential habitat for bat roosts, and therefore, bat presence is unlikely. In any event, precautionary sensitive lighting scheme will be secured via safeguarding condition to minimise impact on habitats and protected species (bats).



7.9.6. During the public consultation, many representations raised concerns about the potential impact and disturbance arising from the development due to the proximity of the site to the Borden Nature Reserve (north), where badgers are present. The ecological appraisal reviewed this point, and during the survey, no badgers were recorded within the site. In the absence of badger presence and the presence of a road dividing the site from the Nature Reserve, the advice of ecologists is that tunnels from nearby setts are unlikely to extend into the site. Notwithstanding this, a precautionary mitigation has been incorporated into the scheme, in the form of:-

- Measures during construction to include all holes and excavations to be covered to prevent animals from being trapped or injured,
- A structure/plank to be placed in holes to enable animals to escape if above not feasible.

7.9.7. The precautionary mitigation is also proposed for hedgehogs and reptiles as the suitable hedgerow habitat is not affected by the proposed development and is off-site. Measures such as ecological enhancements will have a positive impact upon biodiversity and include:

- Native-species hedgerow planting along site boundaries, included in the Landscape Strategy, that will provide habitat for birds,
- Work to any vegetation outside of bird season,
- Tree planting (including fruit trees),
- Provision of suds feature with a permanent area of water to provide habitat suitable for amphibians and aquatic invertebrates;
- 3 log piles;
- 2 bat boxes;
- 2 bird boxes;

7.9.8. The above mitigation and quantity of surveys have been reviewed by KCC Ecology and considered adequate to understand potential impacts. KCC Ecology recommended that, should the development not commence within 18 months from the date of the survey, additional surveys shall be submitted to the Local Planning Authority for approval to ensure that all ecological impacts are fully understood and adequately mitigated before the development commences. This condition is reasonable given the proximity to Borden Nature Reserve and ensures that adequate mitigation is in place.

7.9.9. Turning to the potential increased recreational impact on Borden Nature Reserve, the application identifies that one of the routes that future occupiers could take to access the Borden village core would be through Borden Nature Reserve. As such, the Applicant agreed to a financial contribution of £60 per dwelling, which KCC Ecology agreed was necessary to improve management and maintenance of the reserve and mitigate additional recreational pressure.

7.9.10. It is also noted that the BNG details have not been updated, but KCC Ecology is satisfied that BNG can still be achieved as within the original calculation. This is because the built form has reduced through revision and more space was proposed for green buffers and planting. BNG will be therefore achieved through a mix of on-site and off-site mitigation.

7.9.11. Subject to safeguarding conditions that secure the above mitigation and the Landscape and Ecological Management Plan (LEMP), ecological enhancements and BNG gains (s.106), as required by KCC Ecology, the proposed development would not result in any harmful impact on ecology or protected species. In view of the above, subject to safeguarding conditions, it can be concluded that the proposed development would not result in biodiversity loss and is acceptable on ecological grounds, in line with Policies CP7 and DM28 of the Local Plan and paragraphs 180 and 186 of the NPPF.

### **7.10. Transport and Highways**

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

7.10.2. 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.

#### *Sustainability and access point*

7.10.3. The application site is adjacent to an existing settlement on either end. To the east, it is adjacent to Sittingbourne Urban Area, which is ‘the main focus for development’ within the adopted Local Plan and which is approximately 1.5 km from Sittingbourne Town Centre. To the west, the site adjoins the Borden settlement, a Tier 5 settlement that exhibits more sustainable characteristics, within which policy supports infill development within built-up areas.

7.10.4. The nearest railway stations to the site are 1.9 km to the north-east of the site (in Sittingbourne). The bus services, whilst it appears to have been reduced, bus infrastructure is within a short walking distance (Adelaide Drive)

or a more frequent service is located on A2 (approximately 1 km away). There are no designated cycle routes within close proximity of the site. The surrounding settlements offer a good level of day-to-day facilities available to future occupiers, with majority of services available in Sittingbourne, such as a primary school (Westlands Primary School), open spaces, nurseries, a convenience store (Premier), a public house and some GP services and healthcare facilities in the town centre. Additionally, the site's frontage features an established footpath, providing connectivity to the surrounding area. For these reasons, the site's location offers good connectivity to two settlements – Borden (also via a public right of way through the Borden Nature Reserve) and the Sittingbourne Urban Area - and is sustainably situated.

7.10.5. It is noted that SBC Active Travel recommended widening the footway along Borden Lane. This is not something that KCC Highways identified as necessary, given that a footway is already in place. Notwithstanding, this stretch of Borden Lane is subject to significant highway improvement works, including the construction of a roundabout and road realignment. As part of this work, indicative drawings were submitted that show substantially more land between the footway and the edge of the road. Consequently, the road layout, along with the footway, will be redesigned and brought up to a modern standard to facilitate the movement of people. As such, it is considered that it would be superfluous to require any temporary work to take place, where there is an arrangement already in place for this part of the road to be redesigned.

7.10.6. The application site is separated by Riddles Road in the middle, measuring approximately 5m in width and being subject to 30mph speed restriction. This road is rural in nature and provides access to allotments, grazing paddocks and Riddles Cottage. It joins Borden Lane in the form of a T-junction. Borden Lane is a 30 mph road with a width of 7 metres, which abuts the application site to the north west.

7.10.7. Each parcel of development would be served by a separate access point, each in the form of a priority junction off Borden Lane, which have been designed in accordance with the applicable Manual for Streets and Kent Design Guide standards. Vehicular access to Parcel A will have the visibility splays provided would amount to 2.4 x 94m to the south-west and 2.4 x 96m to the north-east of the access, as informed by the speed survey carried out.

7.10.8. The vehicular access to Parcel A will have a carriageway width of 5.5m. It will incorporate an uncontrolled pedestrian crossing, equipped with dropped kerbs and tactile paving, to maintain pedestrian movement along the site frontage. A pedestrian link will be established between the two parcels to facilitate pedestrian connections and promote sustainability.

7.10.9. Vehicular and pedestrian access to Parcel B will be provided through a vehicle crossover to a shared private drive from Borden Lane. This access will comprise of a 4.8m wide shared surface and will be provided with visibility

splays of 2.4 x 43m to the north-east and south-west, in compliance with the Manual for Streets 2 guidance for a 30mph design speed.

7.10.10. The above access arrangements were considered safe and adequate by KCC Highways. The access point will be required to be delivered prior to the development commencing, as recommended by KCC Highways.

7.10.11. Considering the relationship between both access points and the proposed improvement to Borden Lane as part of the s.278 works for Wises Lane development, the detailed s.278 package is currently not publicly available. During the consultation process, many residents raised concern relating to the new road improvements and possible conflict. Officers are satisfied that the submitted drawings do show indicative position of road realignment. The indicative drawings show that the proposed access points will be sufficiently separated from the proposed roundabout, as confirmed by KCC Highways. Any s.278 approval process will need to take into consideration any planned or committed development and associated works, should the Committee agree to the recommendation. As such, it is considered that sufficient control mechanisms exist to ensure no conflict between the proposed access point and secured improvements to Borden Lane.

7.10.12. It is noted that Riddles Road is to be stopped up at its eastern junction with Minterne Avenue and College Road as part of the recently consented residential development at Land at Ufton Court Farm, Tunstall (Planning Application Reference: 22/505646/OUT). There is no direct vehicular access required from Riddles Road to serve any proposed dwellings; as such, there is no conflict arising.

7.10.13. To encourage a move to sustainable travel, the Applicant has prepared a Travel Plan (forming part of the Transport Statement), which states that the following measures are proposed:-

- Safe, covered cycle parking to be included,
- A taster ticket purchase for each dwelling upon its first occupation;

7.10.14. A detailed Travel Plan will be secured via a condition, and travel tickets will be secured via a s.106 agreement. On this basis, the proposed development is considered to comply with Policies CP2 and CP6 of the Local Plan 2017.

*Traffic, road capacity and highway improvements*

7.10.15. The application is accompanied by a Transport Statement which confirms that the trips generated because of this application would be modest and of negligible impact on the local highway network. This has been accepted by KCC Highways as accurate. KCC Highways is satisfied that the proposal would not increase traffic in an unacceptable way, and National Highways commented that the increase in traffic would be immaterial to the strategic road

network (A249), given the limited scale. Consequently, the proposed development is considered to have an acceptable impact on traffic and would not take the surrounding highway network beyond its capacity.

- 7.10.16. In terms of traffic and impacts on the surrounding road network, the proposed development, based on modelling, is shown to have some level of impact on the A249/A2 Key Street Interchange, estimated to be no more than 10 additional movements. Given this increase in traffic and cumulative impacts, it is therefore justified and necessary for this development to contribute to the improvements of that junction. KCC Highways requested a £38,922.24 contribution towards an improvement to that junction, payable prior to the occupation of any dwelling. The planning obligation has been accepted by the Applicant and will be secured via s. 106 agreement.

#### *Parking provision*

- 7.10.17. The application confirms that the proposal is to deliver parking in line with the Council's adopted parking standards. This would amount to 85 parking spaces and 8 visitor parking spaces, based on the proposed housing mix. KCC Highways and Officers are satisfied that there is sufficient parking provided for the development, but in KCC's most recent response, a recommendation was made to provide an additional 0.5 visitor's parking space per dwelling with tandem parking. The request was noted, but there is an adopted parking standard in Swale that requires 0.2 visitor parking spaces per dwelling, and the application is meeting this requirement. The temporary parking during construction will be managed through the Construction Management Plan, secured via a condition. Subject to safeguarding conditions requiring parking and cycle parking, which are set out below, the proposal is considered to be in line with KCC Highway requests and Local Plan requirements.

#### *Conclusion*

- 7.10.18. Consequently, subject to the financial mitigation towards highways improvement works, together with safeguarding conditions requiring a Construction Management Plan, provision of access prior to any occupation taking place, provision of parking and cycle parking, and provision of footways and carriageways prior to occupation, the KCC Highways raised no objection to the application and considered the proposal to be acceptable on traffic increase and highways matters and therefore, the proposed development would have an acceptable impact on highways safety and amenity and comply with Policies CP2 and DM6 of the Local Plan 7 and the NPPF.

### **7.11. Air Quality**

- 7.11.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been

introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

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

7.11.3. The Planning Practice Guidance on Air Quality states that

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

7.11.4. 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.

7.11.5. The proposed development is a major development and has been accompanied by Emission Mitigation Assessment. Given the proposal will generate vehicle movements below relevant criteria for Air Quality Assessment for developments outside of the AQMA, the submitted Emission Mitigation Statement is adequate. The total identified damage cost is £9,079. The following mitigation measures are proposed:

- Provision of new walking route around the site
- A Welcome Pack will be provided to all residents, which will include the provision of bus timetables, maps of local facilities, travel vouchers and information on car-sharing initiatives (as included in Travel Plan);
- Provision of cycle storage facilities;
- Provision of green infrastructure/planting, which would include specific species to help filter traffic pollution.
- Air Source Heat Pumps/EV charging (required by other policies).

7.11.6. Whilst some of the aforementioned measures are required to be delivered by different policies, it is considered that other measures would be sufficient to mitigate the impacts identified and exceed the calculated damage costs. Furthermore, Mid Kent Environmental Health has reviewed the submission and concluded that there are no adverse impacts on air quality, either alone or in combination and is satisfied with the mitigation proposed.

7.11.7. It is noted that EV charging points will be delivered through building regulations requirements and this complies with the requirements of standard mitigation measures, as set out in Swale Air Quality Guidance. Subject to safeguarding conditions, the proposed development is considered acceptable and would not worsen air quality, which is in line with requirements of Policy DM6 of the Swale Local Plan and NPPF.

### **7.12. Open Space**

7.12.1. Local Plan Policy CP7 requires developments to promote the expansion of Swale's natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. This space should be fully accessible all year round.

7.12.2. This application site is a little in excess of 3 ha of grazing land. Approximately 1 ha of it, located centrally between both parcels of development, will be retained as undeveloped open space, providing for an orchard (tree planting), as well as walking routes and landscaping features such as a hedgerow maze and timber trails. Whilst not all typologies are proposed within this site, given the small size of the site, the open space provision can be managed through off-site financial contributions as supported through the Open Space Strategy.

7.12.3. The application proposes on-site usable open space and an informal play area with natural play equipment (minimum of timber trail and landscaped maze). In addition, on-site walking routes are proposed and some landscape strips and biodiversity areas. However, due to limited total site area, the on-site sports play facilities would not be feasible. For this reason, the Applicant has been requested to provide financial contributions to mitigate the pressure arising from this application and contribute towards off-site improvements to sports facilities, particularly prioritising improvements to the condition and capacity of existing facilities at The Playstool, Borden, as requested by Greenspace Officers and Borden Parish Council which is in proximity to the proposed development. However, a formal sports contribution is considered justified to improve the condition and capacity of existing facilities and meet the demand of the new population. The open space financial contribution request is therefore considered CIL compliant, and in accordance with the open space strategy, the following amount was requested:-

- Contribution of £713.17 per dwelling towards increasing the capacity of formal sports facilities at The Playstool, Borden.

7.12.4. The Applicant has agreed to pay the requested mitigation in full, with the first 50% payable prior to the first occupation within the development and a

reminder of the mitigation payable upon occupation of the 12th house. This will be secured in s.106. A safeguarding condition will be imposed to ensure that details of play equipment are submitted to the Council for approval, to ensure a high-quality place is created with an appropriate amount of equipment.

- 7.12.5. In view of the off-site mitigation towards open space improvements, the development is considered to mitigate its pressure and comply with Policy DM17 of the Swale Local Plan and NPPF.

### **7.13. Community Infrastructure**

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

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

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

- 7.13.3. Kent County Council, in its capacity, has identified that the proposed development will generate additional pressure on existing community facilities, including schools. The following mitigation has been requested:-

Type of infrastructure	Cost	Project
Primary Education	£208,895.40	Towards a new Primary school in Southwest Sittingbourne (Local Plan Policy MU3) and/or increased capacity in the Sittingbourne
Secondary Education	£164,822.11	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and



		Sittingbourne & Sheppey selective planning groups
Special Education Needs & Disabilities (SEND)	£16,514.99	SEND contribution to be applied towards additional places in the Swale district.
Community Learning and Skills (Adults)	£1,060.51	Contributions requested towards additional equipment and resources for Adult Education Centres and outreach provision serving the development.
Integrated Children's Services	£2,295.55	Contributions requested towards additional resources for Integrated Children's Services to enable expansion of capacity within the hubs and provision of outreach work in the vicinity of the development.
Libraries, Registrations and Archives Service	£1,941.53	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development, including Sittingbourne Library.
Adult Social Care	£5,607.28	Towards Specialist Housing Provision in the district, adaptation of community facilities, technology to promote independence, multi sensory facilities and changing place facilities in the vicinity of the development.
Waste	£6,018.03	Towards additional capacity at Sittingbourne HWRC & WTS.
All homes to be built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part <b>M 4 (2)</b>		

All to be index-linked by the All-In Tender Price Index from Q1 2022 to the date of payment.

- 7.13.4. The application has been assessed in accordance with the KCC Development Contributions Guide, and inevitably, given the increased population as a result of additional dwellings, the proposed development will put pressure on existing community facilities. The above contributions and identified projects are considered to be CIL-compliant and are necessary to make the development acceptable in planning terms to provide sufficient community infrastructure to serve additional populations. The applicant has agreed to pay those contributions in total and agreed to trigger points identified above.
- 7.13.5. In terms of the impact upon healthcare, the proposal will generate new patient registrations in general practice, which need to be mitigated. The financial contributions, as identified by NHS, will allow that additional growth to be accommodated and mitigate the pressure arising from the proposed development. The Applicant has agreed to secure contributions in a s.106 agreement and the necessary triggers are considered to be 50% prior to the 1<sup>st</sup> occupation with the outstanding amount prior to occupation of the 12<sup>th</sup> dwelling.
- 7.13.6. Subject to all necessary contributions being secured in s.106 agreement, the proposed development would mitigate its pressure upon existing services and is in accordance with Policies CP5 and CP6 of the Local Plan and NPPF.

#### **7.14. Flood Risk, Drainage and Surface Water**

- 7.14.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM 21 of the Local Plan.
- 7.14.2. Part 4 of Local Plan Policy DM21 states that development should include where possible, sustainable drainage systems (SuDS) to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, to enhance biodiversity and amenity and increase the potential for grey water recycling.
- 7.14.3. The application site is in Flood Zone 1 and at low risk of flooding from the sea, as well as within Source Protection Zone 1. In terms of the drainage strategy for surface water disposal, this is based on the principle of providing attenuation for surface water runoff from both parcels within the site to an attenuation basin located within Parcel A. This option has been utilised as it maximises potential for preventing pollution into the Source Protection Zone and has been accepted by the Environment Agency, subject to detailed design.

The drainage layout indicates that a new basin is to be constructed to the south, and there is sufficient space on-site to accommodate the required drainage strategy, the proposed development, and the level of accessible open space.

7.14.4. This drainage strategy has been endorsed by KCC LLFA and no objections were raised, subject to further infiltration testing and detailed design being secured via safeguarding conditions. The delivery of connection point between two parcels will be dealt through separate legislation but KCC raised no objections to this matter. The maintenance and management schedule will be secured via safeguarding conditions.

7.14.5. The proposed foul water would be disposed of by connecting to the Southern Water foul water network. Comments were raised during the public consultation, raising concerns over inadequate foul sewage capacity. Southern Water commented on the application and confirmed that network reinforcements will be required to provide additional capacity. Southern Water is required to provide adequate capacity via separate legislation and did not object to the proposals. It is noted that the above arrangement will require an application under Section 106 of the Water Industry Act to Southern Water in order to provide capacity and this matter is dealt with via separate legislation which sits outside of the planning process.

7.14.6. In view of the above and subject to safeguarding conditions requiring detailed design of the drainage strategy for this site and a verification report, the proposed development will not increase the risk of flooding within or outside of the site and complies with Policy DM21 of the Local Plan and NPPF.

### **7.15. Contamination**

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

7.15.2. The site is grazing land, and the application was accompanied by a Land Contamination Assessment. This confirms that the risk of contamination on-site is low and no remediation is necessary; however, a watching brief is recommended should any contaminant deposits be found. The Mid Kent Environmental Health Team raised no objections to the proposed development. Subject to safeguarding conditions requiring a watching brief, the risk of contamination can be safely managed, and the development will comply with paragraph 196 of the NPPF.

## 7.16. Living Conditions

### *Existing residents*

- 7.16.1. Policy DM14 of the Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.16.2. The application is surrounded by countryside to the north and south (allotments). The eastern flank of the site neighbours a two-storey dwelling at 189 Borden Lane, whereas to the west, it adjoins 195 Borden Lane, also a two-storey detached property set within a linear, elongated plot. Both properties currently enjoy views of open countryside, free from developed forms. Whilst loss of view is not a material planning consideration, a thorough assessment is needed to determine the level of impact on their living conditions, particularly relating to overbearing, overshadowing, enclosing, and overlooking/loss of privacy effects.
- 7.16.3. Particular concern raised during the consultation period was the potential level of overlooking between plots 4 and 5 and 195 Borden Lane. Whilst the proposed development would introduce a new building with its windows facing at a sharp angle towards the neighbouring properties, the distance between the private patio area and the proposed plot exceeds 21 metres. The revised layout has also incorporated additional landscaping and a garage at the boundary between the proposed and existing, as such limiting the perception of overlooking. The first-floor flank window of plot 1 serves non-habitable room and will be made fixed-glazed and obscured in accordance with planning conditions. Given the above, no adverse or significant overlooking or loss of privacy would result from the proposed development.
- 7.16.4. Turning to the overshadowing impacts arising from 195 Borden Lane, there may be a small area of shade thrown as part of the proposed plots 4 and 5, but these would be to central/rear areas of extensive gardens and insignificant when compared to the scale of the overall garden, ensuring their standard of living would be preserved.
- 7.16.5. Further, the first-floor flank window of the neighbouring property serves as a bedroom (habitable) and is the only window to that room. Whilst the window currently benefits from the view towards fields, the loss of view is not a material planning consideration. The proposed dwelling is separated from the existing house by more than 10 metres, providing sufficient space to allow daylight and sunlight to penetrate the habitable area. Due to the appropriate separation distance, no adverse enclosing effects would arise. It is noted that the proposed detached garage would be located closer to the existing dwelling; however, given its single-storey form, no adverse effects are expected to result.
- 7.16.6. Focusing on the impact on residential properties along the eastern edge of the site, 189 Borden Lane has two flank windows (ground and first-floor) facing towards the application site. Whilst the proposed plots 21/22 would be separated from this dwelling by approximately 12 metres, the proposed plots have no window facing that neighbour direction, therefore

resulting in no adverse overlooking or loss of privacy. Due to the separation distance between proposed plots 34-38 and the separation together with the angle of plots 26-29, there would be no direct and adverse overlooking resulting from this site.

7.16.7. For the reasons specified above, Officers are of the view that the proposed development is acceptable and would not result in any adverse overlooking, overbearing, loss of privacy, overshadowing or enclosing effects to neighbouring property occupiers. It is also noted that some concerns were raised relating to details of the boundary with existing properties. The Boundary Treatment Plan has been submitted and it is noted that there are existing boundaries in place that will remain (not in the Applicant's ownership) and in addition, landscaping features will be provided alongside them.

7.16.8. Turning to the noise impacts, the Noise Assessment confirmed that future occupiers will not be adversely affected by noise impacts. Equally, it demonstrated that the introduction of shared driveway access along the boundary of existing property would not increase noise levels to unacceptable or significant levels. Any additional noise level impacts would be mainly associated with construction and temporary in nature. This will be managed by the CEMP and secured via safeguarding conditions.

#### *Future residents*

7.16.9. Policy DM14 of the Local Plan provides general development criteria and requires that development does not result in significant harm to amenity (including that of future occupiers of development).

7.16.10. 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.

7.16.11. The details submitted in support of the application demonstrate that all dwellings will adhere to the National Minimum Space Standard. Turning to the issue of overlooking and privacy, the proposed dwellings are shown to be separated at an appropriate distance, avoiding unacceptable overlooking and loss of privacy.

7.16.12. Some concerns raised an issue of plots 5-8 being overshadowed, as also raised by SBC Tree Officer. Sun on Ground assessment has been prepared and submitted by the Applicant in response, which confirms that during summer months, all plots will have access to sunlight in line with British Standard requirements (excess of two hours a day within 50% of garden area). During winter months, plot 6 would have access to sun within 35% area of the garden plot, thus falling short of the standard. Notwithstanding, given the considerable size of the amenity space, there would be enough sunlight to provide future occupiers with a choice and access to sun. It is therefore considered that the living condition would not be adverse for the future occupiers and this on its own would not warrant refusal.

7.16.13. In conclusion, in relation to living conditions of existing and future residents the application complies with Local Plan Policy DM14.

### **7.17. Sustainability / Energy**

7.17.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Additionally, in 2020, Swale Borough Council adopted a Climate and Ecological Emergency Action Plan, which encourages housing development to reduce carbon emissions by 50% compared to the Building Regulations Part L1 2013. Recent appeal decisions provided clarity that safeguarding planning conditions requiring 50% improvements over building regulations go beyond the requirements of Policy DM19 of the Local Plan and do not meet the tests of reasonableness or necessity.

7.17.2. This planning application has been submitted with the Energy and Sustainability Statement (September 2024), which outlines the proposed development's ambition to deliver sustainable development that specifically responds to Local Plan Policies SP1, DM19 and DM21 as well as to the Climate and Ecological Emergency Declaration by Swale Borough Council in June 2019, by achieving 65% improvement over 2021 Building Regulations requirements, relating to CO2 emissions. This would be achieved by the following measures:-

- Building high-quality development thermally efficient dwellings that exceeds building regulations requirements,
- Provision of Air Source Heat Pumps to each house,
- Integrating green and blue infrastructure into the development,
- Provision of EV charging points (active and passive),
- Preparation and monitoring of a Travel Plan,
- Water consumption limit of 110 l/day per person.

7.17.3. The above measures are sufficient to ensure policy compliance and a high standard of development. To ensure high-quality development is delivered on the ground, a compliance condition is to install carbon reduction measures. Subject to safeguarding conditions, the proposed development includes adequate measures to address climate change and complies with Local Plan Policies DM19 and DM21.

### **7.18. Other matters**

7.18.1. Comments received in respect of loss of a view of fields/countryside/open landscape are not a planning consideration when determining the planning application.

7.18.2. Concerns were raised that LPA has a duty of care to local residents. The application has been determined in accordance with legislation and in the

context of planning policies applicable and all other relevant material considerations.

- 7.18.3. Concerns were raised that the proposal would impact the peaceful qualities of allotments. The proposed houses are sufficiently separated to ensure no conflict between both uses arises.

### **7.19. Conclusion and Planning Balance**

- 7.19.1. The application site is located in the open countryside and not in a location, where the adopted spatial strategy of the Swale Local Plan aims to steer development through Policy ST3. The above appraisal concluded that the proposed development would conflict with Policy ST3(5) due to inevitable loss of undeveloped land that contributes to separation of settlements. Inevitably, the introduction of buildings and associated development would lead to reduction and erosion of the gap between Borden and Sittingbourne and the Important Local Countryside Gap shrinking as a result, thus conflicting with one purpose of the policy and thus a conflict with Policy DM25. In addition, a conflict with Policy DM31 is identified, due to the loss of Grade 2 agricultural land. Consequently, it is considered that the proposed development does not accord with theses Policies of the Local Plan. The question therefore arises whether there are material considerations that would allow decision contrary to the adopted Local Plan.

- 7.19.2. The NPPF is a material consideration to which significant weight is attached and in the current circumstances where as Swale Borough Council is unable to demonstrate 5 year housing land supply, presumption in favour of sustainable development applies (paragraph 11). In line with footnote 7 of paragraph 11(d)(i) of the Framework, the less than substantial harm to the setting of Riddles and Posiers was identified and this was weighed against the public benefits of the proposal as required by NPPF. The public benefits identified in the heritage section above decisively outweigh this less than substantial harm at lower level. Accordingly, there are no policies in the Framework of relevance to this appeal that protect areas or assets of particular importance that provide a clear reason for refusal, and the so called 'tilted' balance of paragraph 11(d)(ii) of the Framework is engaged. This means approving development unless there any adverse impacts of doing so would significantly outweigh the benefits, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes. It also means the most important policies for determining the application are out of date.

- 7.19.3. Given the above material consideration, the resulting conflict with Policies ST3, DM31 and DM25 is afforded limited weight.

7.19.4. Turning on the benefits of the scheme, the scheme adheres to good design principles and has been modified to incorporate a generous parcel of usable, open space centrally, allowing for a level of separation and retention of longer-distance views towards the countryside, thereby ensuring that no adverse harm results to the landscape. The scheme responds to the density and character of each settlement, and so it can be considered to represent good design, in line with Policies DM14 and DM24 of the Local Plan.

7.19.5. Equally, the scheme offers limited heritage benefits, such as the introduction of orchard planting to surround the immediate setting of the listed building, thereby reinforcing its original character and setting. The orchard planting on its own would not be sufficient to outweigh the harm arising from the scheme, in the context of paragraph 215. However, the development would also deliver housing, for which there is a significant need within the district. Moreover, the scheme delivers 15 affordable homes, which is 5 units above the policy requirements, thus resulting in significant benefits to provide housing to people in greatest need. This attracts substantial weight. There are also economic benefits, such as expenditure in the construction trade and business and from future occupiers which are afforded moderate weight in the context of the scheme. There are also limited benefits arising from creation of accessible open space, informal play area and biodiversity enhancements.

7.19.6. Drawing together the above harms and benefits, the adverse effects of the proposed development would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development. Although the proposal would conflict with the development plan, material considerations indicate a decision other than in accordance with it. Consequently, it is recommended to grant planning permission subject to safeguarding conditions and s.106 agreement securing all planning obligations as set out in the report.

## CONDITIONS

### CONDITIONS

#### *Time Limit*

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.

#### *Approved Plans*

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



- Landscape Masterplan, 6444-LLB-XX-XX-DR-L-0001 rev. P07,
- Proposed Site Plan (Colour), ref. 051\_100 rev. P4,
- Proposed Site – Road Adoption drawing, 051\_508 ref. P4,
- Proposed Fire Access Plan, ref. 051\_506 rev. P4,
- Affordable Housing Plan, ref. 05\_505, rev. P4,
- Dwelling Size Distribution Plan (Housing Mix), ref. 051\_504, rev. P4,
- Proposed Refuse Collection Plan, 051\_503m rev. P4,
- Proposed Boundary Treatment Plan, 051\_502, rev. P4,
- Proposed Parking Allocation Plan, 051\_501, rev. P4,
- Proposed Air Source Heat Pump Plan, 051\_500, rev. P4,
- Proposed Plot 04, 051\_203, rev. P3,
- Proposed Plot 01, 051\_200, rev. P4,
- Proposed Plot 02, 051\_201, rev. P2,
- Proposed Plot 03, 051\_202, rev. P2,
- Proposed Plot 05, 051\_204, rev. P2,
- Proposed Plot 06, 051\_205, rev. P2,
- Proposed Plot 07, 051\_206, rev. P2,
- Proposed Plot 08, 051\_207, rev. P2,
- Proposed Plot 09, 051\_208, rev. P2,
- Proposed Plot 10, 051\_209, rev. P2,
- Proposed Plot 11, 051\_210, rev. P2,
- Proposed Plot 12, 051\_211, rev. P2,
- Proposed Plot 13, 051\_212, rev. P2,
- Proposed Plot 14/15, 051\_213, rev. P2,
- Proposed Plot 16, 051\_214, rev. P2,
- Proposed Plot 17, 051\_215, rev. P2,
- Proposed Plot 18, 051\_216, rev. P2,
- Proposed Plot 19, 051\_217, rev. P2,
- Proposed Plot 20, 051\_218, rev. P2,
- Proposed Plot 21/22, 051\_219, rev. P2,
- Proposed Plot 23/24/25, 051\_220, rev. P2
- Proposed Plot 26/27, 051\_221, rev. P2
- Proposed Plot 28/29, 051\_222, rev. P2
- Proposed Plot 30/31/32/33, 051\_223, rev. P2
- Proposed Plot 34/35, 051\_224, rev. P2
- Proposed Plot 36/37/38, 051\_225, rev. P2
- Biodiversity Net Gain Assessment: Design Stage, August 2024, Native Ecology

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

#### *Landscaping*

3. No development above floor slab level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.

These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall include be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

The landscaping scheme shall be based on the Landscape Scheme Landscape Masterplan, 6444-LLB-XX-XX-DR-L-0001 rev. P07 and in particular include:-

- Landscaped maze,
- Details of measures incorporated to ensure the green area will be retained as green space in perpetuity,
- Natural timber trail features and informal play features to be provided within the site,
- Orchard tree planting,
- Visible boundaries shall have double-hedge planting (in accordance with the details shown on Boundary Treatment Plan, 051\_502, rev. P4),
- Landscaping features will be planted along existing boundaries.

Reason: In the interests of the visual amenities of the area, to protect the setting of heritage assets and encourage wildlife and biodiversity.

4. No development above floor slab level shall take place until a timetable for the delivery of the open space, including the informal play area with equipment has been submitted and approved in writing by the Local Planning Authority. The open space shall be provided in accordance with the agreed timetable and the timetable of implementation shall ensure provision of open space to meet demand from development in timely manner.

Reason: In the interest of future occupiers and to provide facilities necessary to mitigate pressure of new development on existing infrastructure.

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

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

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

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

7. The development hereby approved shall be implemented in accordance with measures set out in Arboricultural Implications Assessment, Broad Oak Tree Consultants Limited, August 2024, in particular with respect tree protection fence.

Reason: To protect features that provide visual interest.

#### *Details of Materials*

8. No development above floor slab level shall commence until full details of the materials to be used in the construction of the external surfaces of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The proposed materials shall match those indicated on proposed elevations and as described in Design and Access Statement, submitted on 31<sup>st</sup> January 2025, unless otherwise agreed with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to further secure good design and a satisfactory appearance.

#### *Archaeology*

9. To assess and mitigate the impacts of development on significant archaeological remains:
  - a) Prior to any development works the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
  - b) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
  - c) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
  - d) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to for written approval in writing the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

1. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development.
  2. 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.
  3. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.
- e) The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with policies in the Local Plan and the National Planning Policy Framework.

#### *Water Consumption*

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

Reason: In the interests of water conservation and sustainability.

#### *Accessible and Adaptable Dwellings*

11. At least one of the affordable units hereby permitted shall be built to M4(3) of building regulations standards, and all of the remaining affordable units will be built to M4(2) of building regulations standards.

Reason: In order to secure accessible and adaptable dwellings.

#### *Energy/Sustainability*

12. The measures to be used to increase energy efficiency, thermal performance and carbon emissions reductions, as set out in the Energy and Sustainability Statement, Stroma, 22/08/2024, shall be fully implemented within each dwelling prior to its first occupation taking place.

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

#### *Air Quality*

13. The development shall deliver and install the costed and hereby approved on-site air quality mitigation as detailed in 'Emissions Mitigation Assessment',

ref. 8474r3 dated 24<sup>th</sup> January 2025 by Redmore Environmental prior to occupation of each of the dwellings.

A verification report shall be submitted to the Local Planning Authority within 1 month of the last occupation within the site to demonstrate that approved measures have been installed in full, and approved in writing by the Local Planning Authority.

Reason: To ensure that the localised air quality impact is appropriately mitigated as a result of the proposed development.

### *Ecology*

14. Prior to and during construction, the ecological mitigation within Ecological Impact Assessment (Native Ecology; August 2024) must be implemented as detailed. If works do not commence within 18 months of the date of the report, a review and, if necessary, an update of the ecological impact assessment must be submitted to the LPA for written approval. The updated Ecological Impact Assessment, together with any associated mitigation, must be implemented as approved.

Reason: In the interest of the ecology.

15. Within 6 months of works commencing within the site an ecological enhancement plan must be submitted to the LPA for written approval. The plan must demonstrate how the site will enhance biodiversity through planting which will benefit pollinators, and/or native species planting and ecological enhancement features within the buildings and site. The plan must be implemented as approved.

Reason: To enhance biodiversity within the site.

16. With the submission of the biodiversity gain plan, habitat management and monitoring plan must be submitted to the LPA for written approval. It must include the following:
- Habitat map of the site to be managed
  - Aims and objectives of the management plan
  - Overview of the management to be implemented
  - Timetable to implement the management – it must be capable of being a 5 year rolling plan
  - Details of management plan reviews
  - Details of monitoring
  - Details of who will implement the works
- The plan must be implemented as approved.

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

17. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the completion of site access works of the development. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed, including ecological and habitat areas and
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions, together with a plan of management compartments;
- 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 the implementation of the plan;
- h) Monitoring measures to demonstrate that the aims and objectives of management are being achieved, including:
  - Identification of adequate baseline conditions prior to the start of development;
  - Methods for data gathering and analysis;
  - Location of monitoring and timing and frequency of monitoring;
  - Responsible persons and lines of communication.
- i) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.

The LEMP shall also 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 plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of ensuring positive management of habitat created to maintain their conservation value.

18. No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority.

This scheme shall be designed following best practice guidance within Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night' and shall include:

- Site plan showing the location and types of lighting
- Light spill plan showing both horizontal and vertical light spill
- Details of any dimming regime to be implemented.

The lighting scheme shall incorporate low-level lighting along pedestrian routes and be installed, maintained, and operated in accordance with the approved scheme.

Reason: In the interests of protected species, visual and neighbouring amenity.

### *Drainage*

19. Development shall not begin on either parcel until a detailed sustainable surface water drainage scheme for that parcel has been submitted to (and approved in writing by) the local planning authority.

The detailed drainage scheme shall be based upon the Flood Risk Assessment dated 21<sup>st</sup> August 2024 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

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

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

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

20. No building hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system which serves that unit, and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as-built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 175 of the National Planning Policy Framework.

21. Prior to the first occupation of the development hereby approved, a Drainage Maintenance and Management Schedule shall be prepared and submitted to and approved in writing by the Local Planning Authority, which provides the following details:

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

The management and maintenance plan shall be implemented in line with details approved.

Reason: To prevent flooding.

#### *Hours of Construction Activity*

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

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

Reason: In the interests of residential amenity.

#### *Contaminated Land*

23. If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Water.



## Highways

24. The development shall not be brought into use until a Travel Plan, to reduce dependency on the private car, has been submitted to the Local Planning Authority. The Travel Plan shall be approved in writing by the Local Planning Authority. It shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: To support sustainable development.

25. No development shall commence unless and until the Construction Management Plan is submitted to and approved in writing by LPA and which includes:
- a) Construction phasing
  - b) Routing of construction and delivery vehicles
  - c) The parking and turning areas for vehicles of site operatives and visitors
  - d) Loading and unloading of plant and materials
  - e) Timing of deliveries
  - f) Recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic
  - g) Wheel washing facilities
  - h) Temporary traffic management / signage.
  - i) Permitted construction traffic arrival and departure times
  - j) Management of loose loads
  - k) Any requirements for temporary construction access

Thereafter all construction activity in respect of the development shall be undertaken in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority.

The CEMP shall also include Construction Method Statement that shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The construction of the development shall then be carried out in accordance with the approved methodology.

Reason: To mitigate any adverse impact on development on the A249 and in the interests of interests of the amenities of the area and highway safety, in accordance with DfT Circular 01/2022 and section 10 of the Highways Act 1980, Local Plan and NPPF.

26. No dwelling shall be occupied until cycle parking, vehicle parking and turning space for that dwelling has been provided and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning

(General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

27. Prior to the occupation of any dwelling the following works between the dwelling and the adopted highway shall be provided:

The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: To ensure the development is accessible and safe for future occupiers.

#### *Access*

Two access points off Borden Lane hereby approved shall be completed – with the exception of the upper most surfacing - as shown on plans prior to the use of the site commencing. Prior to the first occupation of the site, the access shall be completed with the final surface layer being provided in full. The access shall be maintained and retained thereafter.

Reason: To ensure highways safety.

#### *Cycle storage*

28. No dwelling shall be occupied until covered, secured cycle parking facilities have been constructed and space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site, in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling.

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

#### *Obscure Glazing*

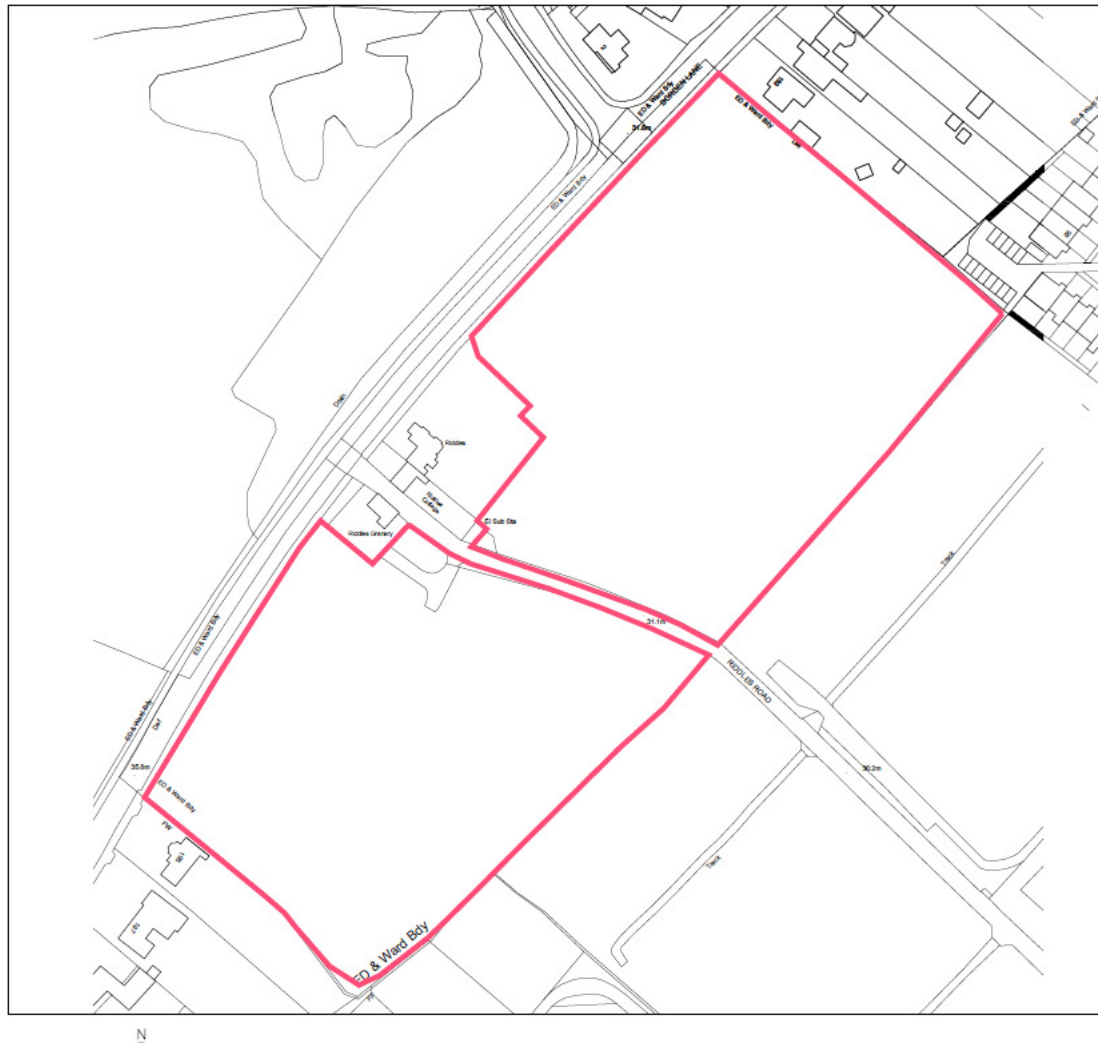
- 29., Prior to the occupation of Plot 1 the proposed first-floor flank windows serving en-suite room to Plot 1, shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be

incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

30. Prior to the occupation of Plot 4, the proposed first-floor windows serving dressing room and en-suite to Plot 4, shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high-level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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



<b>2.5 REFERENCE NO - 24/504519/REM</b>		
<b>PROPOSAL</b> Approval of Reserved Matters (Layout, Scale, Appearance and Landscaping) erection of 10no. residential dwellings with associated landscaping, road layout and parking pursuant to 21/502609/OUT		
<b>SITE LOCATION</b> Land To The East Of Lynsted Lane, Lynsted, Kent, ME9 9QN.		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to grant reserved matters approval 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.		
<b>APPLICATION TYPE</b> – Reserved Matters application.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objected to the application, and the Ward Councillor called the application in.		
<b>Case Officer</b> Joanna Dymowska		
<b>WARD</b> Teynham and Lynsted	<b>PARISH/TOWN COUNCIL</b> Lynsted and Kingsdown	<b>APPLICANT</b> Eden Real Estate Group Ltd And FPC Income And Growth PLC  <b>AGENT</b> ECE Planning Limited
<b>DATE REGISTERED</b> 04.11.2024		<b>TARGET DATE</b> 03/02/2025
<b>BACKGROUND PAPERS AND INFORMATION:</b> Documents referenced in the report are as follows: - Arboricultural Impact Assessment, Method Statement and Tree Protection Plan, PJC, 4 <sup>th</sup> June 2025 Landscape Strategy Drawing Proposed Site Plan, 24_1597-100 re.v J Surface Water Drainage Strategy Report, Manhire Associates, Rev. 04, May 2025		

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

[24/504519/REM | Approval of Reserved Matters \(Layout, Scale, Appearance and Landscaping\) erection of up to 10no. residential dwellings with associated landscaping, road layout and parking pursuant to 21/502609/OUT | Land To The East Of Lynsted Lane Lynsted Kent ME9 9QN](#)

## 1. **SITE LOCATION AND DESCRIPTION**

- 1.1. The site comprises a broadly rectangular-shaped piece of vacant agricultural land to the east of Lynsted Lane. The western boundary of the site is framed by a tall hedgerow that extends upwards from a low earth bank to the road. Directly opposite the hedgerow, on the other side of Lynsted Lane, stands a line of buildings that vary in appearance but are mostly traditional and date from the mid-to-late 19th century. This group of ribbon-form development does not contain any listed buildings.
- 1.2. The site does not contain any heritage assets and is outside any conservation area. The closest listed buildings are numbers 70, 72, and 74 London Road, and the George Inn, which are Grade II listed.
- 1.3. The land levels on both sides of Lynsted Lane are elevated above the road itself with the houses all being slightly set back from the footway running along that side of the lane. The gardens slope upwards from the edge of the footway and/or the properties are accessed by steps up to them, needed to address the change in levels. The site is not subject to, or adjoining, a local or national landscape designation. The site is in close proximity to the village centre of Teynham.

## 2. **PLANNING HISTORY**

- 2.1. **21/502609/OUT:** Outline application for the erection of up to 10no. residential dwellings with associated landscaping, road layout and parking. (Access being sought). Refused on 28.06.2022, allowed at appeal on 05.10.2023.

## 3. **PROPOSED DEVELOPMENT**

- 3.1. This is a reserved matters application for appearance, landscaping, layout and scale following the grant of outline planning permission, ref: 21/502609/OUT for the erection of up to 10no. residential dwellings with associated landscaping, road layout and parking. Access was determined and approved at the outline stage.
- 3.2. The submitted details propose the construction of ten dwellings. Four of the proposed dwellings would be detached, whereas the northern part of the site would accommodate semi-detached properties. The proposed housing mix is exactly the same as indicated at the outline stage:-

- 1No. 2 bed house (plot 5);
  - 5No. 3 bed houses (plots 3, 4, 6, 7 and 8);
  - 4No. 4 bed houses (plots 1, 2, 9 and 10);
- 3.3. Turning to the proposed parking details, a total of 31 parking spaces are proposed. The proposal is for 24 car parking spaces for the 10 residential units, 2 visitor spaces and 5 additional parking spaces for existing residents of Lynsted Lane. Each dwelling will have one EV charging point.
- 3.4. Turning to landscaping, partial removal of the hedgerow would be required to accommodate the access point, which already benefits from detailed planning permission. Additional planting and replacement hedgerows will be provided to compensate for the loss. The landscaping scheme also includes:-
- Buffer planting along the eastern and northern boundaries,
  - Tree planting throughout the site,
  - Tree and hedge planting along the southern boundary and eastern boundary.

#### 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 once and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. In total 15 letters of representation were received from 11 separate addresses, all of which objected to the proposed development. Concerns were raised in relation to the following matters:

Comment	Report reference
Loss of countryside and urbanisation.	7.3.3
The surrounding area has seen too much development.	7.12.1
It has been a lifestyle choice for many to move to the countryside and not live in the centre of a town with a view of wall-to-wall houses. We are being forced to accept the erosion of green spaces for profit.	7.3.3
Lynsted Lane is a very narrow country lane which already suffers from constant traffic jams, obstruction and damage to homeowners' vehicles. The proposed development will make it worse.	7.10.3, 7.10.4, 7.10.9
The proposed development will add to noise, carbon and light pollution.	7.7.4

The village does not have enough sewage space to accommodate more development.	7.11.2
The application is ' <i>a rehash of the previous proposal, which was rejected</i> '	7.3.3
Loss of privacy due to land-level changes.	7.7.2
Insufficient community infrastructure to serve the needs of this development.	7.12.2
The development will devalue properties currently benefiting from the outlook towards fields.	7.12.1
Lynsted Lane is unsafe with dangerous bottlenecks and many semi-blind bends.	7.10.3, 7.10.4, 7.10.9
Increased risk of collisions due to an increase in traffic.	7.10.3, 7.10.4, 7.10.9
The site is in the green belt.	7.3.3,
Unsafe access arrangement.	7.10.3, 7.10.4, 7.10.9
The loss of an established hedgerow.	7.8.2, 7.9.2, 7.9.5
The adjacent lane is unsuitable for emergency vehicles and there was no consultation with Kent Fire & Rescue.	7.10.3
Harmful impact upon the setting of listed buildings.	7.5.4, 7.5.5
Lack of pavements.	7.10.3, 7.10.4, 7.10.9
Residents parking is unenforceable.	7.10.6, 7.10.7
The proposed development will result in economic damage to businesses in Greenstreet (due to the loss of on-street parking).	7.12.3
Non-compliance with the Lynsted with Kingsdown Parish Design Statement.	7.3.3.
The site will expand with more development.	7.12.1
Flooding risks.	7.11.2

- 4.3. **Lynsted and Kingsdown Parish Council** provided two letters which objected to the application on the following grounds:



Comment	Report reference
Parking spaces are insufficient to mitigate loss of parking along Lynsted Lane. A separate parking area should be provided for 10 parking spaces to provide sufficient mitigation.	7.10.5, 7.10.6, 7.10.7
Light pollution.	7.9.4, 7.9.5
Loss of privacy due to land level differences.	7.7.2
Loss of hedgerow is harmful visually and in terms of biodiversity.	7.8.2, 7.9.2, 7.9.5
Concern relating to the future expansion.	7.12.1

## 5. **REPRESENTATIONS**

- 5.1. **SBC Heritage:** No objections.
- 5.2. **SBC Urban Design:** No urban design objections, subject to landscaping and materials conditions.
- 5.3. **SBC Climate Change:** No objections, but notes that the details in the Planning Statement are limited. However, it is accepted that climate change is to be addressed through conditions 12 and 18 of the outline planning permission.
- 5.4. **SBC Greenspaces:** Landscaping is appropriate and broadly in line with the outline permission, with a strengthening of the existing natural hedgerows and planting of buffers and hedges to provide boundary treatment and biodiversity. A suggestion was made to break up the line of parking along Lynsted Lane.
- 5.5. **KCC Ecology:** Initially requested further information prior to the determination of the application in respect of:
  - Details of external and integral bat/bird boxes or log piles,
  - Clearer and more definitive commitment on landscaping strategy drawing to ensure that landscape measures will be delivered (instead of '*could be delivered*').

Following from the above, the applicant revised the landscape strategy drawing, which shows the exact locations of log piles and provided a confirmation in writing that landscaping measures are integral to the proposal and will be delivered. KCC raised no objection to this, subject to a safeguarding condition requiring evidence of implemented ecological measures.

- 5.6. **KCC SUDs (Lead Local Flood Authority):** Following the receipt of additional information (amended hydraulic calculations), no objections are raised as further details will be provided via conditions secured at the outline stage.
- 5.7. **Lower Medway Internal Drainage Board:** No comments to make.
- 5.8. **KCC Highways:** No objections. Initially raised concerns around parking provision and an insufficient area for the refuse vehicle to access the site near plot 4. The applicant provided amended drawings to address matters relating to access and revised plans to increase parking provision to 31 spaces, to which KCC raised no objections, subject to conditions requiring provision and retention of parking, installation of EV charging points, and provision of pedestrian visibility splays.
- 5.9. **Environment Agency:** No comments offered.
- 5.10. **Southern Water:** No objections. Notes that a formal application for a connection to the public sewer is to be made by the applicant or developer.
- 5.11. **Kent Police:** No objections - applicants/agents should consult Kent Police to incorporate Secured By Design (SBD) as appropriate.
- 5.12. **KCC PRow** – No comments.
- 5.13. **Natural England** – No comments.
- 5.14. **UK Power Networks:** No objection, but informs that there are HV underground and LV overhead cables on the site running within close proximity to the proposed development. Prior to the commencement of work, accurate records should be obtained from UK Power Network.
- 5.15. **SBC Environmental Health:** No objections.
- 5.16. **Kent Minerals & Waste:** No objections.

## 6. **DEVELOPMENT PLAN POLICIES**

### 6.1 **The National Planning Policy Framework (NPPF)**

### 6.2 **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;
- ST4 Meeting the Local Plan development targets;
- ST5 The Sittingbourne Area Strategy;
- CP3 Delivering a wide choice of high quality homes;
- CP4 Requiring good design;
- CP8 Conserving and enhancing the historic environment;
- DM7 Vehicle parking;
- DM14 General development criteria;
- 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;
- DM31 Agricultural land
- DM32 Development involving listed buildings;

### **Supplementary Planning Documents:**

- Parking Standards (2020);
- Landscape Character and Biodiversity Appraisal (2011). According to the Landscape Character and Biodiversity Appraisal (2011), the application site is located inside Lynsted Enclosed Farmlands. The condition of the landscape is good and overall, this landscape area is identified as a moderately sensitive area.

### **Additional material considerations:**

- Lynsted Parish Design Statement (2002). This Statement was published in 2002 and refers to policies of the 2000 Swale Local Plan, so these factors reduce its relevance and the weight that it can be afforded. Notwithstanding, it describes the Parish and provides general design guidance for new development both at the village itself and on London Road (Teynham) which is within the Parish. The policies include a desire to protect so-called “sensitive edges” at London Road and to the east of the village centre. The other is to maintain a “one building deep” pattern of frontage development throughout the village saying; *“Where the dominant pattern in the locality is for houses to be built adjacent to highways, this pattern should be respected.”*

## **7. ASSESSMENT**

7.1. The application has been called in to the Planning Committee by Ward Councillor Julien Speed due to Lynsted and Kingsdown Parish Council objections specified above.

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

- Principle
- Character and appearance, and landscape impacts
- Heritage and Archaeology
- Size and Type of Housing
- Living Conditions
- Trees
- Ecology
- Transport and Highways
- Surface Water Drainage
- Other matters

### 7.3. Principle

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

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

7.3.3. In this case, the principle of development is established by the grant of outline planning permission for up to 10 dwellings. This reserved matters application relates to the details for 10 dwellings which falls within the limit of development as approved, where the loss of greenfield has already been accepted. The outline planning permission also dealt with access in detail. As such, the matters for determination in this reserved matters application are limited to appearance, landscaping, layout and scale.

### 7.4. Character and appearance and landscape impacts

7.4.4. 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 through policy CP4.

7.4.5. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. The application site is not in a designated landscape and as such DM24 requires proposals to protect and enhance these landscapes and sets out that planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts and when significant adverse impacts remain, that the social or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

7.4.6. The detailed design approach generally follows that seen by the Inspector in indicative form at the outline stage and comprises loose perimeter blocks, with the housing position, footprint and orientation, road layout and parking to the western edge all aligning with the outline submission. The proposed density is relatively low for the edge of a settlement location.

7.4.7. The dwellings would be two-storey in height and set under pitched roofs. The houses would feature varied decorative design elements, such as gabled projections, timber weatherboarding, canopies, or barn shutters. The materials would be a mixture of cladding, yellow buff brick, multi-red brickwork, plain clay tiles and slate tiles to the roof. The proposed joinery detail is of high quality, featuring deep sash windows that replicate the style found in the surrounding area. To summarise, the appearance and materiality would represent high-quality development that is appropriate to the context and sits comfortably on the site. The Council's Urban Design Officer raised no objections to the proposed development.

7.4.8. Whilst soft landscaping at the road frontage would be reduced, the proposal has been arranged to enable a landscaping buffer to remain a feature along the Lynsted Lane frontage of the site, which is considered to be appropriate given the edge of settlement location of the site and the manner in which the village transitions into its rural surroundings. The loss of hedgerows was a concern widely raised through public representation, but it has been accepted through the grant of outline planning permission. Additionally, suitable mitigation measures are proposed, including a replacement hedgerow and tree planting. It is noted that the Greenspace Officer recommended that parking along Lynsted Lane be broken up by additional landscaping; however given the setback and landscaping to the front, it is considered that the scheme strikes the appropriate balance between increased parking provision, identified as needed through local representations, and adequate landscaping features.

7.4.4. Turning to the wider landscape and visual impacts, the Planning Inspector in granting planning permission acknowledged that the open and undeveloped character of the appeal site would change as a result of the proposal. However, the Inspector was satisfied that the proposed development would adjoin existing development to the north and west and would be nestled into the edge of the settlement. In conclusion, the Inspector confirmed that there would be no visual or landscape harm resulting from the proposed development. Given the high level of consistency between the outline and reserved matters submission, and based upon the assessment of the appearance, layout and scale it is considered that the proposed development would appear as a coherent and small-scale extension to the village with no adverse and wider landscape impacts.

7.4.5. In view of the above, the development accords with policies CP4, DM14 and DM24 of the Local Plan and NPPF.

## 7.5. Heritage and Archaeology

7.5.1. 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.

7.5.2. 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.

7.5.3. The application site does not contain any heritage assets. To the north of the site and along the main road (London Road – A2), there are some listed buildings (grade II listed), with Nos 70,72 and 74 London Road and The George Inn being closest to the application site. Approximately 120 metres to the east of the site lies the closest point of the Cellar Hill and Greenstreet Conservation Area.

7.5.4. The appeal decision considered the impacts of the development on heritage assets and concluded that the proposed development would preserve the setting of nearby listed buildings and have no harmful impact upon the setting of the conservation area. It also concluded that the development would protect on-site archaeology, subject to securing appropriate mitigation for archaeological findings by way of planning conditions.

7.5.5. The proposal would generally retain the previous indicatively submitted layout and arrangement of open space, which was considered to mitigate impacts on the setting of nearby heritage assets sufficiently. The Council's heritage consultant advises that the reserved matters application will have no additional impact upon the setting of these heritage assets. The impact on archaeology is managed appropriately through conditions on the outline consent. The proposed development therefore accords with policies DM32, DM33 and DM34 of the Local Plan and the NPPF. 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.

## 7.6. Size and Type of Housing

7.6.1. 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.

7.6.2. The proposal would provide the dwelling size mix as follows:

- 2 bedrooms – 1
- 3 bedrooms – 4
- 4 bedrooms – 5

7.6.3. The supporting text to Policy CP3 sets out a Borough wide requirement for housing of different sizes. In addition to this, the supporting text splits the Borough into Local Housing Market Areas (LHMAs). The LHMA that this site would fall into is 'Rural parts of Sittingbourne, Iwade, Upchurch, Newington, Milstead and Teynham'. In this LHMA the supporting text states *"Going forward, the aspiration could be to encourage the development of good quality family housing, for which the greatest local demand exists."*

7.6.4. In this case, the proposal is weighted towards 3 and 4 bedroom dwellings, which would be in line with the preference for family housing. On this basis, and also that there is a need for all dwelling sizes in the Borough, the scheme is considered to comply with policy CP3 of the Local Plan.

## **7.7. Living Conditions**

- 7.7.1. The Local Plan at policy DM14 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.
- 7.7.2. The proposed layout maintains sufficient spacing between proposed dwellings and existing neighbouring properties. It is considered that the site can accommodate 10 dwellings without resulting in a harmful impact upon existing neighbouring dwellings in terms of residential living conditions. This is because the separation distances between the proposed houses and those along Lynsted Lane are in excess of 30 metres, with a highway and landscaping separating the existing dwellings on Lynsted Lane and those proposed dwellings closest to the western boundary of the site. The separation between the proposed plots to the north and properties along London Road is approximately 35 metres. There is a flank window at first-floor level in plot 6 facing north; however, due to this distance, there will not be an unacceptable loss of privacy. Overall, even taking into account land levels, given the degree of separation, the proposed development would not give rise to an unacceptable loss of light, outlook, overshadowing, overlooking or loss of privacy of existing residents.
- 7.7.3. Regarding future residential amenity, each dwelling will have a spacious private amenity space and each of the gardens will have a depth of approximately 10m, which is considered to be sufficient external amenity space to serve future occupants. The back-to-back separation distances between proposed dwellings range between 19.5m and 25m, which is considered adequate to provide a level of privacy to future occupiers. It is noted that plot 05 would be orientated in a way that provides some views towards the rear garden of plot 06, however, no direct views into their patio area would be possible due to the lack of windows in the rear elevation (on first floor), so unacceptable overlooking would not occur.
- 7.7.4. Relating to the noise impacts, in considering the outline planning application the Inspector was satisfied that the proposed development would not result in any adverse living conditions to future occupiers with respect to noise. SBC Environmental Health Officer has also raised no objections or concerns relating to this point.
- 7.7.5. Taking the above into account, it is considered that the development would not result in unacceptable adverse impacts on the living conditions of either existing or future residents and complies with policy DM14 of the Local Plan.

## **7.8. Trees**

- 7.8.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside and urban environments. This is recognised through Policy DM29 of the Local Plan.

7.8.2. The outline application established the removal of the hedgerow on the western boundary of the site as acceptable in order to facilitate the access into the site. The submitted landscaping strategy drawings confirm that a replacement hedge will be planted along the western boundary (setback from the road) to ensure that visual and biodiversity mitigation is in place. Further hedgerow and tree planting is proposed around the southern and eastern boundary. Overall, the proposal is to remove three trees and one hedgerow line. Replanting of trees will take place within the site. While some trees are planted within residential gardens (as noted by the SBC Greenspace Officer), the majority of trees are planted in publicly accessible areas. In overall terms, the proposals will acceptably compensate for the planting to be lost, and as such, this approach is acceptable. The details provided do not show where the precise species of planting will be located and therefore a condition is recommended to ensure these details are appropriate.

7.8.3. The submitted tree protection plan confirms that tree protection measures as set out within the approved Arboricultural Report will be incorporated. The tree protection plan ensures that no extensive work will take place within root protection zones. As such, the proposal would not adversely impact trees over and above the previously consented development. The implementation of development in accordance with Arboricultural Report will be secured via a safeguarding condition. As a result, the proposal complies with policy DM29 of the Local Plan and NPPF.

## 7.9. Ecology

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

7.9.2. 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.

7.9.3. In assessing the outline planning application, the Planning Inspector considered that the proposal would have acceptable ecological effects and appropriate enhancements were secured by conditions relating to lighting, details of landscaping and ecological mitigation. In addition, a contribution was secured to mitigate impacts upon the Swale Special Protection Area under the S106 Agreement in association with the above outline approval.

7.9.4. The Ecological Appraisal submitted at the outline stage secured the delivery of the following ecological mitigation measures:-

- Scrub creation and/or native species hedgerow planting;
- Lighting strategy to manage lighting levels (secured via condition),
- Precautionary mitigation for hedgehogs, badgers, bats and hazel dormouse



- Measures, such as native tree, shrub and hedgerow planting are designed into the Landscape Strategy to enhance habitat for nesting birds.
- Installation of new bird/bat boxes in new homes (number to be confirmed by condition);
- Installation of log piles (3)

Initially, KCC Ecology requested further clarification and a strong and clear commitment to the delivery of all ecological mitigation, including the location and quantity of bat boxes/log piles. The revised landscaping strategy drawing has been submitted, which provides confirmation that the above features will be delivered. The revised landscaping strategy confirmed that integrated bat boxes will also be used and confirmed their quantum (10 integrated bat boxes, 3 log piles 4 bird boxes). KCC Ecology raised no objection to the proposed mitigation, subject to a safeguarding condition requiring evidence of installation.

7.9.5. As such, the proposed development continues to be acceptable with regard to ecological matters and lighting impacts, subject to the measures secured at the outline stage and in accordance with policy DM28.

7.9.6. In terms of Biodiversity Net Gain (BNG), the outline permission was granted before 12<sup>th</sup> February 2024, which means that a mandatory net gain under the terms of the Town and Country Planning Act is not required. Notwithstanding this, condition 7 on the outline consent secured delivery of 10% BNG as a minimum; however, this matter will be required to be dealt with via details submitted separately to deal with this condition.

## **7.10. Transport and Highways**

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

7.10.2. Local Plan policies CP2 and DM6 promote sustainable transport through utilising good design principles. Policy DM6 sets out that where highway capacity is exceeded and/ or safety standards are compromised, proposals will need to mitigate harm. Policy DM7 requires parking to be provided in accordance with the Council's adopted Parking Standards SPD.

7.10.3. As set out above, access has been approved in detail. Therefore, matters relating to the access itself, and the impact of the development on the capacity of the surrounding and wider highway network have been considered acceptable and cannot be revisited. This also refers to access safety for fire perspective and it is noted that fire tracking details were submitted at outline and viewed as adequate and KCC Highways is satisfied that sufficient turning and manoeuvre space exists within the site for smaller and larger vehicles. In respect of the outline permission, the Planning Inspector summarised that the evidence provided by third parties shows existing conditions on the northern part of Lynsted Lane to be chaotic and harmful to highway and pedestrian safety. This is in part due to existing obstructions created by parked vehicles. As part of the appeal, a suite of potential alterations and measures on Lynsted Lane were proposed to assist the highway's ability to accommodate additional traffic. These include the introduction of an additional footway and a narrowed section

of carriageway giving priority to southbound traffic, and provision of additional parking within the site to offset that lost on Lynsted Lane (as part of the off-site highway works).

- 7.10.4. Condition 4 of the outline planning permission requires the applicant to submit details of a scheme for works to Lynsted Lane, including details of safe movement of traffic and pedestrians (i.e. the footway). This is not shown in the reserved matters application, as it will be managed through submission of detailed conditions, as envisaged at the outline stage. The approval of the reserved matters of layout, scale, appearance and landscaping in the manner shown would not appear to prejudice the ability to address condition 4 in a satisfactory manner.
- 7.10.5. Regarding parking provision, as well as serving the needs of the residents of the site, Condition 5 requires details of a scheme to provide parking spaces within the site to serve residents outside the site, i.e. existing residents on Lynsted Lane, due to the loss of unallocated on-street parking as a result of the highway works referred to in condition 4. This scheme is required to be submitted and approved prior to the commencement of development. The proposed development includes 31 parking spaces in total. 26 spaces are provided for future occupiers and visitors, and 5 spaces are provided as compensation for the loss of on-street parking. In terms of the spaces for the future occupiers, these accords with the Council's Parking Standards for suburban locations.
- 7.10.6. In terms of the 5 compensatory parking spaces, this is considered an adequate provision by KCC Highways and is in line with the number of spaces that were expected to come forward when the outline planning application was being considered. KCC Highways confirmed that this reserved matters application can be determined prior to details being submitted in relation to condition 4 of the outline planning permission, as long as the off-site highway works are implemented prior to the first occupation, which is controlled by the wording of the condition itself.
- 7.10.7. In respect of the details coming forward in relation to condition 5 under this reserved matters application, this is considered appropriate from a procedural perspective as interested parties have had the opportunity to view and comment on this aspect of the scheme.
- 7.10.8. It is noted that concern has been raised locally regarding how it can be ensured that these compensatory parking spaces are reserved for existing residents of Lynsted Lane. It is considered that this matter is important to ensure that the spaces perform the function for which they were intended. As such a condition has been included below which requires details of measures to be submitted, approved and implemented prior to the occupation of the dwellings.
- 7.10.9. Consequently, the proposed development would not lead to unacceptable highway impacts, noting that vehicle parking is provided in accordance with Swale Borough Council standards. The provision of compensatory parking is in line with the expected parking requirement and KCC Highways did not object to the proposed development and parking provision within the site.
- 7.10.10. The proposed parking layout plan demonstrates that one parking bay for each dwelling will be provided with electric vehicle charging (EVC) facilities.

- 7.10.11. Overall, it is considered that the scheme complies with policies DM6 and DM7 of the Local Plan and would not lead to unacceptable highway impacts.

### **7.11. Surface Water Drainage**

- 7.11.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan.
- 7.11.2. The application site is located in Flood Zone 1 and is at no risk of flooding. The submission has been accompanied by a Surface Water Drainage Strategy, which demonstrates that infiltration is unlikely to be feasible in this location. As such, the proposed drainage will be managed through a collection method, including road gullies or linear channels, which will ultimately discharge to borehole soakaways. Cellular storage and borehole soakaways are to be used for the infiltration method, and the trapped gullies and petrol interceptors will provide a level of treatment prior to discharge. Further details of the design are secured through conditions on the outline consent, and KCC SuDS raised no objection to this approach, subject to further details provided at the condition stage. The foul water from the development will be collected in a system of gravity sewers discharging to the existing foul water drainage network in London Road, to which statutory consultees raised no objection.
- 7.11.3. As such, the proposal will provide acceptable drainage measures in accordance with policy DM21 of the Local Plan and NPPF.

### **7.12. Other Matters**

- 7.12.1. Consultation responses raised a concern around this application being a first stage of development coming forward into the broader land holding, that this area had too much development and proposal will lead to devaluation of surrounding properties. Whilst concerns of the local community are duly noted, these are not material to the assessment of this application as each application is decided on its own merits.
- 7.12.2. It is also noted that the additional pressure on the existing infrastructure has been addressed as part of the outline permission, which secured S106 contributions towards open space, community infrastructure, including schools, libraries, social care, waste management, and youth services.
- 7.12.3. Some concerns were raised regarding the potential harmful impact on the surrounding businesses' economies due to the loss of parking spaces. The proposed development will attract permanent occupants to the area, enabling them to access services in a sustainable manner (on foot), which is considered beneficial to the village's viability.

- 7.12.4. The Inspector imposed conditions relating to the provision of cycle parking and communal parking, and found that no such condition was required to secure EV charging points. As such, these conditions are either not required to be duplicated or should not be imposed on this reserved matters decision.

### 7.13. Conclusion

- 7.13.1. The application site benefits from outline permission where the principle of residential development has been established as acceptable. The proposed design and detailed reserved matters submission are considered to be acceptable and in accordance with the relevant Local Plan policies and the National Planning Policy Framework as set out above in this report.

## RECOMMENDATION

Approve – subject to the following conditions:

## CONDITIONS

1. The development hereby approved shall be carried out in accordance with the following drawings/details:
  - Proposed Site Plan, ref. 24\_1597-100 rev. J,
  - Landscape Strategy, 0413/21/B/20C,
  - Proposed Elevations and Floor Plans – Type B/C, ref. 24\_1597 – 150, Rev A,
  - Proposed Elevations and Floor Plans – Type A, ref. 24\_1597 – 140, Rev A,
  - Proposed Elevations and Floor Plans – Type D, ref. 24\_1597 – 160,

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

2. The area shown on the submitted layout as vehicle parking spaces shall be provided before occupation of the dwellings which they serve, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

3. Pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access footway level shall be provided at each private vehicular access prior to it being brought into use and shall be subsequently maintained.

Reason: In the interests of highway safety.

4. The development hereby approved shall be implemented in accordance with the measures set out in the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan, PJC, 4<sup>th</sup> June 2025.

Reason: To protect trees.

5. The dwellings shall be constructed in accordance with the external facing materials as shown on drawings 24\_1597\_140 Rev A; 24\_1597\_150 Rev A; and 24\_1597\_160.

Reason: In the interest of visual amenity.

6. Prior to the first occupation within each dwelling taking place, photographic evidence of the implementation of the approved biodiversity enhancement measures as detailed in the Landscape Strategy (ref. 0413/21/B/20C as published 16 June 2025) for that dwelling shall be submitted to the local planning authority for approval in writing. The approved details shall be retained thereafter.

Reason: To protect and enhance biodiversity in accordance with paragraphs 187, 192 and 193 of the National Planning Policy Framework (December 2024), and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

7. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall be based upon drawing 0413/21/B/20C and include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

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

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

10. Details setting out how the 5 compensatory parking spaces for the existing residents of Lynsted Lane (as labelled 'OSP' on drawing - Proposed Site Plan, ref. 24\_1597-100 rev. J) will be managed to ensure they are reserved for these residents shall be submitted to and approved in writing by the Local Planning Authority. The parking spaces and the approved measures shall be provided prior to the occupation of any new dwelling on the site. Once approved, the measures shall be adhered to in perpetuity.

Reason: In the interests of highway safety and convenience.

### **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.



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**PLANNING COMMITTEE – 17th July 2025****PART 5**

Report of the Head of Planning

**PART 5**Decisions by County Council and Secretary of State, reported for information

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- **Item 5.1 - Land at Eden Top, Sheppey Way, Bobbing, Kent, ME9 8QP**

**PINS Decisions:****Section 73 Application (Committee Decision) - Appeal Allowed****Enforcement Notice Appeal – Allowed****Two Applications for an Award of Costs - Refused****Observations**

Planning permission was sought for the removal of conditions 3 and 4 on SW/09/0972, with the effect being that the use of the gypsy and traveller site would no longer be tied to an individual and that the use could continue beyond the occupation of the site by that person. The main issues were identified to be whether the absence of a personal link and justification for the site would be acceptable, taking into account the remote location and impact on the Important Local Countryside Gap (ILCG).

The Inspector considered that the removal of the conditions would not result in conflict with the purposes of the ILCG, on the basis that the residential use is in keeping with the land use pattern in the area and that the removal of the personal link would not necessarily result in the loss of adjacent paddocks. In assessing whether the site was remote, the Inspector acknowledged that residents of the site may use the car for most trips because of convenience, but noted that a good range of facilities and services are not far away and there are genuine options of transport modes available for certain types of local trips. The Inspector therefore considered the site to be in an accessible location.

In light of the very significant need for Gypsy and Traveller pitches in the borough, the Inspector noted that the proposal would increase flexibility and availability of the site to other persons. For these reasons and those above, the appeal was allowed.

Separately, an Enforcement Notice was served on the landowner of the site in August 2024, following the unauthorised stationing of a mobile home and change of use of land for residential purposes. It was served on the basis that the site is outside of any built-up area boundary and within the open countryside, encroaching on and eroding the rural character of the area and causing harm to an Important Local Countryside Gap (ILCG). That Notice was also the subject of an appeal.

The Inspector identified that the occupiers of the site have gypsy status and the site would, therefore, represent an extension of an existing gypsy site, which can be supported by policy DM10, subject to certain criteria. In considering the impact on the landscape and ILCG, the Inspector found that due to property boundaries and vegetation, the mobile home blends well into the surroundings. The development was considered to be consistent with the pattern of land use in the ILCG, which includes residential, commercial as well as agricultural uses, with the rural open character remaining dominant both within the larger site at Eden Top and in the ILCG. The

Inspector therefore concluded that in respect of the ILCG, the development was in accordance with Local Plan policy.

The Inspector did not identify any significant harm to the local environment or social infrastructure and given a high level of immediate need for traveller pitches, concluded that this small scale windfall development would be a positive contribution to the stock of traveller sites in an appropriate and sustainable location. Therefore the appeal was allowed.

Each of the above appeals led to an application for an award of costs. Both were refused.

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- **Item 5.2 - 89 London Road, Teynham, Kent ME9 9QL**

**PINS Decision: Appeal Allowed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

The appeal related to three conditions of a planning permission (24/503051/FULL) which allowed for works of alteration to a residential property. The conditions related to the materials required to be used in the development, the plans that were required to be accorded with and the requirement for a window to obscure glazed and partially fixed shut.

In relation to the plans condition (Condition 3) the applicant sought to revert to an earlier submitted plan than what was approved. This was concluded to be unacceptable by the Inspector as the earlier proposal, with a blanker façade, would have been visually acceptable. Also on visual grounds, the requirement to use materials of similar appearance (Condition 2) was also upheld.

However, it was found that the requirement for a first floor window to be restricted, as set out above, was considered to be unnecessary. It was found that the privacy of nearby residents would not be harmed as a result of the removal of the condition. For this reason, whilst the appeal against other conditions was unsuccessful, the decision is recorded as being allowed.

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- **Item 5.3 – Peternel, Elm Way, Eastchurch, Kent ME12 4JP**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

The development involves the erection of a replacement pre fabricated lodge dwelling with detached garage, the change of use of land for the siting of three static caravan holiday lets, the erection of an outbuilding and associated parking. The main issues were the suitability of the location of the development, the effect on the character and

appearance of the area and the impact on protected species.

Although not operationally linked, it was considered that the caravans would appear as an extension of an existing holiday park and, as such, the proposal conflicts with Policy DM4 which prevents the expansion of such parks and, in turn, conflicts with Policy DM3. The proposal therefore conflicts with the spatial strategy and the aim to limit development in the countryside.

In terms of visual impact, the Inspector found that *“Due to their utilitarian design and close-knit layout, the introduction of the three static caravans is at odds to the rural character of the area surrounding Elm Way. The caravans and associated walkway have a harmful urbanising effect on a part of the appeal site which was previously undeveloped. This is exacerbated by the elevated position of the three caravans which are accessed via a raised walkway.”* Moreover, whilst the dwelling, garage, a container and an outbuilding were considered to be acceptable, it was found that the proposed storage container would be prominent and incongruous.

In relation to protected species, the lack of submissions within the application was grounds to find that the proposal concluded with Policy DM28 which requires proposals to conserve, enhance and extend biodiversity.

The harm identified in these three respects was not outweighed by other considerations and therefore the appeal was dismissed.

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- **Item 5.4 - Building 3, Hales Court, Paradise Farm, Lower Hartlip Road, ME9 7SU**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

Permission was sought to convert to agricultural buildings to a dwelling, with additional extensions, alterations, parking and landscaping.

The Inspector concluded that the appeal site would not be a suitable location for the development when applying the spatial strategy in the Local Plan, particularly having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities. It was also stated that it has not been demonstrated that the building could not be used for employment or community purposes.

The visual impact of the proposal was acceptable, the parties agreed that an earlier objection relating to ecology had been overcome, the Inspector identified benefits arising from the provision of a dwelling in terms of housing supply and economic activity. Minor biodiversity benefits were also identified. However, these factors did not outweigh the harm that was identified and, therefore, the appeal was dismissed.

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- **Item 5.5 - Land at junction of Fox Hill and Blossom Street, Bapchild, Sittingbourne**

**PINS Decision: Appeal Dismissed****Committee or Officer Decision: Delegated Decision****Observations**

Advertisement Consent was sought for an internally illuminated totem sign. The prominent positioning of the sign and the fact that it would be viewed against a backdrop of sky and an open field lead the Inspector to conclude that it would become a dominant feature of the streetscape and incongruous in its context. The presence of other adverts or signs in the area, related to recent housing developments, were not found to be a reason to find the proposed signage acceptable as some were clearly temporary and another was materially different in terms of its appearance. The impact on visual impact was found to be unacceptable and therefore the appeal was dismissed.

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- **Item 5.6 - Central Communal Garden, Sommerville Close, Faversham, Kent, ME13 8HP**

**PINS Decision: Appeal Dismissed****Committee or Officer Decision: Delegated Decision****Observations**

The appeal related to a refusal to grant consent to fell three alder trees that are the subject of a Tree Preservation Order (TPO).

The Inspector found that *“The three trees grow together in the communal area of Sommerville Close. Next to footway access and green space, they have formed one large, spreading crown. The three trees are an imposing group and can be seen from many of the adjacent roads. They make an important contribution to the character and appearance of the area being some of the tallest, most noticeable trees, in the general locality. Therefore, the felling of the trees would be a significant loss and lead to unacceptable harm to the character and appearance of the area.”*

The trees were found to be healthy and, whilst regard was had to damage being caused to nearby buildings and footpaths, the Inspector found that there was not information available (having regard to Planning Practice Guidance which details what should be submitted) to indicate that the removal of trees was the only option. Regard was had to the shading impact of trees, their impact on phone lines and that they sway in the wind. However, these were not found to be a reason to support the removal of the trees at this time and on the basis of the information available. The appeal was, therefore, dismissed.

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- **Item 5.7 - 30 Harps Avenue, Minster-on-Sea, Kent ME12 3PH**

**PINS Decision: Appeal Dismissed****Committee or Officer Decision: Delegated Decision**

### **Observations**

Permission was sought for a two storey side extension and the main issue was the effect of that extension on the character and appearance of the area.

Having had regard to the guidance contained in Council's SPG relating to residential extensions, the Inspector found that, partly due to the manner in which the site tapers, *"From the street the perception would be of a notable reduction in the width of the gap between the properties. This would harmfully erode the sense of space between the dwellings, which is an important characteristic of the area."* The potential to replicate the extension at the neighbouring property in such a way that would further erode the gap was also commented on by the Inspector. Whilst the Inspector found the design acceptable in other respects and concluded had regard to an allowed appeal within the vicinity of the site enabled a similar extension, there were differences identified between developments and these factors were not found to be reason to find the proposal acceptable. The appeal was, therefore, dismissed.

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- **Item 5.8 - Land West of Salvation Place, Bell Farm Lane, Minster-on-Sea, Sheerness, Kent, ME12 4JB**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision: Delegated Decision**

### **Observations**

Planning permission was sought for the change of use of the land to a single residential caravan pitch for one Gypsy family with the erection of kennels for the keeping and breeding of dogs and store.

The main issue was whether the location of the site is suitable for the proposed use, with particular regard to the risk of coastal erosion. The appellant's submissions indicated that the area has not been affected by cliff slippage since 2003 and that, even in the worst case scenario, the development would be safe for the five year period that they were seeking permission. However, the Inspector concluded that the rate of erosion could change recognised that the Environment Agency had objection to the proposal on the grounds that *"the site is within an area at significant risk of coastal erosion, and residential accommodation, even on a temporary basis, is not appropriate given the difficulty in predicting locations and rates of erosion."* As the Inspector was not satisfied that the development would be safe for its planned lifetime, the proposal was found to be unacceptable. The presence of other comparable accommodation at an adjacent site was not found to be reason to support further risk, particularly as the relevant policy came into effect after that was approved.

The Inspector identified benefits relating to the provision of an additional pitch and gave this significant weight due to the lack of five-year supply, the current unmet need for pitches, the absence of an alternative site, and the failure of policy that has led to this situation. The Inspector also had regard to the personal circumstances of the applicants and applied weight to these.

Overall, the Inspector concluded that the benefits did not outweigh the harm and, even having considered the potential to grant a shorter temporary permission, it was found

that the appeal should be dismissed and that this was a proportionate decision that did not violate rights under Article 8 of the Human Rights Act.

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- **Item 5.9 - Land to the East of Scocles Rd, Minster-on-Sea**

**PINS Decision: Appeal Allowed**

**Appeal against Non-Determination.**

**Observations**

Outline planning permission was sought for the erection of upto 650 dwellings at the application site. The applicant submitted an appeal on the grounds of non-determination and it was subsequently concluded by the Planning Committee that no objection would be raised to the proposals during the appeal.

Notwithstanding this, the Inspector proceeded to consider the impact on the character and appearance of the area, biodiversity, highway safety and congestion, the availability of adequate infrastructure and various other considerations including but not limited to housing delivery, housing land supply, heritage assets, economic and social considerations, the Public Sector Equality Duty contained in the Equality Act 2010 and the Human Rights Act 1998. The Inspector found visual harm that was contrary to the development plan. However, the proposal was considered to be acceptable in all other areas. The appeal was, therefore, allowed and planning permission was granted.

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- **Item 5.10 - Land at Ham Road, Faversham, Kent ME13 7TX**

**PINS Decision: Appeal Allowed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

Outline planning permission was sought for the erection of up to 250 dwellings and associated works and development. The main issues were the application of flood risk policies, the impact on the character and appearance of the area, including landscape character, and the acceptability of the location for development in the context of national and local policies and with regard to the loss of agricultural land.

In terms of flood risk, the Inspector found that the application had not adequately addressed the Sequential Test but went on to conclude that no 'real world' harm was derived from this. Any actual flood risk was accepted to be mitigated. The visual impact of the development was considered to be harmful with moderate harm and conflict being identified in relation to some policies and limited harm identified in relation to others. Limited conflict with the Council's Spatial Strategy was identified and it was agreed that this and the loss of BMV agricultural land meant that the site is not an appropriate location for development. Harm to the setting of some heritage assets was also identified. The Inspector found the highway safety and accessibility, the ecology impacts, the heritage impacts and the proposed drainage provisions to be acceptable.

Weighing in favour of the proposal, the Inspector gave substantial weight to the housing

provision (affordable and open market), significant weight to the economic benefits of the proposal (during construction and occupation), moderate weight to a biodiversity net gain and also applied weight to benefits that included off-site flood risk reduction, a car club, the remediation of land and PRow upgrades.

These benefits were considered to outweigh the harm to the heritage assets to prevent this being carried forward as a determinative issue and the conflict arising from the failure to comply with the Sequential Test was not found to be a strong reason for the refusal of the application. The Inspector also concluded that the Faversham Neighbourhood Plan being based on a *“housing requirement that does not accurately reflect up-to-date housing need”*, prevented the approach set out at paragraph 11 of the NPPF being disengaged. The ‘tilted balance’ was therefore applied and the Inspector found that planning permission should be granted in light of the balancing exercise that was based on the abovementioned factors.

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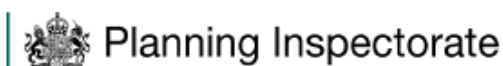
PLANNING COMMITTEE – 17<sup>th</sup> July 2025

## PART 5

Report of the Head of Planning

## PART 5

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



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## Appeal Decisions

Hearing held on 11 March 2025

Site visit made on 11 March 2025

**by Diane Lewis BA(Hons) MCD MA LLM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025

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**Appeal A Ref: APP/V2255/W/24/3357886****Land at Eden Top, Sheppey Way, Bobbing, Kent, ME9 8QP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Robert Beck against the decision of Swale Borough Council.
- The application Ref is 22/503908/FULL and is dated 9 August 2022.
- The development proposed is: Removal of conditions 3 (occupancy restriction) and 4 (use of land) pursuant to application SW/09/0972 (allowed on appeal) for the material change of use of land to use as a residential caravan site for one gypsy family with two caravans (including one static), erection of amenity block and laying of hardstanding.

**Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions.**

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**Appeal B Ref: APP/V2255/C/24/3352254****Land at Eden Top, Sheppey Way, Sittingbourne, Kent ME9 8QP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) by Mr Robert Beck against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 19 August 2024.
- The breach of planning control as alleged in the notice is: The unauthorised material change of use of the Land from agricultural to the stationing of a mobile home for residential use including the laying of hardstanding.
- The requirements of the notice are to:
  1. Cease the use of the Land for residential use.
  2. Break up and remove the hardstanding located adjacent to the mobile home.
  3. Dismantle and remove the raised timber platform adjoining the mobile home.
  4. Remove from the Land the mobile home currently located in its approximate position marked 'A' on the attached plan.
  5. Dismantle and remove any associated foundations, pipework or utilities installed in association with the mobile home.
  6. Remove from the land all resultant materials, debris, rubbish and rubble from compliance with Steps 2-5 above.
  7. Reseed with grass seed (or lay grass turf on) the area uncovered as a result of compliance with Steps 2-5 above in keeping with the surrounding agricultural land.
- The period for compliance with the requirements is: Six (6) calendar months after the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out in the Formal Decision.**

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## BACKGROUND TO THE APPEALS

### The Appeals

1. The appeal sites form part of a larger block of land owned by the appellant lying between Sheppey Way to the north and the A249 dual carriageway to the south. Beyond the A249 is the urban area of Sittingbourne, including Milton Regis and Kemsley.
2. In February 2011 planning permission was granted on appeal for a caravan site for a gypsy family. Appeal A seeks removal of the conditions making the permission personal to the appellant. Appeal B follows the issue of an enforcement notice that relates to a second caravan site which was established about two years ago and is occupied by members of the appellant's family. Planning policy and general need for traveller sites are considerations that provide the context for both appeals.
3. The applications for costs made by the appellant against Swale Borough Council are the subject of separate Decisions.

### Planning Policy and Statutory Duties

4. The Planning policy for traveller sites, December 2024 (the PPTS) applies to both appeal developments. This document should be read in conjunction with the National Planning Policy Framework December 2024 (the Framework). The Swale Borough Local Plan Bearing Fruits 2031, adopted in 2017 (the Local Plan), details the relevant development plan policies.
5. The Local Plan recognises that Swale Borough has one of the largest Gypsy and Traveller populations within Kent and South East England. Making sufficient provision in a fair fashion for their site and accommodation needs is a key objective. No site allocations are made through the Local Plan. Policy DM 10 safeguards existing permanent sites and sets out criteria for assessing proposed new sites. Policy DM 10 has to be read and interpreted in conjunction with Policy ST 3, which sets out the Local Plan settlement strategy. The availability of sites at each tier of settlement category should be considered before a site within the next lower tier is considered and permitted. A degree of flexibility is introduced to respond to particular personal or business requirements.
6. The explanatory text to Policy DM 10 indicates the Borough's need for pitch provision was informed by a Gypsy, Traveller and Travelling Showperson Accommodation Assessment that was carried out before 2015. The findings of the study were then revisited and the overall need for the plan period revised to take account of the definition of Gypsies and Travellers in the 2015 PPTS, which did not include gypsies and travellers who had ceased to travel permanently. Subsequent revisions to the definition in the PPTS would have the probable effect of increasing the need figure and so the assessment of need and the associated Local Plan policies are out-of-date.
7. Human rights and equality issues will be integral to my decision. Article 8, a Convention Right<sup>1</sup>, affords a person the right to respect for their private and family life, their home and their correspondence. This qualified right requires a balance between the rights of the individual and the needs of the wider community. There is a positive obligation to facilitate the Gypsy way of life to the extent that the

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<sup>1</sup> Article 8 of the European Convention on Human Rights, which was enshrined into UK law by the Human Rights Act 1998.



vulnerable position of Gypsies and Travellers as a minority group means some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases. Where the Article 8 rights are those of children, they must be seen in the context of Article 3 of the UNCRC<sup>2</sup>, which requires a child's best interests to be a primary consideration.

8. The public sector equality duty (PSED) in section 149 of the Equality Act 2010 requires that I have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. Romany Gypsies and Irish Travellers are ethnic minorities and have the protected characteristic of race under section 149(7). The decision must be proportionate to achieving the legitimate planning aims.

#### **Need for traveller sites**

9. The Swale Borough Council Gypsy, Traveller and Travelling Showperson Accommodation Assessment 2023 (the GTAA) is the most recent study on the accommodation needs of these communities. The GTAA analysis takes into account the needs arising from existing households, households on unauthorised sites, newly forming households, in-migrant households and vacancies on existing public and private pitches. The report concludes there is an overall need for 114 additional Gypsy and Traveller pitches across the Borough over the period 2022/23 to 2037/38, with a shortfall of 80 in the five year period 2022/23 to 2026/27 and 34 pitches in the longer term.
10. The Council, when determining the application in July 2024 reported there was an identified 1.3 year supply of pitches. Subsequently the Council has agreed in the statement of common ground there is not a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against the locally set target.
11. The appellant's appraisal of the GTAA concluded the GTAA had underestimated the level of need in the Borough and that the 2025 five year supply figure is 134 pitches. This estimate is significantly different to the locally set target in the GTAA.
12. In considering pitch needs the GTAA relied on the December 2023 PPTS definition of Gypsies and Travellers. The current definition in the 2024 PPTS has been broadened to include all other persons with a cultural tradition of nomadism or of living in a caravan. The identified need of 114 pitches is probably an under-estimate for this reason alone.
13. For the purposes of the current appeals, the evidence indicates a very significant shortfall in pitches in the Borough. The lack of a five year supply engages the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework, unless the application of policies protecting the North Kent Marshes Special Protection Areas and Ramsar sites (the SPA) provide a strong reason for refusing the development proposed.
14. To increase the supply of pitches, the GTAA recommended regularisation of sites that are not permanently authorised and the expansion/intensification of existing sites. Together with a small level of turnover on Council pitches there was thought to be potential to largely meet the short term 5 year need. The GTAA study also

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<sup>2</sup> United Nations Convention on the Rights of the Child

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identified the appeal site as a permanent private authorised site, contributing one pitch to the Borough's supply.

#### **APPEAL A**

15. Planning permission was granted on appeal on 1 February 2011 for a material change of use of land to use as a residential caravan site for one gypsy family with two caravans (including one static), erection of amenity block and laying of hardstanding (Appeal ref. APP/V2255/A/10/2129278).
16. The permission was subject to 13 planning conditions. Condition 3 states "The occupation of the site hereby permitted shall be carried out only by Mr Robert Beck and his resident dependants." Condition 4 states "When the land ceases to be occupied by Mr Robert Beck and his resident dependants, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including the amenity block hereby approved, shall be removed. Within six months of that time, the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority." In addition, condition 2 restricts occupation to Gypsies and Travellers.
17. The reasoning for the personal conditions indicated that a permanent approval to the applicant Mr Beck arose from his strong economic links to horses and that this particular need for a residential presence in the countryside was an overriding reason for granting permission to him. The Inspector observed that if the appellant left the site, all of the approved development, including the hardstanding and amenity block would go too.
18. The red line site shown on the approved plan includes the access road from Sheppey Way and the yard where the two caravans and amenity block would be sited. The site excluded the barn on the eastern side of the yard and the adjacent manège to the south. They were included within the 'blue land', together with the paddocks to the west and south where horses were grazed or kept.
19. As seen on the appeal site visit the existing caravan site is not exactly as shown on the approved layout plan and the outdoor amenity space has extended into the adjacent paddock.

#### **Proposal and Main Issue**

20. The appellant proposes the use of the land as a residential caravan site for one gypsy family without complying with conditions 3 and 4. The application was made and determined under section 73 of the Act, which applies to development to be carried out and is not retrospective. At the hearing the appellant confirmed that he no longer lived at the caravan site but his son, also named Robert Beck, and family did.
21. If the appeal is allowed, a new permission would be granted for the development as described in the 2011 permission. Occupation of the caravan site would be restricted by condition 2 to gypsies and travellers and the permission would be permanent. A planning judgement needs to be made whether permission can be granted for the development as set out in the description without the conditions attached. Case law has confirmed the application should be considered in the light of the development plan and material considerations prevailing now, and not those

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at the time of the original permission, since the result is a new permission. The original permission would remain extant and unaltered, along with the conditions attached to it.

22. The main issue is the effect of the proposal on (i) the character and appearance of the area, having regard to the location of the site within an Important Local Countryside Gap, and (ii) on the supply of gypsy and traveller sites in the area.
23. The National Planning Policy Framework states planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning Practice Guidance states planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.

#### **Reasons**

24. The Local Plan explains the settlement strategy is to focus development pressures at the major settlements in the Borough, and to prevent the coalescence and the erosion of the intrinsic character of settlements close by. The Important Local Countryside Gaps (ILCGs) in the 2008 Local Plan were reviewed and Policy DM 25 now controls development within the defined Gaps.
25. The purposes of the ILCGs are to maintain the separate identities and character of settlements by preventing their merging; to safeguard the open and undeveloped character of the areas; to prevent encroachment and piecemeal erosion by built development or changes to the rural open character, and to influence decisions on the longer-term development of settlements through the preparation and review of Local Plans. Policy DM 25 states that within the defined gaps planning permission will not be granted for development that would undermine one or more of their purposes. One of the defined ILCGs is between Sittingbourne and the satellite villages of Bapchild, Rodmersham Green, Tunstall, Borden, Chestnut Street, Bobbing and Iwade.
26. As discussed at the hearing, the wording of Policy DM 25 is not the same as the previous Policy E7, which the Inspector set out in full in the 2011 Decision. Policy DM 25 places emphasis on Sittingbourne as the main settlement and the retention of the defined gaps between this urban area and the satellite villages. The Inspector's focus was on the gap between the settlements of Iwade and Bobbing.
27. In so far as relevant to the appeal and the appeal site, the Proposals Map defines the ILCG as a narrow area of land following the A249 between Bobbing and Iwade. Most of the ILCG land is between Sheppey Way and the A249, with a narrow strip south of the A249. The appeal site is within the block of land between Quinton Road, which leads into Sittingbourne and the footpath link to Kemsley.
28. The nearby land use pattern reflects the history of development when Sheppey Way was the original A249 linking the mainland to the Isle of Sheppey. The surroundings are of fields and related agricultural buildings with pockets of residential development and commercial sites. The Crematorium and Memorial Gardens has a distinctive sense of place and is opposite the appeal site entrance. The A249 corridor, where the dual carriageway is in a cutting, acts as a firm

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physical boundary. To the south east of the A249 corridor, new housing development has taken place in the area near to Quinton Road, although a greenway has been formed on the narrow strip of land in the ILCG. The appellant has drawn attention to proposals for development in the wider area, including on land north of Sheppey Way.

29. In 2011 the Inspector considered it important that the appeal site maintained its attractive rural appearance, which could be best achieved by maintaining the land in a positive countryside use related to the keeping and trading of horses. The caravan site, by providing the necessary associated residential accommodation, was regarded as the best way of facilitating this rural use and keeping the land in good economic order.
30. I agree the open grazing land makes a valuable contribution to the rural character, that distinguishes the ILCG from the urban area not too far away. The home is of low height, the caravan site is compact and small scale. In local views, from Sheppey Way and from Quinton Road, the taller barn and the security lights are prominent, rather than the mobile home and dayroom. The residential use is in keeping with the land use pattern and the residential accommodation has much less of a physical presence than the built housing further north on Sheppey Way.
31. Back in 2011 the Inspector was firmly of the view that a personal permission was justified by the appellant's strong economic links to horses. The caravan site is now occupied by members of the appellant's family. The paddocks and horse grazing remain. The keeping and trading in horses is a typical means of earning a livelihood for many gypsies and travellers and integral to their traditional way of life. The removal of the personal condition would not necessarily result in the loss of the link between the caravan site and retaining the open use of the adjacent paddocks. Importantly the condition restricting occupation to gypsies and travellers would remain. In addition, a condition would continue to limit the number of caravans to no more than two.
32. Conclusions. The caravan site does not conflict with the purposes of the ILCG. A condition making the permission personal to the appellant is not necessary to protect the ILCG.

#### **Need for and supply of traveller sites**

33. The background to the locally set target for traveller sites is summarised in the need section above. The evidence indicates a very significant shortfall in pitches in the Borough. A refusal of planning permission would not result in the immediate direct loss of the site but it would raise the possibility of such an outcome given that the appellant lives elsewhere. The continued restriction to personal occupation would not help ease the current position and would not be consistent with the approach recommended in the GTAA for increasing supply. The proposal would increase flexibility in the availability of the site to the traveller community.

#### **Other considerations**

34. Garden of England Crematorium and Memorial Gardens. At the hearing the Parish Council expressed concern about the proximity of the site to the Garden of Remembrance on the northern side of Sheppey Way.



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35. The Crematorium and Memorial Gardens is an immaculately maintained place for reflection and remembrance. The background traffic noise is noticeable but visually the gardens are well enclosed with mature hedges and vegetation and from within the grounds there is no perception of the appeal site at all. The caravan site is glimpsed from by the main entrance and is visible from by the bus stop on the south side of Sheppey Way. However, the residential use is typical of the surroundings and the caravans are seen within a more open rural setting formed by the paddocks and neighbouring field. The proposal would have no adverse impact on the Crematorium.
36. Heritage. On the adjacent residential property, the house Upper Toes is a Grade II listed building. The listing description refers to the two storey, timber framed house, clad in red brick to first floor with a plain tile hipped roof. The Framework confirms 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.
37. In the 2011 decision the Inspector noted the structures within the grounds near to the principal building and a very effective screen of dense evergreen vegetation along the boundary with the land at Eden Top. The Council say the listed house is approximately 60 metres away from the development and concludes the proposal would not be harmful to the setting of the listed building. I agree that the significance of the designated heritage asset would be preserved because of the separation distance and the enclosure to Upper Toes. For this reason the proposal complies with Policy DM 32 that protects listed buildings and their setting and with policy in the Framework that requires heritage assets to be conserved in a manner appropriate to their significance.
38. Location. The Council explained Policy DM 10 seeks to steer gypsy and traveller accommodation to the settlements identified as suitable for development in Policy ST 3. The reason for refusal describes the site as being in a remote location, which usually means far away in distance. The Council has clarified the meaning in this case as the separation of the development from main centres and the likely reliance on the car to access day to day services and facilities. Reference was made to an appeal decision dated 12 December 2024 regarding a new house at Nether Toes on Sheppey Way. The Inspector concluded the site was not a suitable location for a dwelling due to the accessibility to services and facilities for future residents. Future occupants would rely on the use of a car to reach the services and facilities they need.
39. In view of the dispute between the parties I visited the site by public transport and on foot. There is a bus stop outside and opposite the Cemetery, very near the entrance into the site. There is a regular bus service to Sittingbourne, the main Borough urban centre. The bus service also connects with the settlements to the north, where Iwade is a rural local service centre in the settlement tier identified in association with Policy ST 3. There is a hard surfaced footway along Sheppey Way to the north and south of the site entrance. The local centres of Milton Regis, Kemsley (with a railway station) and the main centre of Sittingbourne are within reasonable walking and cycling distance. In the Local Plan the indicative map of broad accessibility to local services from Policy ST 3 settlements shows the appeal site is within an area identified as accessible to most or all services. The officer report found the site has reasonable sustainability credentials for a traveller site.

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40. In conclusion, residents of the site may well use the car for most trips because of convenience. However, a good range of facilities and services are not far away and there are genuine options of transport modes available for certain types of local trips. The site is in an accessible location, even though within the countryside where limited development is envisaged by the Local Plan. In my judgement the site is not in open countryside, away from existing settlements and therefore there is no conflict with the PPTS in terms of location.
41. Other DM 10 criteria. The living conditions of the site are not adversely affected by the A249 due to the separation distance and topography. There is adequate space on site to encourage healthy lifestyles for the occupants and to accommodate sufficient parking. The single pitch is of a scale that is compatible with neighbouring residential and community uses and local infrastructure. In view of the planning history of the site the proposal is not likely to have a significant effect on the interest features of the SPA through recreational pressure when considered either alone or in combination with other plans and projects. An Appropriate Assessment is not required and no mitigation is necessary.

#### **Planning Conditions**

42. The conditions attached to the 2011 permission have been reviewed. Development has been carried out and approvals granted for the materials for the amenity block and a landscape scheme. Control on the number and type of caravans that may be stationed on the site would be adequately covered by a single condition based on the statutory definition. No issues have been identified regarding surface water drainage. Therefore conditions 1, 6, 9 10, 11 and 13 would no longer be necessary.
43. A condition restricting occupation to gypsies and travellers is necessary to ensure the site contributes to the stock of traveller sites in the Borough. The definition of gypsies and travellers will be updated to repeat the wording in Annex 1 of the current PPTS. The conditions controlling vehicle size and precluding commercial activities are necessary to protect amenity. External lighting also should be controlled to ensure the effect on local character and amenity is acceptable.

#### **Conclusions**

44. The caravan site complies with Policy DM 25, criteria in Policy DM 10, Policy DM 32 and with the development plan when read as a whole. Any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Policy in PPTS supports the development and by using planning conditions the scale of development would be suitably controlled.
45. The caravan site, without regulation through conditions 3 and 4, is in accordance with the development plan and other considerations also indicate permission should be granted.
46. For the reasons given above the appeal should succeed. I will grant a new planning permission without the disputed conditions 3 and 4 and restating those undisputed conditions that are still subsisting and capable of taking effect.



**APPEAL B****Appeal on ground (b)**

47. An appeal on ground (b) is that the matters stated in the alleged breach of planning control have not occurred. In this case the appellant's concern is the extent of the Land, as shown on the plan attached to the enforcement notice, is across a wider area than where the alleged use is taking place.
48. The Land identified on the notice plan is equivalent to the blue land as shown on the Appeal A site location plan. The Land therefore includes the barn, manège and the paddocks. The breach of planning control is alleged to relate to all the Land.
49. As confirmed on the site visit, the mobile home is sited to the south of the manège. The associated garden and amenity space extends further southwards towards the rear boundary. A utility block/dayroom is close to the eastern boundary. The residential caravan site is enclosed by fencing and a gated entrance. The residential use appears physically and functionally separate from the horse related use of the adjacent lands and buildings and also from the caravan site to the north. The site area in Appeal A was restricted to the land in use as the caravan site and to follow a consistent approach for the new development would be appropriate.
50. It was agreed at the hearing that the area of the Land would be reduced to correspond to the enclosed caravan site. The Council has submitted an amended plan, which the appellant has confirmed is acceptable. No injustice will be caused by correcting the notice accordingly. The appeal on ground (b) succeeds to this extent.
51. In addition, minor corrections to the description of the breach of planning control will be made to delete reference to the previous use and to reflect the use as a caravan site with a mobile home and a touring caravan.

**Appeal on ground (a)**

52. The deemed planning application is for the development described in the corrected allegation and the site is confined to that shown on the corrected plan.

**Main Issue**

53. The main issue is whether the development would be in an appropriate location, taking into account the effects of the caravan site on (i) the character and appearance of the surrounding area, (ii) the location of the site in an Important Local Countryside Gap (ILCG) and (iii) the integrity of the North Kent Marshes Special Protection Areas and Ramsar sites.
54. The occupiers of the site have gypsy status, based on the information in the submitted witness statement. PPTS and Policy DM 10 of the Local Plan apply. The success of Appeal A confirms the permanence of the existing traveller caravan site at Eden Top. That being so the additional caravan site at Eden Top, on a broad interpretation, complies with criterion 1(c) of Policy DM 10, that allows for an extension to, or the stationing of, additional caravans at an existing site.

**Character and appearance and Important Local Countryside Gap**

55. To recap, the purposes of the ILCGs are to maintain the separate identities and character of settlements by preventing their merging; to safeguard the open and

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undeveloped character of the areas; to prevent encroachment and piecemeal erosion by built development or changes to the rural open character, and to influence decisions on the longer-term development of settlements through the preparation and review of Local Plans.

56. The appeal site, roughly rectangular in shape, is on land immediately south of the manège. The site does not extend as far as the southern boundary of the appellant's land ownership, which continues in use for keeping/grazing horses. The site is further separated from the A249 corridor by an open strip of land and a belt of trees. There is no intervisibility between the site and the built-up area of Sittingbourne east of the A249.
57. The mobile home is sited to face south, in close proximity to property boundaries and vegetation. The structure is raised on decking but even so it is low in height and the external materials are of subdued colours. All these factors ensure the mobile home, whilst visible, is not prominent in local views from footways and it blends well into the surroundings. A small touring caravan with its white finish was much more noticeable when seen stationed on site.
58. This small scale development is consistent with the pattern of land use in the ILCG, which includes residential, commercial as well as agricultural uses, and it has no effect on the identity and character of the nearest settlements. A small area of land has been developed but the rural open character remains dominant both within the larger site at Eden Top and in the ILCG. Decisions on the longer term development of settlements would not be affected.
59. In conclusion the development would not undermine one or more of the purposes of the ILCG and there is compliance with Policy DM 25. A planning condition would be necessary to limit the number and type of caravans because the acceptable effect on local character is based on the existing position and is sensitive to the details of development.

***Special Protection Areas (SPAs) and Ramsar sites***

60. The North Kent Marshes is the continuous swathe of coastal habitat stretching 70 miles eastwards from Gravesend through to Whitstable. Comprising of approximately 17,000 hectares of grazing marsh, saltmarsh, shingle beaches, mudflats and reedbeds, this diverse habitat mix provides food and shelter for hundreds of thousands of migratory birds every year. The large number of birds that depend on this coastline, the size of over-wintering populations and the significant numbers of threatened species are the main reasons why the Thames Estuary, Medway Estuary and The Swale and surrounding wetlands are designated as Special Protection Areas (SPAs) and Ramsar sites. Policy DM 28 of the Local Plan applies the highest level of protection to these internationally designated sites.
61. Research undertaken between 2009 and 2014 found that areas with high levels of human recreational activity on the coast had seen the largest declines in bird numbers. It also established that 75% of coastal visitors surveyed had travelled from within 6 kilometres (km) to undertake their chosen activity. The research led to the publication of the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) in 2014. SAMMS set out a suite of mitigation measures designed to reduce disturbance to coastal birds arising from human recreational



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activity. These mitigation measures are funded through a developer tariff applied to all new dwellings built within 6km of the SPAs.

62. The appeal site is within the 6km catchment. With reference to Regulation 63<sup>3</sup>, the proposed use of the appeal site as a caravan site is not directly connected with or necessary to the management of the designated sites. The caravan site would be a new home in the area and is 'likely to have a significant effect' on the interest features of the designated sites through recreational pressure when considered either alone or in combination with other plans and projects. An appropriate assessment is required to determine whether the proposal would have an adverse effect on the integrity of the protected sites, alone or in combination with other plans or projects.
63. The internationally designated sites are important for bird species which are rare and/or vulnerable in a European context, and they also form a critically important network for birds on migration. The three European sites together are part of a vast and linked expanse of critically important habitat to the SPA network around the British coast. The bird interest features for which each site has been classified varies slightly across the three sites, but all three provide on passage, overwintering, and breeding habitat to an array of species of European Importance.
64. The caravan site, being a new home, would result in additional residential population. Residents may be expected to visit the North Kent Marshes for a range of recreational purposes all year round, as evidenced by the visitor surveys undertaken. On its own the project may not have an adverse effect and it is the cumulative effect of the development of the site along with many residential developments that is of particular concern by reason of the planned housing and associated population growth within the strategy area. Applying the precautionary principle, I cannot be certain the integrity of the designated sites will not be adversely affected by the proposal in combination with other plans and projects.
65. The purpose of the SAMMS is to provide a strategic approach to mitigation because the sources of recreational impacts on Habitats sites originate from more than one local authority area. As a result, it is typically the effect of multiple and widespread sources of recreational impact which may result in adverse effects on site integrity in-combination. A strategic and co-ordinated approach ensures a robust strategy to avoid and successfully mitigate impacts and enables the delivery of effective bespoke mitigation measures. Components of the strategy cover education, engagement and communication, site specific works and projects aimed at specific activities such as dog walking, managing access, monitoring and review. The most recent monitoring illustrated that even though recreational activity on the coast during winter had increased by 34% the levels of disturbance, had not increased significantly.
66. The total cost of mitigation measures identified in the strategy was calculated over an in-perpetuity period of 80 years and divided by the estimated total number of new dwellings to give a per-property contribution. After allowing for indexation the baseline tariff is now (May 2025) £337.49 per property. In accordance with the Swale Council procedures the appellant has made this necessary and

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<sup>3</sup> The Conservation of Species and Habitats Regulations 2017

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proportionate contribution. No additional bespoke mitigation is required in relation to this small development.

67. Natural England is satisfied that the measure of a financial SAMMS contribution to mitigate recreational disturbance impacts from the proposed development on the North Kent Marshes SPA and Ramsar sites is sufficient to avoid an adverse impact to the integrity of these sites in relation to the specified qualifying feature<sup>4</sup>. The question raised in Natural England's response over the expected contribution has been addressed to ensure the contribution is correct at the time of determination.
68. In conclusion, the proposal would not have an adverse effect on the integrity of the designated sites included within the North Kent Marshes protected areas once mitigation is taken into account. Having made an appropriate assessment of the implications of the proposal for the sites in view of those sites' conservation objectives and having consulted Natural England and fully considered the representation received, as the competent authority I may agree to the project under regulation 63 of the Conservation of Habitats and Species Regulations 2017. The development complies with Part A of Policy DM 28.

#### ***Need***

69. The GTAA indicates there is a substantial need for additional pitches and traveller sites in the Borough, with additional need being likely to arise from the revised December 2024 PPTS definition of gypsies and travellers. Currently, new pitches have to come forward as 'windfalls' through private site provision because of the absence of allocations, the very limited supply of specific deliverable sites and the shortfall of available pitches on public sites. Appropriate permanent sites bring important benefits to the traveller community, facilitate the traditional way of life and promote equality of opportunity. The settled community also benefit from fewer unauthorised encampments and better planned provision.
70. The additional site at Eden Top would contribute to the stock of pitches. The witness statement of Mrs Clarke explains how the pitch has enabled the family to move from overcrowded conditions and the importance of a stable base for the family in terms of their health, education and well-being. The value of an additional single pitch should not be under-estimated. With pressure on a very limited supply of pitches, finding a suitable, affordable and acceptable alternative pitch would be challenging.

#### ***Other considerations***

71. The site is of a generous size for a single pitch and so there is adequate space to provide parking and amenity areas. Noise from the A249 is not intrusive and no other factors detract from the quality of the living environment for the site's residents. The adjacent land to the east is a field and given the good separation distance between the site and residential properties, the development has no effect on the setting of the listed building at Upper Toes or the living conditions of neighbours.

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<sup>4</sup> Consultation response dated 6 May 2025.



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72. As explained in Appeal A, the location of the site enables a choice in the means to travel to services and facilities, although use of the private car probably would be more convenient.
73. There is no evidence to indicate that an additional pitch would have an adverse effect on the capacity of local services or put undue pressure on local infrastructure.

#### **Summary and planning balance**

74. For the purposes of Policy ST 3 the single pitch caravan site is in the countryside and not in a preferred location for development. The site is also in an ILCG. However, the development is close to the main urban area of Sittingbourne and a rural service centre. The application of the relevant Policy DM 10 criteria has not identified any significant harm to the local environment or social infrastructure. There is a high level of immediate need for traveller pitches. This small scale windfall development would be a positive contribution to the stock of traveller sites.

#### **Planning Conditions**

75. The occupation of the site should be restricted to Gypsies and Travellers to ensure the development adds to the stock of such sites within the Borough in order to contribute to meeting the existing pressing need. The small scale of the development should be maintained to protect local character by control of the number and type of caravans. In addition to a single static caravan, it would be reasonable to allow a touring caravan in order that occupiers could pursue a travelling lifestyle.
76. As discussed at the hearing a site development scheme is necessary to confirm details of the site layout, including the position of the mobile home, parking area and amenity space and to secure a landscaping scheme. The appropriate treatment of the boundaries of the site is an opportunity to ensure the local environment and views are positively enhanced.
77. The residential use of the caravan site is compatible with the neighbouring residential uses and the appearance of the area. Preclusion of commercial activities and a limit on vehicle size are justifiable for this reason. A condition is necessary to ensure any external lighting is appropriate to the rural setting and not intrusive in local views across the ILCG.
78. In view of my conclusion that the development is in an appropriate and sustainable location there is no need to impose conditions making the permission personal and/ or temporary.

#### **Conclusion**

79. The caravan site complies with Policy DM 25, Policy DM 28 and Policy DM10 and with the development plan when read as a whole. Any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Policy in PPTS supports the development and planning conditions provide a suitable mechanism to secure a good quality of development on the caravan site.

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80. For the reasons given above the appeal should succeed on ground (a) and planning permission will be granted. Therefore the appeal on grounds (f) and (g) do not need to be considered.

## DECISIONS

### Appeal A Ref. APP/V2255/W/24/3357886

81. The appeal is allowed and planning permission is granted for change of use of land to use as a residential caravan site for one gypsy family with two caravans (including one static caravan), erection of amenity block and laying of hardstanding at Eden Top, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP in accordance with the application Ref 22/503908/FULL, without compliance with condition numbers 3 and 4 previously imposed on planning permission Ref SW/09/0972 (allowed on appeal ref. APP/V2255/A/10/2129278) dated 2 February 2011 and subject to the following conditions:

- 1) The site shall not be occupied by any persons other than gypsies and travellers, meaning persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 2) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site, other than one horse box with a gross laden weight not exceeding 7.5 tonnes. All parking of vehicles, commercial or otherwise, shall take place on the proposed gravel hardstanding shown on the 1:500 site layout plan.
- 4) No commercial activities shall take place on the land, including the storage of materials, other than the keeping of horses.
- 5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and approved in writing by the local planning authority.

### Appeal B Ref. APP/V2255/C/24/3352254

82. It is directed that the enforcement notice is corrected by the deletion of the text in paragraph 3 and the substitution of "The unauthorised material change of use of the Land to use as a caravan site by the stationing of a mobile home and including the laying of hardstanding." and by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.
83. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the Land to



use as a caravan site by the stationing of a mobile home and including the laying of hardstanding at Land at Eden Top, Sheppey Way, Sittingbourne, Kent ME9 8QP as shown on the corrected plan attached to the notice and subject to the following conditions:

- 1) The site shall not be occupied by any persons other than gypsies and travellers, meaning persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 2) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 3) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below.
  - i. Within 3 months of the date of this decision a site development scheme (hereinafter referred to as the scheme) shall have been submitted for the written approval of the local planning authority. The scheme shall include details of the internal layout of the site, including the siting of caravans, hardstanding, parking and amenity areas; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; boundary treatment, specifying height and position of fencing; a timetable for implementation of the scheme. The scheme shall provide for the mobile home to be sited in the position shown on the plan attached to the enforcement notice and the planting scheme shall include plants of native species, of a type to encourage wildlife and biodiversity.
  - ii. If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii. If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

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In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Any trees or plants included in the approved scheme of landscaping which within a period of 5 years from the completion of the planting scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site, other than one horse box with a gross laden weight not exceeding 7.5 tonnes. All parking of vehicles, commercial or otherwise, shall take place on the parking area shown on site layout plan approved as part of the site development scheme.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and approved in writing by the local planning authority.

*Diane Lewis*

Inspector



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### **APPEARANCES**

#### **FOR THE APPELLANT:**

Matthew Green, Green Planning Studio Limited  
Mr R Beck (the appellant) and Mrs Beck  
Mr and Mrs R Beck  
Mr Tommy Clarke and Mrs Scarlet Clarke

#### **FOR THE LOCAL PLANNING AUTHORITY:**

Andrew Gambrell, Team Leader (Planning Applications) Development Management

#### **INTERESTED PARTIES:**

Gareth Randall, Bobbing Parish Council

#### **DOCUMENTS submitted at the hearing**

Signed statement of common ground  
Signed Witness Statement of Mrs Scarlet Clarke  
Confirmation of payment of contribution to North Kent Strategic Access Management  
and Monitoring Strategy (SAMMS).

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Planning Inspectorate

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## Plan

This is the plan referred to in my decision dated: 12 May 2025

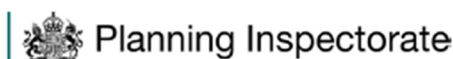
by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at Eden Top, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP

Reference: APP/V2255/C/24/3352254

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## Appeal Decision

Site visit made on 10 April 2025

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

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Appeal Ref: APP/V2255/W/25/3358878

89 London Road, Teynham, Kent ME9 9QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
  - The appeal is made by Ms Desiree Yeo against Swale Borough Council.
  - The application Ref 24/503051/FULL was approved on 23 October 2024 and planning permission was granted subject to conditions.
  - The development permitted is Conversion of existing basement into a habitable space, alterations to front elevation to provide new entrance and replacement first floor front bathroom window.
  - The conditions in dispute are Conditions 2, 3 and 4 which state that:
    - Condition 2: *"The materials to be used in the construction of the external surfaces of the proposal hereby permitted shall match those on the existing building in terms of type, colour and texture."*
    - Condition 3: *"The development hereby approved shall be carried out in accordance with the following approved drawing: RA1684/REV F/01."*
    - Condition 4: *"The first floor window to the front elevation as shown on drawing RA1684/REV F/01 shall remain obscure glazed at all times and this window shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such"*
  - The reasons given for the conditions are:
    - Reason 2: *"In the interests of visual amenity"*
    - Reason 3: *"For the avoidance of doubt and in the interests of proper planning."*
    - Reason 4: *To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers"*
- 

### Decision

1. The appeal is allowed and planning permission 24/503051/FULL for conversion of existing basement into a habitable space, alterations to front elevation to provide new entrance and replacement first floor front bathroom window at 89 London Road, Teynham, Kent ME9 9QL is varied by deleting condition 4.

### Preliminary Matter

2. My decision above sets out that I am allowing the appeal. However, in this case, and despite the terminology that the appeal is allowed, this does not mean that I have concluded that disputed conditions 2 and 3 should not be imposed. This is because, in an appeal of this type, where disputed conditions are retained, but another condition is deleted, the appeal is allowed.

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Appeal Decision APP/N/2255/W/25/3358878

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### Background and Main Issues

3. Planning permission was granted for conversion of existing basement into a habitable space, alterations to front elevation to provide new entrance and replacement first floor front bathroom window. The permission included condition 2 requiring the proposed materials to match those on the existing building; condition 3 requiring the proposal to be constructed in accordance with the submitted drawings; and condition 4 requiring that a first floor window be obscure glazed.
4. The main issues are whether the conditions are reasonable and necessary having regard to the effect on character and appearance and the living conditions of nearby residential occupiers.

### Reasons

#### *Condition 3 – approved plans*

5. The appeal property is a two storey building fronting London Road. It shares architectural unity with the adjoining property, 87 London Road (No. 87). Both properties have similar windows at ground and first floor levels, and utilise matching external materials throughout their front elevations.
6. The appellant wishes to revert to the design indicated within the drawing (Ref: RA1684/REV D/01), initially submitted with the planning application and which features the removal of a ground floor window and replacement with an area of decorative brickwork, installation of a timber gate and creation of a courtyard transition area.
7. Despite the intention to install decorative brickwork and additional planting, the removal of ground floor windows and the replacement with brickwork and a timber gate would create a large, blank façade with no set back from the public highway. Given the regular pattern of windows on the ground floors of properties on London Road this would be an incongruous and harmful feature within the street scene.
8. Whilst there may be examples of other timber gates in the local area, these generally provide side access to external amenity areas rather than primary access into dwellings. As a result, the timber gate would be an uncharacteristic feature.
9. It follows that condition 3 is reasonable and necessary with regard to the effect of the proposal on visual amenity. The condition accords with Policies CP4, DM14 and DM16 of Bearing Fruits 2031 – the Swale Borough Local Plan (2017) (Local Plan). Collectively, these policies require that proposals retain and enhance features which contribute to local character and distinctiveness.

#### *Condition 2 – matching materials*

10. The existing permission is subject to a condition which specifies that the materials used must match with those used on the existing building.
11. Removal of the condition would enable the use of materials which would not match the host property. As the host property and its immediate neighbour No. 87 have a similar design with similar external materials, the use of alternative and contrasting elevational materials could be overly prominent and harm the character and appearance of the area.

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12. I therefore find that condition 2 is reasonable and necessary with regard to the effect of the proposal on visual amenity in accordance with the aims of policies CP4, DM14 and DM16 of the Local Plan.

*Condition 4 - living conditions*

13. The Council indicate that Condition 4, which requires the first floor window to be obscure glazed with a high level fanlight opening at least 1.7m in height, was included in error. They therefore advise that they do not contest the removal of the condition.
14. From my observations on site, the window, which would look onto the busy London Road, would not have a harmful effect on the privacy of neighbouring occupiers.
15. Accordingly, I conclude that condition 4 is not reasonable or necessary to achieve to prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers. Thus, the removal of the condition would not conflict with policies DM14 and DM16 of the Local Plan, insofar as they require that proposals protect residential amenity.

**Other Matters**

16. The appeal site is located within Air Quality Management Area 5, which the Council has identified to be an area below national air quality objectives. The appellant indicates that heavy traffic on London Road causes poor air quality and dusty air.
17. I am sympathetic to the appellant's concerns about air quality. I recognise the desire to introduce measures to reduce the dusty air entering the appeal property, thereby improving indoor air quality. However, it has not been shown that this cannot be achieved in another way, which may involve less external alterations. On the basis that an alternative could deliver similar benefits for the appellant, this does not outweigh the harm that I have found to the character and appearance of the host dwelling and surrounding area.

**Conclusion**

18. For the reasons I have given, conditions 2 and 3 in dispute are reasonable, relevant to the development permitted and necessary. As a result, they should be imposed. However, I have found that condition 4 is not reasonable or necessary. I conclude that the appeal should be allowed, and the planning permission varied by deleting disputed condition 4.

*B Pattison*

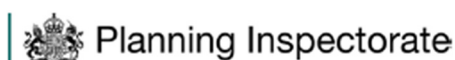
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## Appeal Decision

Site visit made on 10 April 2025

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

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Appeal Ref: APP/V2255/W/24/3349779

Peternel, Elm Way, Eastchurch, Kent ME12 4JP

- 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 Dennis Kavanagh against the decision of Swale Borough Council.
  - The application Ref is 23/505643/FULL.
  - The development proposed is Erection of 1no. replacement pre fabricated lodge dwelling with detached garage. Change of use for the siting of 3no. static caravan holiday lets with erection of 1no. outbuilding and associated parking (part retrospective).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
3. The description of development within the planning application is lengthy and includes extraneous information. For this reason, I have used the Council's description of development as this more accurately describes the proposal.

### Main Issues

4. The main issues are:
  - whether or not the proposal would be in a suitable location having regard to policies for the location of development;
  - the effect of the proposal on the character and appearance of the area; and
  - the effect of the proposal on protected species and biodiversity.

### Reasons

#### *Suitable location*

5. The appeal site is a rectangular shaped plot accessed via an unmade access track. Immediately to the south of the site is a large holiday park complex which is lined by static caravans. The site's other boundaries are surrounded by residential properties laid out within irregularly sized plots.

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6. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (Local Plan) sets out the strategic approach to the location of development. It identifies that, through the use of previously developed land within defined built up area boundaries, development proposals will be permitted in accordance with the following settlement strategy: the urban areas of Sittingbourne, Faversham and Sheerness are the principal focus for development together with development at rural local service centres and other villages with built-up area boundaries shown on the Council's Proposals Map.
7. Local Plan Policy DM4 states that planning permission will not be granted for any new static holiday caravans and chalets, or extensions, outside of the holiday park areas on the Isle of Sheppey as shown on the Proposals Map. Whilst the three static caravans within the appeal site adjoin the holiday park, the Council indicate, and it is not disputed by the appellant that, they are outside of its boundaries as shown on the Proposals Map.
8. The supporting text to Policy DM4, at paragraph 7.1.25, explains that given the scale of existing caravan and chalet provision on the Isle of Sheppey and the contribution to the poor condition and appearance of landscapes, the Local Plan does not allocate any new sites for such development. It explains the expansion of existing sites outside the defined holiday areas will also not be permitted due to the likely landscape and visual impacts. I acknowledge that the three caravans are let on a private basis and therefore are not commercially connected to the adjoining holiday park. However, their built form is physically and visually linked to the holiday park, by virtue of their proximity, and in that sense, the proposal would create a visual extension of caravans outside the holiday park.
9. Policy DM3 of the Local Plan supports the sustainable growth and expansion of rural businesses, and indicates that the use of previously developed land should be prioritised. The appellant states that the appeal site is previously developed land. Notwithstanding this, part 2.c of the policy requires that, where relating to holiday parks, proposals are also in accordance with Policy DM4. I have previously found that the proposal would not accord with Policy DM4.
10. Consequently, the appeal site would not be a suitable location for the appeal scheme when applying the spatial strategy in the Local Plan for the proposal, having regard to local and national planning policy. The proposal fails to accord with Policies ST3, CP1, DM3 and DM4 of the Local Plan insofar as they seek to limit development in the open countryside and identify that planning permission will not be granted for any new static holiday caravans outside of the Holiday Park areas on the Isle of Sheppey.
11. Neither would the proposal comply with paragraph 88 c) of the Framework which outlines that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside.

*Character and appearance*

12. The area around Elm Way and First Avenue is characterised by dwellings that follow a loose and informal layout. Dwellings are detached and occupy reasonably spacious plots, which are of varying size, commensurate with their location in the countryside. Whilst dwellings are visible from public views on Elm Way and First Avenue, the street scene is green and rural in character, marked by mature vegetation on the front boundaries of some properties.

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13. There is a marked visual transition to the south where the adjoining holiday park is defined by the ordered layout and more utilitarian design of static caravans and chalets. The photographic evidence within the Council's Statement of Case indicates that the area within the southern end of the appeal site was previously verdant. Due to their utilitarian design and close-knit layout, the introduction of the three static caravans is at odds to the rural character of the area surrounding Elm Way. The caravans and associated walkway have a harmful urbanising effect on a part of the appeal site which was previously undeveloped. This is exacerbated by the elevated position of the three caravans which are accessed via a raised walkway.
14. The majority of neighbouring residential properties have outbuildings within their grounds. However, storage containers are not common. The storage container positioned adjacent to Elm Way is therefore a prominent and incongruous addition to the area. Whilst the garage would be large it would be set back from Elm Way, and would not be a prominent addition. The remaining container and outbuilding associated with the holiday lets would be located to the rear of the site, and would not be harmful additions.
15. Whilst larger than the building which was previously on the appeal site, the dwelling's modest proportions combined with the large undeveloped area which would be retained within the centre of the appeal site, would ensure that a sense of spaciousness would be maintained. The design of the dwelling would not be out of keeping with the design of surrounding properties. The proposed external materials and fenestration would be consistent with, and therefore reinforce, the character and appearance of this particular street scene and the wider area.
16. However, I have found that the three caravans and large storage container adjacent to Elm Way would have a harmful effect on the character and appearance of the area. Therefore, the proposal would conflict with Policies DM11 and DM14 of the Local Plan insofar as they require proposals to reflect the positive characteristics and features of the site and locality and be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.

#### *Protected species and ecology*

17. The main parties disagree on the extent of site clearance which has taken place. However, aerial photography provided by the Council indicates that scrub and grassland was previously on site, and grassed areas were re-growing at the time of my site visit.
18. Kent County Council's Biodiversity Officer indicates that the habitats are potentially suitable for species including breeding birds, reptiles and amphibians including great crested newts (GCN). There are records for protected species slow worm within the site vicinity and the site lies within an amber risk zone for GCN.
19. Paragraph 99 of Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

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20. An assessment of the site's suitability for the presence of protected species is not included within the submitted evidence. In the absence of such an assessment it is not possible to confidently ascertain that there are no protected species present which must be taken account in the planning decision.
21. The appellant indicates that the Council did not request any ecological information. Regardless, Policy DM28 of the Local Plan states that development proposals will be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development, especially where it is known or likely that development sites are used by species, and/or contain habitats, that are subject to UK or European laws.
22. Consequently, the proposal conflicts with Policy DM28 of the Local Plan which requires proposals to conserve, enhance and extend biodiversity.

#### Other Matters

23. The appeal site lies less than 6km from the Medway Estuary and Marshes Special Protection Area (SPA). The sites are easily disturbed by recreational activity from people and their pets and there is a reasonable likelihood that they would be accessed for recreational purposes by future occupiers of the development. Additional recreational visitors to the protected area would be likely to have significant effects when considered in combination with other proposals. Under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), planning permission may not be granted for development likely to have a significant adverse effect on the SPA, either alone or in combination with others.
24. The Council, together with neighbouring authorities and Natural England, has developed a scheme of Strategic Access Management and Monitoring (SAMMs), which enables the potential impacts of individual developments to be mitigated by means of a financial contribution, secured by a Section 106 obligation. However, I have no such obligation before me. In any event, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.

#### Conclusion

25. The harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

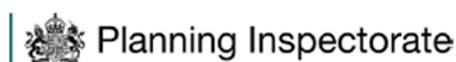
*B Pattison*

INSPECTOR

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## Appeal Decision

Site visit made on 10 April 2025

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29<sup>th</sup> May 2025

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**Appeal Ref: APP/V2255/W/24/3349459**

**Building 3, Hales Court, Paradise Farm, Lower Hartlip Road, Hartlip ME9 7SU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Colin Hales against the decision of Swale Borough Council.
  - The application Ref is 23/505514/FULL.
  - The development proposed is Conversion of 2no. agricultural buildings to create 1no. three bedroom dwelling, erection of infill extension, alterations to fenestration including associated access, parking and landscaping.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
3. One of the Council's reasons for refusal related to insufficient information being provided to demonstrate that the proposal would not result in harm to protected species and biodiversity.
4. A Preliminary Ecological Assessment with findings, and a Night Time Bat Survey was submitted with the appeal. The bat survey notes that no roosting bats were seen emerging from the building at the time of the survey, and a low number of foraging and commuting bats were identified in the area. As the Council and Kent County Council's Ecology department have reviewed the reports, I have accepted their submission and taken account of this evidence.
5. The Council has confirmed that the survey and proposed mitigation measures are sufficient to overcome the reason for refusal, subject to the imposition of conditions requiring that works are completed outside of bird breeding season, the submission of a sensitive lighting plan and installation of enhancement features, such as bat boxes. They therefore advise that they no longer wish to defend the reason for refusal in respect of protected species, and I do not address this matter in the reasoning below.
6. I note comments from an interested party in relation to the ownership of the drive from Lower Hartlip Road to the appeal site. However, in terms of ownership, the appellant signed certificate B on the planning application form, which indicates that

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they were not the sole owner of the land and I understand that notice was served. I therefore do not consider that anyone has been prejudiced by the issue.

#### Main Issue

7. The main issue is whether the site is a suitable location for the proposal having regard to local and national planning policy, and the accessibility of the site to services, employment opportunities and facilities.

#### Reasons

8. The appeal site lies within a small cluster of houses in a rural area accessed via quiet, rural roads. As the appeal site is set within a small cluster of buildings in residential use, the main parties agree that it is not isolated within its immediate environment. Nor is it isolated in the context of paragraph 84 of the Framework. Nevertheless, it is in a rural setting, some distance from the nearest settlement.
9. Paragraph 84 does not imply that a dwelling has to be "isolated" in order for restrictive policies to apply and there may be other circumstances when development in the countryside should be avoided. Whilst the proposal may not be "isolated", this does not mean that it will accord with development plan policies that seek to prevent the location of new housing outside of settlements.
10. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (Local Plan) sets out the strategic approach to the location of development. It identifies that, through the use of previously developed land within defined built up area boundaries, development proposals will be permitted in accordance with the following settlement strategy: the urban areas of Sittingbourne, Faversham and Sheerness are the principal focus for development together with development at rural local service centres and other villages with built-up area boundaries shown on the Council's Proposals Map.
11. The main parties agree that the proposal would be located outside any defined development boundary and the Council indicate that the appeal site lies approximately 360 metres from the built up area of Hartlip. Consequently, the site is within an area of open countryside.
12. I acknowledge that the supporting text to Policy ST3, at paragraph 4.3.23, refers to the protection of open countryside from isolated and/or large scale development. However, in relation to sites within the open countryside, Policy ST3 states that development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
13. The appeal site's lack of isolation with regard to paragraph 84 does not mean that the site would be reasonably accessible to services when considered in the context of other requirements of the Framework, nor would it promote the sustainable development in rural areas sought by paragraph 83.
14. Hartlip is a village with only limited facilities including a primary school, church and public house. It has no bus service. To access facilities in Hartlip or the nearest bus stop on the A2, the occupants of the proposed dwelling would have to walk or cycle along the remote, Lower Hartlip Road, which is unlit and would be a less attractive route outside daylight hours. Furthermore, there are no dedicated cycle

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lanes or footpaths for the majority of the route. Therefore, the route is unlikely to be an attractive option for walking and cycling outside of daylight hours or during inclement weather.

15. Access to employment, shopping, health and other education establishments would require residents to travel to nearby larger settlements such as Sittingbourne which is over 4 miles away. For the reasons given, essential services, facilities and employment opportunities would not be readily accessible from the appeal site. Therefore, the occupants would be largely reliant on private vehicles to access essential services and facilities, due to the lack of safe pedestrian and cycle routes and having limited options for alternative modes of transport.
16. The decision notice and officer report refer to Policy DM 3 of the Local Plan which states that planning permission will not be permitted where it would reduce the potential for rural employment and/or community facilities unless the site/building is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. The policy's supporting text states that evidence of demand should include the results of efforts made to market the building as available for employment use, normally with a planning permission.
17. The appellant indicates that the buildings could not be used for rural employment given their condition, and there is considerable doubt that the owner of the access driveway would allow it to be used for business purposes. However, in the absence of substantive evidence in relation to either of these issues, it has not been demonstrated that the buildings use for employment or community uses would be undesirable or unsuitable.
18. There is disagreement between the main parties as to the suitability of the buildings for conversion and the extent of works required to undertake the development. However, as outlined above, as the appeal site is not isolated, the proposal would not adhere to the requirements of paragraph 84c) of the Framework.
19. The proposal would involve the enlargement of the existing buildings and the limited domestication of the appeal site. However, given the location within an existing group of five dwellings and associated outbuildings, this would have a neutral effect on the rural character of the area. The use of black stained weatherboarding would reflect the rural vernacular and would not harmfully erode the buildings' original character.
20. However, the appeal site would not be a suitable location for the appeal scheme when applying the spatial strategy in the Local Plan for the proposal, having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities. The proposal fails to accord with Policies ST1, ST3, CP2, CP3, DM3 and DM14 of the LP. Amongst other things, these policies set out the Swale settlement strategy, seek to limit development in the open countryside and minimise less sustainable forms of travel when accessing local services and facilities. For similar reasons the proposal would also fail to accord with the sustainability objectives of the Framework.

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**Other Matters**

21. The appeal site lies less than 6km from the Thames, Medway and Swale Estuary Special Protection Area (SPA), which is designated at international level because of its special ecological importance for rare and vulnerable bird species. Within this distance around the SPA, the Council is concerned, on the advice of Natural England, that any new residential development is likely to add to the existing pressures and disturbance experienced by the SPA, in terms of recreational use, dog walking and predation by domestic pets. Under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), planning permission may not be granted for development likely to have a significant adverse effect on the SPA, either alone or in combination with others.
22. The Council, together with neighbouring authorities and Natural England, has developed a scheme of Strategic Access Management and Monitoring (SAMMs), which enables the potential impacts of individual developments to be mitigated by means of a financial contribution, secured by a Section 106 obligation.
23. The main parties agree that the appellant has completed the SAMMS payment form and made a direct payment to the Council of the relevant sum. However, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.
24. The Framework seeks to significantly boost housing supply. It also encourages the optimal use of underutilised land. However, any weight attributed to these factors is tempered by the Framework's expectation that developments prioritise pedestrian and cycle movements. The Framework also gives substantial weight to the value of using suitable brownfield land within settlements for housing, rather than land in the countryside as is the case with this proposal.

**Planning Balance**

25. The Council indicate that they cannot demonstrate a five-year housing land supply. The information before me suggests that it stands at 4.95 years, which is a small shortfall. However, due to the provisions of footnote 8, the balance in paragraph 11d(ii) of the Framework applies such that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to specified key policies.
26. Alongside my findings that it has not been demonstrated that the buildings use for employment or community uses would be undesirable or unsuitable, I have found that this site is not a suitable location for the proposal having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities. 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.
27. The proposal would deliver one dwelling in an area of housing need. This would reflect a small but beneficial contribution to the choice of homes in the area. There would also be temporary and ongoing economic benefits arising from the development. This would support the Government's aims of boosting the supply of homes, the more efficient use of land and improve the current shortfall in the

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Council's housing land supply. Biodiversity enhancement features such as planting and new bat boxes would be installed. Overall, whilst these are important benefits, given the modest scale of the development I attribute limited weight to them.

28. Accordingly, I find that the adverse impacts arising from the development would significantly and demonstrably outweigh the minor weight attributed to the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development does not apply in these circumstances.

#### Conclusion

29. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*B Pattison*

INSPECTOR

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## Planning Inspectorate

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### Appeal Decision

Site visit made on 20 May 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

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**Appeal Ref: APP/V2255/Z/24/3355660**

**Land at junction of Fox Hill and Blossom Street, Bapchild, Sittingbourne.**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
  - The appeal is made by Co-operative Group Food Ltd against the decision of Swale Borough Council.
  - The application Ref is 24/503158/ADV.
  - The advertisement proposed is 1 no. internally illuminated totem sign.
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#### Decision

1. The appeal is dismissed.

#### Preliminary Matter

2. Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) make it clear that advertisements are subject to control only in the interests of amenity and public safety. While not decisive, I have taken the relevant development plan policies into account as a material consideration.

#### Main Issue

3. The Council does not object to the effect of the proposed advertisement on public safety. Following my site visit, I see no reason to disagree with this assessment, subject to the suggested controls on luminance.
4. Therefore, the main issue is the effect of the proposal on the visual amenity of the area.

#### Reasons

5. The appeal site is located at the north-east corner of the traffic-light controlled junction of Fox Hill (the A2) and Blossom Street. Fox Hill is lined with dwellings and has a spacious character given the deep grass verges either side of the street. Blossom Street leads off Fox Hill into a residential development known as Spring Acres that is partly still under construction. There is a commercial area that has yet to be occupied; this is not visible to eastbound traffic travelling along Fox Hill. There is a substantial green area on the east side of Blossom Street, which also borders Fox Hill. This large green area, along with the generous grassed verges to Fox Hill and the other side of Blossom Street lend the area an open character with a verdant backdrop to the east of Blossom Street.
6. The proposed totem sign would be located in a prominent position at the north-east corner of the junction where Fox Hill meets Blossom Street. It would be viewed against the open field and sky. As a consequence, it would appear as a dominant feature in the streetscape and would be incongruous against the semi-rural backdrop in this location.

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7. There are currently other advertisements in the form of 3 flags and a large developers' marketing board adjacent to the appeal site. Whilst these are significant structures in themselves, they are temporary for the purposes of advertising the availability of new homes. Even with those advertisements in place, the proposed totem would appear as an unduly prominent feature, being significantly taller than the adjacent marketing board and significantly bulkier than the flag advertisements. It would add to a proliferation of advertisements on this corner. As the marketing boards and flats would not be a permanent feature, once removed, the proposed totem sign would appear as an isolated, prominent and visually intrusive feature in the street scene.
8. I note the presence of the 'Spring Acres' sign opposite the appeal site which takes the form of individual letters set against the backdrop of new homes. In terms of its style and form, it is not a comparable design to the appeal proposal. Its presence does not lead me to draw a different conclusion as to the appeal proposal's effect on visual amenity.
9. Although my attention has been drawn to the potential for future residential development in the open space behind the appeal site, I have not been referred to a specific scheme and no construction in that location was underway at the time of my site visit. I have necessarily made my assessment on the evidence before me and based on my observations on site.
10. The Council indicates that the materials and illumination would be appropriate in terms of their effect on the visual amenity of the area, and I see no reason to disagree. This does not however overcome the harm I have already identified to the streetscene.
11. For the reasons set out above, I conclude that the scale and location of the proposed totem sign would harm the visual amenity of the area. Although not determinative, I have taken into account Policies CP4 and DM14 of the Swale Borough Local Plan (2017) and the Shopfronts, Signs and Advertisements Supplementary Planning Guidance (2011) insofar as they require proposals to be of a high-quality design that is sympathetic and appropriate to the location.

#### **Other Matters**

12. The appellant indicates that the convenience supermarket is located such that it does not have the opportunity to attract passing trade. At the time of my site visit, it appeared to be in the process of being fitted out and has yet to open. There is little compelling evidence before me which would lead me to conclude that a totem advertisement in the location and form proposed would be required to attract passing trade. In any event, these matters have limited bearing on my decision given that the Regulations require that I exercise my powers only with regard to amenity and public safety.

#### **Conclusion**

13. For the reasons given above the appeal should be dismissed.

*L Francis*

INSPECTOR





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## Appeal Decision

Site visit made on 28 May 2025

by **R J Perrins MA ND Arbor Tech ArborA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17<sup>th</sup> June 2025

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**Appeal Ref: APP/TPO/V2255/9843**

**Central Communal Garden, Sommerville Close, Faversham, Kent ME13 8HP**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
  - The appeal is made by Miss Mande McCree against the decision of Swale Borough Council.
  - The application Ref: 23/500998/TPOA, dated 24 February 2023, was refused by notice dated 5 May 2023.
  - The work proposed is to fell three alder trees.
  - The relevant Tree Preservation Order (TPO) is TPO No. 2 2003, The Central Green, Sommerville Close, Faversham, which was confirmed on 13 February 2003.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The effect on the character and appearance of the area if the trees were removed and whether the reasons submitted justify the tree felling.

### Reasons

3. The three trees grow together in the communal area of Sommerville Close. Next to footway access and green space, they have formed one large, spreading crown. The three trees are an imposing group and can be seen from many of the adjacent roads. They make an important contribution to the character and appearance of the area being some of the tallest, most noticeable trees, in the general locality.
4. Therefore, the felling of the trees would be a significant loss and lead to unacceptable harm to the character and appearance of the area. Given that, any reasons given to justify the removal of the trees need to be convincing. It is to those reasons, the second main issue, to which I now turn.
5. There is nothing before me or from what I saw on site to suggest the trees are anything but of good health and vigour, with a good useful life expectancy. That is reflected by the submitted arboricultural report.
6. I accept that the adjacent garages are showing signs of movement, and I was able to see the crack monitoring points that have been fixed to the garages. I also recognise that a number of roots have been found next to the garages and the geological data indicates that the underlying geology in the area is clay.

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7. In addition, disruption to tarmac footpaths is undisputed. I was able to see that the roots have lifted and cracked the tarmacadam's surface in a number of places and that is a potential trip hazard. However, with respect to the footpath, and as set out in the arboricultural report, that may be resolved by the installation of a more flexible solid surfacing.
8. With regards to the damage to the garages, the government's Planning Practice Guidance is clear. That sets out that where applications suggest tree-related subsidence then the application should be supported by appropriate information. That information can be found on the guidance notes for the standard application form which, in brief, refers to the following information being required:
  - A description of the property including damage, crack pattern, dates of previous underpinning or building work and geological strata information.
  - Details of existing vegetation and its management.
  - Measurements of the extent and distribution of vertical movement using level monitoring.
  - Profile of a trial borehole dug to identify foundation type and depth and soil characteristics.
  - Subsoil characteristics including soil type, liquid limit, plastic limit and plasticity index.
  - Location and identification of roots found.
  - Proposals and estimated costs of options to repair the damage.
9. I recognise that some of that can be found in the reports submitted and matters have moved on since the time the appeal had been made. However, on the information currently before me, it is not possible to make any reasoned finding that the only option would be to remove the trees. It may well be, given the time that has passed since the appeal was made, that such information is now available. However, given the nature of this appeal procedure it is not something that I am able to request, and I can only consider the information submitted with the application.
10. To that end, and given the significant impact these three trees have on the landscape, I must find the evidence submitted regarding the damage to the garages is not sufficient to justify felling the three trees.
11. Turning to the other matters, I recognise the trees will continue to grow and the canopy is close to the block of flats. In addition, I acknowledge concerns about the future influence of the trees on the foundations of the flats, shading of properties, falling twigs and branches, the trees swaying in the wind and risk of damage to overhead phone lines.
12. However, these matters go hand-in-hand when living next to mature trees that provide a positive impact on the character and appearance of the area and environment. There is nothing to corroborate the view that the trees pose a threat to the foundations of the flats or that shading is causing unacceptable harm to the living conditions of occupiers of nearby properties. Trees will sway in the wind that is the trees' natural method for dampening wind loading and is

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normal. Telephone lines do have some tolerance to movement and if necessary, the operators have rights to carry out certain works.

13. Overall, along with the Town Council not objecting to the application, these matters hold minimal weight in favour of tree removal.
14. With any application to fell protected trees, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the proposed felling of the trees would result in considerable harm to the character and appearance of the area, and in my judgement insufficient justification has been demonstrated for the tree removal.

#### **Conclusion**

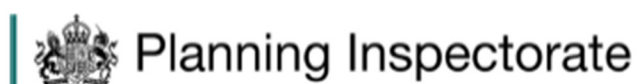
15. For the reasons set out above and having considered all matters raised, I conclude that the appeal should be dismissed.

*RJ Perrins*

Inspector

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## Appeal Decision

Site visit made on 14<sup>th</sup> May 2025

by P H Wallace BSc (Hons) DipMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

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Appeal Ref: APP/V2255/D/25/3362107

30 Harps Avenue, Minster-on-Sea, Kent ME12 3PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr S Cinar against the decision of Swale Borough Council.
  - The application Ref is 25/500021/FULL.
  - The development proposed is a two storey side extension.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

3. The appeal property is a semi-detached, two-storey dwelling situated on a corner plot within a residential estate. The estate exhibits a high degree of uniformity, characterised by consistent architectural styles, regular plot sizes and evenly spaced buildings which combine to create a strong and identifiable sense of place. The carefully planned separation between buildings provides an openness which contributes positively to the character and appearance of the area.
4. The semi-detached pairs fronting the north and east sides of Harps Avenue are separated by narrow gaps. Where the road turns the corner, and where the appeal property is located, these gaps widen perceptually. The plots here have a distinctive splayed layout with the space between buildings widening from back to front.
5. The proposal is a two storey side extension comprising a garage with bedroom over. The front of the extension would be set back from the main wall of the dwelling with the ridge lower but matching the existing hipped roof design. A bin store is proposed between the extension and the boundary with No. 28 Harps Avenue, narrowing front to rear and terminating at a point where the northern tip of the extension adjoins the common (side) boundary.
6. The Council's Supplementary Planning Guidance (SPG) 'Designing an Extension - A Guide for Householders' states that to avoid a loss of openness, houses should

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not be physically or visually linked, and that a gap of 2m should normally be required between a first floor extension and the side boundary.

7. Whilst the front of the extension is set off the side boundary by a reasonable distance, as the site tapers to the rear much of the extension would immediately adjoin the side boundary, abutting it where the rearward part of the extension ends. From the street the perception would be of a notable reduction in the width of the gap between the properties. This would harmfully erode the sense of space between the dwellings, which is an important characteristic of the area. While the angled juxtaposition of No.'s 28 and 30 Harps Avenue avoids the risk of a "terracing" effect, in terms of the appearance of a continuous row of properties, I share the Council's concern that the gap between the properties would be lost in the event of a comparable development at no.28. Such an eventuality would compound the unacceptable harm identified. While the design of the extension has been appropriately scaled to respect the host building, its appearance does not overcome the harm identified in respect of the erosion of the openness between the buildings.
8. The appellant has referred to an appeal decision (APP/V2255/D/19/3236298) for a two-storey side extension that was allowed despite not complying with the SPG. The appeal is said to be very similar to the current proposal as the property is situated on a bend. From that case, I note the proposed extension was above and behind an existing attached garage and would be no closer to the adjoining property than the garage. Furthermore, while the full 2m separation distance from the side boundary, as sought by the SPG, would not be achieved, the extension would still be set off the boundary. These factors appear to have contributed to the conclusion that the development would retain the spaciousness between the properties. Each case must be assessed on its own merits, and I am satisfied the circumstances applying in that appeal are materially different to the current proposal.
9. For the reasons given, the proposed development would harm the character and appearance of the area. It would conflict with Policies CP4, DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan (2017), which seek to promote local distinctiveness and strengthen sense of place and state development must maintain or enhance the built environment and the character of the streetscene. It would also conflict with paragraph 5.0 of the Designing an Extension: A Guide for Householders SPG, which states two-storey side extensions should not result in the loss of openness between properties and Paragraph 135 of the National Planning Policy Framework which seeks developments that are visually attractive, sympathetic to local character including the surrounding built environment and maintain a strong sense of place.
10. The Council is satisfied the development would not cause harm to the living conditions of neighbours and the car parking demand arising from an additional bedroom would not have an unacceptable impact on the operation of the highway. I have no reason to disagree with these conclusions and compliance with the development plan in these respects is a neutral factor.



Appeal Decision APP/V2255/D/25/3362107

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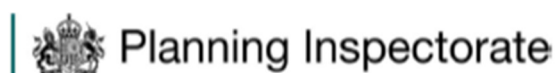
**Conclusion**

11. I conclude the proposal would conflict with the development plan and the material considerations do not indicate the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

*PH Wallace*

INSPECTOR

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## Appeal Decision

Site visit made on 19 May 2025

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17<sup>th</sup> June 2025

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**Appeal Ref: APP/V2255/W/24/3354226**

**Land West of Salvation Place, Bell Farm Lane, Minster-on-Sea, Sheerness, Kent ME12 4JB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Penfold and Ms Lee against the decision of Swale Borough Council.
  - The application Ref is 22/503844/FULL.
  - The development proposed is the change of use of the land to a single residential caravan pitch for one Gypsy family with the erection of kennels for the keeping and breeding of dogs and store (partially retrospective).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The address of the appeal site on the application form is 'Salvation Place, Bell Farm Lane, Minster-on-Sea, Kent ME12 4JB' but the appellants agreed to change this during the application, and this is reflected in the banner above.
3. The proposed development was originally described on the application form as 'change of use of the land to a single residential caravan pitch for one Gypsy family with erection of kennels and store (partially retrospective)'. The appellants agreed to the amended description in the banner above during the application.
4. A residential caravan, kennels and store have already been placed on the site. These appear to be consistent with the proposed site layout plan. I have determined the appeal based on the submitted plans considered by the Council.
5. The Planning Policy for Traveller Sites (PPTS) was revised in December 2024. I invited the parties to consider whether the revised PPTS has relevance to this appeal and have taken account of the responses received in my decision.

### Main Issue

6. The main issue in this appeal is whether the location of the site is suitable for the proposed use, with particular regard to the risk of coastal erosion.

### Reasons

7. The appeal site lies at the western end of Bell Farm Lane, adjacent to an existing Gypsy site within an area characterised by a mix of Gypsy sites, holiday chalets and dwellings. Immediately north, a steep vegetated slope leads down to the

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- beach and sea. The proposed caravan is close to the lane with the kennels and store behind it.
8. The site is within Erosion Zone 1 (EZ1) within the Coastal Change Management Area (CCMA) defined on the Council's Proposals Map. EZ1 is land between the low water mark and the 50 year indicative erosion line.
  9. Policy DM23 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP) sets out the Council's approach towards coastal change management. The proposed use does not fall within the types of development allowed within the CCMA or EZ1 under Policy DM23. Nevertheless, the policy states that permission will be granted for proposals within the CCMA where it is demonstrated that it will not result in increased risk to life, nor a significant increase in risk to property. In EZ1, Policy DM23 requires a Coastal Erosion Vulnerability Assessment to show that the development will be safe throughout its planned lifetime and will not increase risk to life or property elsewhere without the need for new or improved coastal defences.
  10. National Coastal Erosion Risk Mapping (NCERM) data includes the 2018 cliff line and delineates an estimate of the landward cliff line recession for 20, 50 and 100 years respectively. The appellants' updated Coastal Erosion Technical Note (the Technical Note) uses the worst-case scenario from this data to infer a rate of erosion, in metres per year, to establish a timeline for the occupation of the site. Using this calculation, the Technical Note indicates that the proposed caravan, kennels and store would not be affected by coastal erosion over their five-year lifespan. The appellants consider that a temporary permission of five years would be a reasonable response to this data.
  11. NCERM data would usually be relied upon where no other data is available. However, in this location the Council's North Sheppey Erosion Study (NSES) published in 2011 considered the cliff erosion mechanism of the coastline in detail. The Technical Note also uses data from the NSES to estimate erosion in metres per year, again stating that the proposed development would not be subject to coastal erosion within five years.
  12. Aerial images and measurements of the site together with a supporting statement relating to the adjacent Gypsy site indicate that this area has not been affected by cliff slippage since 2003. Whilst this may show that there has been less erosion in the recent past than the NCERM and NSES datasets suggest, this does not mean that the rate of erosion will continue to be low. Indeed, given the effects of climate change, the rate of erosion could increase in time.
  13. The NSES provides better local data and supersedes that in the NCERM. The NSES was used to underpin the establishment of EZ1 in Policy DM23 which the Council's coastal erosion consultant indicates is at immediate risk of erosion. Further, the Environment Agency objects to the proposal as the site is within an area at significant risk of coastal erosion, and residential accommodation, even on a temporary basis, is not appropriate given the difficulty in predicting locations and rates of erosion. As such, I am not satisfied that the proposed development, even with a five year restriction, would be safe throughout its planned lifetime and does not increase risk to life or property.
  14. There are other Gypsy and Traveller sites in the area including the adjoining site at Salvation Place, but this was approved prior to LP Policy DM23 coming into force.

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The presence of other pitches does not justify the risk to life and property caused by the location of the proposed scheme in a coastal erosion zone.

15. Consequently, I conclude that the location of the site is not suitable for the proposed use, with particular regard to the risk of coastal erosion. This is contrary to Policy DM23 of the LP which sets out the requirements for proposals in the CCMA. The proposal also conflicts with paragraph 185 of the National Planning Policy Framework (the Framework) where it states that development in a CCMA will be appropriate only where it is demonstrated that it will be safe over its planned lifetime.

#### **Other Considerations**

16. The Council accepts that it cannot currently demonstrate an up-to-date five year supply of deliverable Gypsy and Traveller sites. Its current position is a 1.3 year supply which represents a significant shortfall. In these circumstances, as set out in paragraph 28 of the PPTS, the provisions in paragraph 11(d) of the Framework apply. However, in this case, the application of policies in the Framework that protect areas of coastal change provides a strong reason for refusing the development. Consequently, the presumption in favour of sustainable development is not engaged.
17. The Council's Gypsy and Traveller Accommodation Assessment 2023 (GTAA) identifies a need for 80 Gypsy and Traveller pitches in the Borough from 2022/23 to 2026/27 and 34 in the longer term from 2027/28 to 2037/38. The GTAA indicates that regularising sites that are not permanently authorised and additional pitch provision on existing sites would help meet identified pitch needs.
18. Policy DM10 of the LP sets out the Council's approach towards proposals for Gypsy and Traveller sites. The Council has not identified any conflict with this policy, and states that windfall sites are being approved in line with the need identified in the GTAA. Nevertheless, it accepts that there is a clear ongoing need for Gypsy and Traveller sites in the Borough, but there is little indication of how this will be addressed. Further, there is no evidence of any suitable alternative sites available for the appellants in the Borough.
19. When I factor in the lack of five-year supply, the current unmet need for pitches, the absence of an alternative site, and the failure of policy that has led to this situation, the provision of one pitch adds significant weight in favour of the proposed development.
20. The Council did not find harm or development plan conflict in relation to several other matters, including character and appearance, drainage and surface water run-off, ecology, access and parking. However, even if I were to agree with the Council on these points, the absence of harm is a neutral matter which does not carry weight in favour of the proposed scheme.
21. The proposed development is likely to have a significant effect, either alone or in combination with other projects, on The Swale Special Protection Area due to its location within 6km of the protected site. However, notwithstanding the SAMMS<sup>1</sup> mitigation fee payment, given my conclusion below there is no need to consider

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<sup>1</sup> Thames, Medway and Swale Strategic Access Management and Monitoring Strategy

the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

*Personal circumstances*

22. The Gypsy status of the appellants is not disputed. As members of an ethnic minority, they have the protected characteristic of race under section 149(7) of the Equality Act 2010. In addition, one of the appellants has various medical ailments, and ill and disabled close relatives live nearby. Disability is also a protected characteristic. The public sector equality duty (PSED) at section 149(1) of the Equality Act requires me to have due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations.
23. The appeal scheme supports the traditional way of life of and facilitates the establishment of a settled base for a Gypsy family which may include children in the future. This allows cultural traditions to be balanced with the practicalities of modern living. It also enables the appellants to access nearby medical support and provide care and support to sick and disabled family members close by as well as providing access to schools for any future children. Further, the unmet need for pitches indicates inequality in housing opportunities and the proposal helps to offset this in a modest way.
24. These are important points in achieving the social sustainability sought by Paragraph 13 of the PPTS. It does not automatically follow that the appeal should be allowed because the PSED is relevant. Nonetheless, the equality implications weigh notably in favour of permitting pitches at the appeal site because dismissing the appeal would perpetuate the disadvantages currently endured.

**Planning Balance**

25. I have found that the site is unsuitable for the proposed use due to the risk of coastal erosion. The resulting conflict with Policy DM23 of the LP leads to a conflict with the development plan as a whole and with the Framework as set out above. I attach substantial weight to this harm.
26. I have identified several considerations above, which together add considerable weight in favour of the proposed scheme. However, the weight of these benefits is not sufficient to outweigh the harm I have found in this case. The introduction of the proposed use into a CCMA is sufficient for me to conclude that the development is unacceptable.
27. I have considered the options of granting permission for a temporary period of two or five years for the appellants and their future dependents. This requires a balancing exercise taking into account the limited duration of any permission and any reasonable expectation of a change in planning circumstances by the end of those periods.
28. The danger of coastal erosion is currently present and will not abate within two or five years. Indeed, the site is within an area where the Shoreline Management Plan policy is for no active intervention, meaning that there is no planned investment in defending against erosion. There is also no suggestion that the care and health needs of the appellants and nearby family members are likely to abate in those periods or that relatives close by are likely to move.



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29. I accept that the prospect of alternative authorised sites becoming available remains low given the lack of clarity on how the Council intends to address ongoing needs. As such, I have no indication as to whether periods of two or five years are likely to be sufficient for the Council to adopt a new Local Plan, or for any future allocations to come forward.
30. Taking all this together, the material considerations do not clearly outweigh the harm arising from a limited period of occupation such as to justify a temporary permission personal to the appellants.

#### *Proportionality*

31. If the appellants could no longer be accommodated at this site, they would be forced to reside on the roadside. Dismissing the appeal would represent an interference with the home of the appellants such that Article 8 of the Human Rights Act is engaged. There is also a positive obligation imposed by Article 8 to facilitate the Gypsy way of life. The human rights interference associated with this conclusion is in accordance with the law and is necessary in a democratic society to protect environmental interests, which is a legitimate objective. The nature of the harm I have found is such that the public interest cannot be achieved by means that cause less interference with the appellants' rights. Therefore, dismissing the appeal is a proportionate response, and a violation of rights under Article 8 would not occur.
32. In accordance with the PSED, I have also given due regard to minimising the disadvantage suffered by the occupiers of the site as persons without a permanent home and to meeting their and their nearby family members' needs insofar as they are different to those without relevant protected characteristics. Whilst ultimately the appeal is to be dismissed, these considerations have been at the forefront of the decision-making process. Nevertheless, the specific nature of the harm identified means the outcome is a proportionate one.

#### **Conclusion**

33. The proposal conflicts with the development plan as a whole and the material considerations, including the PPTS and the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

*A Wright*

INSPECTOR

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## Appeal Decision

Hearing Held on 20 May 2025

Site visits made on 20 & 21 May 2025

**by G D Jones BSc(Hons) DipTP DMS MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> June 2025

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**Appeal Ref: APP/V2255/W/24/3356342**

**Land to the East of Scocles Rd, Minster-on-Sea**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by MLN (Land and Properties) Ltd against Swale Borough Council.
  - The application Ref 22/502086/OUT, is dated 22 April 2022.
  - The development proposed is a residential development of up to 650 units inclusive of a new community hub, landscaping measures and green infrastructure, with all matters reserved except for access.
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### Decision

1. The appeal is allowed and outline planning permission is granted for a residential development of up to 650 units inclusive of a new community hub, landscaping measures and green infrastructure, with all matters reserved except for access.

### Preliminary Matters

2. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the submitted details relating to these reserved matters as a guide as to how the site might be developed.
3. A legal agreement, dated 10 June 2025, made under s106 of the Town and Country Planning Act 1990 (the Legal Agreement) was completed after the hearing closed in accordance with an agreed timetable. I have had regard to it in my consideration and determination of the appeal.
4. There is a Statement of Common Ground (SoCG) made between the appellant and the Council dated 5 February 2025. Amongst other things, it indicates that, had the appeal not been made, the Council would have granted planning permission for the proposed development. Accordingly, the Council did not contest the appeal, but did assist the appeal process, including during the hearing.
5. When the appeal was made the appellant also applied for an award of costs against the Council. However, at the hearing, its representatives confirmed it has now withdrawn that application for costs in view of the Council's subsequent conduct.

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**Main Issues**

## 6. The main issues are:

- The effect of the proposed development on the character and appearance of the area, including with regard to a 'Countryside Gap' between east Minster and Eastchurch;
- Its effect on biodiversity;
- Its effect on highway safety and congestion;
- Whether there would be sufficient suitable infrastructure and services to support the proposed development, including medical facilities and sustainable modes of transport; and
- Whether there are any other considerations, including housing delivery, that might outweigh any harm arising from the appeal development.

**Reasons*****Character and Appearance***

7. The appeal site is not subject to any landscape designations. Nonetheless, it is not without quality and character. Indeed, its character and appearance are typical of the wider pleasant open countryside that extends to the south and east of Minster-on-Sea. Whilst partially enclosed by hedgerows and trees along its boundaries, the open, rural character of the site is a significant feature of this part of the settlement's setting.
8. The illustrative details that support the appeal application indicate significant areas of planting and open space around much of its perimeters, notably to its southern and eastern boundaries. Nonetheless, a built frontage, contrasting with the existing open countryside, would be created along lengthy sections of Scocles Road and Elm Lane. More distant views, notably from the ridge that runs to the north and east, would also be available of the developed site.
9. Chiefly due to the scale of the development proposed, visual effects would be marked compared to the site's current open, rural character. In particular, the contribution the site makes to the open, rural setting of Minster-on-Sea and to the surrounding rural character would be lost. In its place, despite the proposed landscaping, the scheme would have the inherent character and appearance of the proposed development's substantial built form. The illustrative material suggests that it would remain apparent along boundaries to the site, with development likely to be evident above boundary landscaping and in filtered views and gaps, particularly via the two proposed vehicular access points from Lower Road and Scocles Road. In more distant views from the ridge, the development would also be readily apparent.
10. Consequently, the development would lead to a harmful loss of open countryside at odds with the existing character and appearance of the site and its surroundings. It would introduce substantial built form outside the defined settlement boundary. While this would also result in a reduction in the 'gap' between Minster and Eastchurch, a substantial 'gap' would be retained between the two settlements.
11. The landscape and visual effects would be mitigated to an extent by the proposed landscaping. However, the presence and effects of the development would, nonetheless, be felt, effecting the site's contribution to the wider



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pattern of open countryside and the rural setting of Minster-on-Sea. Moreover, while native species could be employed within the planting scheme, extensive planting of the type indicated is not typical of the area's current, comparatively open rural character.

12. For these reasons, therefore, the appeal development would be harmful to the character and appearance of the area, contrary in these respects to Policies ST 3 (The Swale settlement strategy), ST 6 (The Isle of Sheppey area strategy), CP 4 (Requiring good design), DM 14 (General development criteria) and DM 24 (Conserving and enhancing valued landscapes) of Bearing Fruits 2031: The Swale Borough Local Plan, July 2017 (the Local Plan).

#### **Biodiversity**

13. Concerns have been raised regarding a number of potential effects of the proposed development on biodiversity, both on and in the vicinity of the site and further afield as a consequence of the additional population that would come were the scheme to proceed. Kent Wildlife Trust is amongst the parties that have raised such concerns, along with local residents and Minster on Sea Parish Council.
14. Nonetheless, the Council as local planning authority, does not consider that any effects on biodiversity would warrant withholding planning permission, notwithstanding the reasonably high degree of policy and statutory protection afforded to habitats and wildlife. Moreover, the County Council's Ecology Officer has raised no objections to the proposal subject to mitigation being secured.
15. A Preliminary Ecological Appraisal (PEA) has been prepared for the proposed development. It identifies the presence of or potential for protected and priority habitats and species within and around the site and the potential for these features to be adversely affected without appropriate avoidance and mitigation measures. Such measures are all matters that could be secured and controlled were planning permission to be granted. Overall, the risk of impact to protected species or habitats from the proposed development is identified in the PEA as being negligible. Notwithstanding the concerns raised by other parties, there is no substantiated evidence before me that calls into question the methodology, contents or conclusions of the PEA.
16. Indeed, there is potential to create new habitats around the site's boundaries. The proposed development, therefore, offers an opportunity to significantly improve the biodiversity value of the site from its current predominantly low value arable use and to compensate for the loss of important habitats, such as hedgerows.
17. The site is also located within 6km of The Medway Estuary and Marshes Special Protection Area and the Swale Special Protection Area (the SPAs) and Wetland of International Importance under the Ramsar Convention (the Ramsar Site). Natural England has confirmed that it is satisfied that the application site is not supporting habitat or functionally linked land to the SPAs or Ramsar Site, and subject to mitigation, it raises no objection to the appeal scheme.
18. Nonetheless, under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), as competent authority, I am required to undertake an Appropriate Assessment of the appeal development on the basis

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of its Likely Significant Effects on the SPAs and the Ramsar Site as European Sites regarding disturbance generated from recreational pressure during occupation (in-combination).

19. Due to the scale and location of the development, the Council has concluded that there is insufficient scope to provide on-site mitigation. Following liaison with Natural England, it has also concluded that off-site mitigation would be required. In such circumstances, there is an established mechanism in this area whereby a payment may be made towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy. Such payments, associated with different development, are used to deliver the SAMM in a coordinated manner.
20. The evidence indicates that this approach would adequately mitigate the effects of the proposal so that there would be no adverse effect upon the integrity of any European Sites. Moreover, the mitigation could be secured and managed via a combination of the planning obligations and conditions – matters I return to later in my decision.
21. For the foregoing reasons, therefore, subject to mitigation, the proposed development would have an acceptable effect on biodiversity. Consequently, in that regard, it would accord with Policies ST 6, CP 2 (Promoting sustainable transport), CP 4, CP 7 (Conserving and enhancing the natural environment - providing for green infrastructure) and DM 28 (Biodiversity and geological conservation) of the Local Plan.

#### **Highway Safety & Congestion**

22. Concerns have also been raised locally over the effects that the proposed development might have on the highway network. While a number of potential issues have been identified, including traffic accident statistics and that children would need to travel some distance from the site to access education, no substantiated evidence has been put to me to suggest that there would be any significant impacts in this regard that could not be reasonably mitigated.
23. Indeed, as with biodiversity, the Council does not consider that any effects on highway safety or congestion would justify refusing planning permission. The potential effects of the development in these respects appear to have been thoroughly assessed on behalf of the appellant, for instance via a Transport Assessment supported by a Public Transport Strategy. The development and the proposed mitigation have also been scrutinised by Kent County Council as local highway authority as well as by National Highways. Subject to mitigation, neither of these bodies have any outstanding objections to the appeal scheme.
24. Based on all that I have read, seen and heard during the appeal process, I have found no good reason to conclude that the appeal scheme would have any significant negative effects on highway safety or congestion that could not be mitigated. Indeed, it seems much more likely that it would result in benefits to the off-site highway network. Examples of this include improvements to the A2500 Lower Road / Barton Hill Drive roundabout and to the A249 Sheppey Crossing / A2500 Lower Road roundabout. There is also the opportunity to extend a planned shared footway/cycleway through the Thistle Hill Community Woodland. Accordingly, the scheme would be consistent with Policies ST 6, CP 2 and DM 6 (Managing transport demand and impact) of the

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Local Plan. It also has the potential to support the objectives of the County Council's Local Transport 5 – Striking the Balance, December 2025.

**Infrastructure & Services**

25. Interested parties have also raised concerns over whether there would be sufficient suitable infrastructure and services to support the proposed development. This includes, amongst other things, medical facilities, sustainable modes of transport, schools, nurseries and youth facilities, as well as sewage / drainage, electricity, water, telecommunications and refuse / recycling facilities and services. While I have no doubt that the concerns are genuinely held, there is little by way of substantiated evidence to support these claims other than anecdotal comments. Examples include a poor doctor to patient ratio, children from the island being required to travel as far as Faversham to go to school and that in recent years the island was left without water for some time.
26. In contrast, the appellant has submitted a range of information and evidence that assesses the likely effects of the development along with a proposed suite of mitigation intended to deal with those effects on local infrastructure and services. In addition to the investment in the local highway network and the biodiversity mitigation referred to above, these would include open space provision and payments to improve education and health care services. Additionally, there would be improvements to bus services, public rights of way and waste services. The appeal scheme also makes provision for a new multi-use community hub, which has the potential to include a community centre, sports pitches and allotments. Moreover, land has also been set aside for a medical hub, which is subject to Integrated Care Board approval.
27. These submissions and proposals have been assessed by statutory consultees and service providers that have responsibility for planning, managing and / or providing infrastructure, services and facilities, as well as by the Council in its role as local planning authority. Having done so, subject to mitigation that could be secured via planning obligations or conditions, none of these bodies have suggested either that the proposed development would have a significant effect on existing infrastructure, services and facilities or that any effects arising from the development would not be adequately mitigated.
28. Indeed, while the proposed mitigation is primarily intended to address the needs and effects of the development, there are also likely to be some consequential benefits for the wider community. Highway benefits are, for instance, noted in the preceding subsection. New bus services, rights of way and public open space would, for example, be available to the wider community as well as to residents of the development. Moreover, new or enhanced premises for healthcare services would also be likely to be of benefit to residents of the wider area.
29. Overall, therefore, there is no soundly evidenced basis to conclude that the scheme would have a significantly detrimental effect in terms of any form of infrastructure, facilities or services. If anything, it seems more likely that it would have some positive effects in this regard. On this basis, therefore, there would be no conflict with the Local Plan, including in respect to Policies ST 6 and CP 6 (Community facilities and services to meet local needs).

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### ***Other Considerations & Planning Balance***

#### ***Housing Land Supply***

30. It is common ground between the Council and the appellant that the Council cannot currently demonstrate a National Planning Policy Framework (the Framework) compliant supply of housing land. They also agree that, as a consequence, the so-called tilted balance, as set out in para 11 of the Framework, applies to the determination of the appeal. I have found no good reason to disagree with them in respect to these matters.
31. The appeal development would clearly be at odds with Swale Borough's strategy for the location of new housing and conflict in that regard with the development plan. Notably, while the site is close to the settlement boundary of Minster as a third tier settlement, it is not within that boundary such that, for the purposes of Local Plan Policy ST 3, the site is to be regarded as being *in the open countryside, outside the built-up area boundaries* where development will not normally be permitted. However, the weight carried by this conflict with the development plan is currently limited given the absence of a Framework compliant supply of housing land bearing in mind that the strategy and associated development plan policies, including Policy ST 3, act as a constraint to housing delivery.

#### ***Heritage Assets***

32. Scocles Court, a listed building at grade II, is located some 40m to the west of the site on the opposite side of Scocles Road. There is modern housing development to its north, west and south, the latter of which is on-going, and there is also Scocles Road to the east. The evidence indicates that it is a former farmhouse to Scocles Farm and that associated farm buildings were laid out to the west and south, which have been demolished as part of the residential redevelopment of the land. Consequently, the agricultural function and context has been removed from Scocles Court as a former farmhouse. Its immediate setting has, therefore, changed significantly from what is likely to have been the case both originally and, more recently, prior to the nearby residential development.
33. Accordingly, the significance of Scocles Court as a heritage asset is largely derived from its architectural and archaeological interest. The agricultural fields to the east of Scocles Road, including the appeal site, do relate to its former function as a farm. Nonetheless, the development of its more immediate farmstead setting has significantly diminish any understanding of its role within the context of the farmstead and wider agricultural land and, thereby, the contribution setting makes to its significance as a listed building. Consequently, the site does not contribute to its significance as a designated heritage asset, such that the appeal development would not affect its significance in the terms of the Framework.
34. Accordingly, the appeal development would not harm Scocles Court as a grade II listed building. Notwithstanding the wider submissions from interested parties, I have also found no good reason to conclude, subject to controls that could be secured via planning condition, that it would have any negative impact on any other heritage asset.



*Other Considerations*

35. In addition to the main issues and the matters outlined above, concern has also been expressed locally in respect to a number of other matters. These include: loss of farmland, agricultural capacity and employment; business, tourism and cultural development and job opportunities should be prioritised over housing; whether there is a local need and the extent of any such need for more housing; development of the site having been rejected in the past; and its effect on living conditions of neighbours during the construction stage and following completion of the development, including in respect to noise and disturbance, light, privacy, air pollution, outlook, sense of peace and security and mental / physical health including in respect to vulnerable people and people with disabilities, on residents' assistance dogs, on flood risk and on community cohesion.
36. The concerns raised also include that the applicant is not a developer such that there is uncertainty over when / whether the development would be delivered; whether the scheme would deliver too much affordable housing; whether there are insufficient employment opportunities on the island such that residents would commute to the mainland and not support the local economy; whether such development should take place on previously-developed land or on other more suitable sites, including on the mainland; over-development; the location of the proposed sports and community facilities on-site; additional planting to the Scocles Road frontage; anti-social behaviour, security, crime, safety, trespass, social support and policing; alleged conflict with the Framework, including paras 20, 105, 110, 112, 130, 174 and 185; inconsistency in planning decision-making; and the appeal scheme's cumulative effect with other development.
37. Some of these matters are assessed above. Where they are not, they are largely identified and considered within the case officer's report on the appeal development. They were also before the Council either when it prepared for and participated in the hearing, including via the SoCG, or following the hearing before my decision was made. Throughout that process the Council has not concluded that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects subject to planning obligations and conditions.
38. Furthermore, representations were made to the effect that the rights of the occupants of a nearby dwelling under Article 8, as set out in the Human Rights Act 1998, would be violated if the appeal were allowed. I have found that residents in the vicinity of the site would not suffer unacceptable harm to their living conditions as a result of the appeal development. Nor would it conflict with the Local Plan in this regard. I am satisfied that a grant of planning permission would not unacceptably interfere with any nearby residents' right to a private and family life and home. It would, therefore, be proportionate in the circumstances to allow the appeal in terms of human rights.
39. In performing my function on behalf of a public authority I have also exercised my duties under the Public Sector Equality Duty contained in the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment, victimisation and any other prohibited conduct, and to advance equality of opportunity and foster good relations between people who share a protected

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characteristic and people who do not share it. Again, given my conclusions on the main issues and wider matters raised, the development proposed would be consistent with the aims of the PSED were it to proceed.

40. Reference has also been made to the 'Environmental Impact Assessment Regulations 2017'. Nonetheless, I have found no good reasons to conclude that the Council's assessment that an Environmental Impact Assessment is not required for the proposed development is incorrect.
41. The information before me indicates that a nearby property was not directly notified of the planning application nor of the appeal. I note the concerns that have been raised in this regard, including those regarding not having had as much time as other parties to engage with the planning process and that they did not have opportunity to be represented at the hearing. Nonetheless, those affected were given appropriate opportunity to comment in writing on the appeal scheme after the hearing closed. That process yielded three reasonably substantial sets of representations made on behalf of residents and owners of that property. Those representations have been taken into account when making my decision. Consequently, notwithstanding any shortcomings of earlier publicity/notification of the application/appeal, I am satisfied that the relevant parties have now had reasonable and appropriate opportunity to comment on the appeal proposal.
42. Comments have also been made in respect to some other matters that are not directly relevant to my decision. The planning process is concerned with land use in the public interest. Consequently, the protection of purely private interests, such as the impact of a development on the value of any neighbouring property or the loss of a view or of private rights to light, could not be material to the determination of the appeal. Similarly, while I recognise that some parties who have only recently become aware of the appeal development might otherwise have opted to relocate away from the site, this is not a matter that can alter the outcome of the appeal.

#### *Planning Obligations*

43. In the event that planning permission were to be granted and implemented the planning obligations within the Legal Agreement would secure the provision of:
- Payments for, or towards, the delivery of:
    - The Thames, Medway & Swale Estuaries - Strategic Access Management and Monitoring Strategy;
    - Additional SEND places and/or additional SEND facilities within the Borough to serve the needs of the development;
    - Equipment and resources at adult education centres, including at Sheerness and outreach provision to increase capacity in the service;
    - Additional equipment and resources for Integrated Children's Services in Swale including outreach provision;
    - Resources, equipment and book stock, including digital infrastructure and reconfiguration of space at local libraries serving the development, including at Minster;



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- Specialist adult social care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, and Changing Places within Swale;
  - Additional capacity at the Sheerness or Sittingbourne household waste recycling centre and Sittingbourne waste transfer station;
  - Refuse, recycling, food waste bin and kitchen caddy provision for dwellings within the development;
  - Refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development; the provision of new premises for general practice or healthcare services in the community in line with the healthcare infrastructure strategy for the area;
  - A new bus service and/or enhancements to existing services that would connect the development to the Tesco store in Sheerness, for up to 4 years;
  - A voucher for sustainable travel modes, either a bus, cycle or rail voucher for each dwelling; and
  - Mitigation of increased use of the public rights of way network and impacts on landscape and visual amenity of the wider network;
  - On-site affordable housing, including extra care housing, in the form of either:
    - Option A – at a rate of 25% of dwellings delivered with recycled grant funding; or
    - Option B – at a rate of 41.5%, including with the aid of Homes England grant funding.
44. Many of these matters are referred to in the 'Biodiversity' and 'Infrastructure & Services' subsections above. Within the case officer's report on the appeal planning application the Council has undertaken a reasonably detailed assessment addressing the application of statutory requirements to the planning obligations of the Legal Agreement referencing relevant Local Plan policy compliance. Planning obligations are also touched on in the SoCG.
45. I have considered the Legal Agreement in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies identified by the Council.
46. With regard to affordable housing, in coming to this view I have been mindful that Local Plan Policy DM 8 normally requires 0% affordable housing in this part of the Borough for this type of development. Part 6 of this Policy does, nonetheless, make provision for changed economic conditions and scheme viability such that more can be provided to help meet the Borough's needs, which the evidence indicates are significant. During the hearing, the appellant confirmed that the appeal scheme would be viable under either affordable housing Option A or B.
47. Overall, therefore, I am satisfied that all of the planning obligations of the Legal Agreement are directly related to the proposed development, fairly and

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reasonably related to it and necessary to make it acceptable in planning terms. Moreover, although there are several typographical errors in the Legal Agreement, I am also content that they would not undermine the operation of the planning obligations therein.

#### *Conditions*

48. A schedule of 44 suggested conditions agreed between the Council and appellant was submitted in accordance with a timetable established during the hearing. It supersedes the version contained within the SoCG. The revised schedule includes the standard time limit / implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
49. In order to ensure the development proceeds in a satisfactory manner and that facilities and infrastructure are delivered to support the residents of the scheme, a condition would be required to control the phasing of the development. To provide certainty, particularly in respect to the matters that are not reserved for future consideration, a condition requiring that the development is carried out in accordance with the approved plans would be necessary. To protect the character and appearance of the area, conditions to provide additional control over levels and landscaping as part of the reserved matters would be necessary.
50. To help ensure a safe environment for residents, a condition to secure a development that meets the principles of 'secure by design' as part of the reserved matters would be necessary. In order to provide certainty in respect to the matters that would not be reserved for future consideration and to protect the character and appearance of the area, a condition limiting the number of dwellings permitted would be necessary. Conditions to control the detailed masterplanning and design coding of the development would be necessary to protect the character and appearance of the area.
51. A condition would be necessary to ensure that features of archaeological interest are properly examined/recorded. A condition requiring adequate remediation of any contamination affecting the site would be necessary to safeguard the health and well-being of future occupiers. To protect highway safety and the living conditions of local residents, conditions would be necessary to control matters during the construction phase of the development, including hours of activity, a Construction Method Statement and Construction Traffic Management Plan.
52. Conditions to manage surface water during construction and to secure the installation and management of sustainable drainage as part of the development and foul water drainage would be necessary in the interests of flood prevention, to provide appropriate/adequate facilities and to protect the environment. Conditions to secure compliance with an Ecological Mitigation and Management Plan and a Biodiversity Enhancement Plan would be necessary in the interests of biodiversity. For that reason and to protect the character and appearance of the area, a condition would also be necessary to secure compliance with a Landscape and Ecological Management Plan.
53. To protect highway safety and manage traffic flow, conditions would be necessary to secure access, off-site highway works and the completion of certain on-site highway works to provide safe access to residents' homes.



Conditions would also be necessary to secure pedestrian and cycle infrastructure in the interests of highway safety and to promote sustainable modes of transport. For that latter reason, a condition would also be needed to secure cycle storage as part of the development. To promote sustainable transport and in the interests of biodiversity, a condition to secure the implementation of a Travel Plan would be necessary.

54. To ensure the mitigation for the A249/A2500 Roundabout and A249 remains effective and appropriate, conditions to secure and implement Monitor and Manage Mitigation Strategies for the mitigation would be necessary. Conditions to control external lighting would be necessary in the interests of biodiversity and to protect the character and appearance of the area. In the interests of energy efficiency and sustainable development, conditions would be necessary to ensure that renewable energy generation measures and sustainable construction techniques are incorporated into the development, and to ensure that it is built to BREEAM 'Very Good' Standard or an equivalent standard.
55. A condition to limit water consumption per resident per day would be necessary in the interests of biodiversity and water conservation. Having regard to the Acoustic Assessment submitted for the proposals, a condition to make a further noise assessment and to carry out any required pursuant mitigation would be necessary in order to secure acceptable living conditions for occupants of the development. A condition to control the method of piling during construction would be necessary to ensure any such works would not have a harmful effect on Scocles Court as a designated heritage asset.
56. Given my conclusion that the development would not harm Scocles Court as a grade II listed building, a condition to install a heritage interpretation board within the site to provide information about Scocles Court, including its historic function as a farmhouse, would not be necessary. Nonetheless, such a feature would be a welcome addition to the developed site and would, no doubt, be of interest to its residents as well as to the wider community.

#### *Planning Balance*

57. The appeal development would bring a range of benefits, most notably the delivery of substantial amounts of market and affordable housing in an accessible location with reasonable access to a range of services and facilities. In the context of the area's current issues with housing delivery, the benefits together carry, at the least, considerable weight in favour of the appeal development. This would be the case overall even if a rate of only 25% affordable housing were to be delivered.
58. As set out above within my assessment of the first main issue, the development would cause harm to the character and appearance of the area and there would be associated development plan policy conflict. This carries significant weight. Nonetheless, when combined with the more limited weight carried by the other matters that weigh against the appeal development, the collective weight of the adverse impacts would not significantly and demonstrably outweigh the considerable benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, it would be sustainable development in the terms of the Framework for which there is a presumption in its favour. This is a material consideration that, in the particular circumstances of the case, outweighs the conflict with the development plan as a whole.

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**Conclusion**

59. For all of the reasons given above, I conclude the appeal should, subject to the identified conditions, be allowed.

*G D Jones*

INSPECTOR

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## APPEARANCES

### FOR THE APPELLANTS:

Zack Simons, King's Counsel	Landmark Chambers
Richard Walters	Director, Broadgrove Planning & Development Ltd - Planning
Jim Budd	SCP – Highways
James Morton	Aspect – Landscape
George Kup	Meeting Place
Mark Murphy	MLN - Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Greenwood	Principal Planning Consultant, Swale Borough Council
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### FOR MINSTER ON SEA PARISH COUNCIL:

Cllr Tom Nundy	Chair of Planning Committee
Cllr Elliott Jayes	Chair of Minster on Sea Parish Council

### INTERESTED PERSONS:

Cllr Mike Whiting	Borough Councillor
Cllr Angela Harrison	Borough Councillor
Gary Hodges	Local resident

## DOCUMENTS SUBMITTED WHILE THE HEARING SAT

- 1 Material for the unaccompanied site visit
- 2 Kent County Council's Local Transport 5 – Striking the Balance, December 2025

## DOCUMENTS SUBMITTED AFTER THE HEARING SAT

- 1 Representations on behalf of occupants of Scocles Farmhouse of 20 May and 9 & 13 June 2025
- 2 Photographs submitted by the owner of Scocles Manor (referred to herein as Scocles Court)
- 3 Revised suggested conditions
- 4 Legal Agreement made under s106 of the Town and Country Planning Act 1990, dated 10 June 2025
- 5 The suite of emails from the appellant, the Borough Council and the County Council regarding the conditions, legal agreement and post-hearing representations



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SCHEDULE OF CONDITIONS FOR APPEAL REF APP/V2255/W/24/3356342:

- 1) Details relating to the appearance, landscaping, layout, and scale of the proposed dwelling(s) (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.
- 2) The first application for approval of reserved matters referred to in Condition (1) shall be made to the Local Planning Authority no later than the expiration of 12 months beginning with the date of the grant of outline planning permission.
- 3) The first phase of development to which this permission relates shall be begun not later than the expiration of 12 months from the final approval of the relevant reserved matters.
- 4) No development shall take place until a Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall include details of the delivery of:
  - Any Community Hub facilities falling within use Classes E(d), E(e), E(f), F.1(a) and F.2(b);
  - Allotments;
  - Open space including play, parks and gardens;
  - Natural/semi-natural greenspace;
  - Outdoor sport to meet Sport England guidance;
  - Amenity greenspace; and
  - Provision for children and young people.

The phasing of the development shall not be carried out otherwise than in accordance with the approved plan. All reserved matters submissions shall be in accordance with the Phasing Plan as approved by the Local Planning Authority.

- 5) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:
  - Assessment of Land Ownership Impact - SCP/220758/D11
  - Proposed Access Strategy Access onto Scocles Road 35m ICD Roundabout
  - Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout
  - Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option
  - Parameters Plan - BG/SRM/PP/01
- 6) Any reserved matters application(s) which covers the matter of 'scale' shall include a detailed levels survey of the site and cross sections showing:
  - Existing ground levels on site (spot heights) including a datum point that is located off site. Levels shall be Above Ordnance Datum (AOD);
  - The level of the roads outside the site (AOD);
  - The proposed levels on site following completion of the development (for each existing height a proposed height should be identified);

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- The location and type of any retaining structures needed to support ground level changes;
  - Finished Floor Levels for proposed buildings; and
  - The information supplied shall clearly identify if land levels are being raised or lowered.
- 7) Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:
- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, open spaces, edges, boundary treatments, public rights of way and roads;
  - Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas, to include provision for advanced planting to the northern and southern boundary of the site;
  - The open space details shall demonstrate that there will be no Sustainable Drainage Systems located within private gardens or play areas;
  - Details of the programme for implementing and completing the planting;
  - An Arboricultural Method Statement produced in accordance with BS5837;
  - A Tree Protection Plan showing trees that shall be retained and the arrangement of temporary protection measures that shall be installed prior to the commencement of development;
  - A methodology for any special construction that is required to ensure the success of proposed tree retention;
  - A detail for any temporary construction measures, products or construction methods that are specified;
  - Details of a proposed watching brief, monitoring or reporting;
  - Significant landscaping provided within the core of the site and internal streets and roads are tree lined; and
  - Details of 0.36ha of allotments.
- 8) The details submitted pursuant to Condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.
- 9) The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 650 units.
- 10) The first application for Reserved Matters for the development hereby permitted shall be accompanied by a site wide detailed Masterplan with associated Design Code and a site-wide Landscape Strategy incorporating biodiversity enhancement measures and a Landscape Management Plan. The Masterplan and Design Code shall be informed by relevant National Design Guides and Codes. A Design Review Outcome Report following a design review process involving the Local Planning Authority carried out by Design South-East or another appropriate design review panel that has been



approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Masterplan, Design Code and Landscape Strategy.

- 11) Any applications for Reserved Matters shall be accompanied by a Masterplan and Design Code Compliance Statement which demonstrates how that phase of the development has been brought forward in accordance with the approved Masterplan and Design Code pursuant to Condition (10) of this permission.
- 12) To assess and mitigate the impacts of development on significant archaeological remains:
  - Prior to the commencement of development the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority (LPA);
  - 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 in writing by the LPA;
  - The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the approved specification and timetable.
  - Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the LPA. The Post-Excavation Assessment Report shall include:
    - A description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
    - 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; and
    - A scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion;
  - The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the approved timings.
- 13) 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:

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- 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; and
- 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.

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.

- 14) Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management '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.
- 15) Prior to the commencement of development, a Construction Surface Water Management Plan (CSWMP) shall be submitted to and approved in writing by the Local Planning Authority. The CSWMP shall detail how surface water and storm water shall be managed on the site during construction. It shall also outline the phases of construction showing where and when drainage features shall be installed and how runoff shall be managed, to minimise flood risk and water quality impacts on site and to the surrounding areas.
- 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 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.
- 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 or with the prior written approval of the Local Planning Authority.
- 18) Prior to the commencement of development (including site clearance) an Ecological Mitigation and Management Plan (EMMP) shall be submitted to and approved in writing by the Local Planning Authority. The EMMP shall be based on the recommendations in Section 5 of the Preliminary Ecological Appraisal by Adonis Ecology Ltd. Dated 20th April 2022. It shall provide detailed avoidance and mitigation measures to be carried out on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details. The EMMP shall include the following:
  - Risk assessment of potentially damaging site clearance and construction activities;



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- Further surveys required to inform the measures within the EMMP;
- Extent and location of proposed mitigation measures, shown on appropriate scale maps and plans;
- Identification of 'biodiversity protection zones';
- Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during site clearance and construction (these may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- Use of protective fences, exclusion barriers and warning signs.

The approved EMMP shall be adhered to and implemented throughout site clearance and the construction period in accordance with the approved details.

- 19) Prior to the commencement of development (including site clearance) a Biodiversity Enhancement Plan (BEP) addressing ecological mitigation and enhancement of the site has been submitted to and approved in writing by the Local Planning Authority. The BEP shall be based on the outline proposals in Section 5.3 of the submitted Preliminary Ecological Appraisal by Adonis Ecology Ltd dated 20 April 2022 and include the following:
- Purpose and conservation objectives for the proposed works including creating suitable habitat for reptiles, amphibians and mammals and creating new hedgerows;
  - Detailed design(s) and working method(s) to achieve stated conservation objectives;
  - Extent and location/area of proposed works on appropriate scale maps and plans;
  - Type and source of materials to be used where appropriate, e.g. native species of local provenance;
  - Timetable for implementation demonstrating that works are aligned with the proposed phasing of development; and
  - Persons responsible for implementing the works.

The BEP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 20) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority prior to the completion of site access works of the development. The content of the LEMP shall include the following:
- Description and evaluation of features to be managed;
  - Ecological trends and constraints on site that might influence management;
  - Aims and objectives of management;

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- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions, together with a plan of management compartments;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- Details of the body or organisation responsible for implementation of the LEMP;
- Monitoring measures to demonstrate that the aims and objectives of management are being achieved including:
  - Identification of adequate baseline conditions prior to the start of development;
  - Methods for data gathering and analysis;
  - Location of monitoring and timing and frequency of monitoring; and
  - Responsible persons and lines of communication.
- Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged; and
- Details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery.

The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved LEMP shall be implemented in accordance with the approved details.

- 21) No dwelling hereby approved shall be occupied until the off-site highway works to the A2500 Lower Road/Barton Hill Drive roundabout as indicated on drawing number SCP/220758/D03 have been constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 22) No more than 300 dwellings hereby approved shall be occupied until a spine road connecting the improved 35m ICD 4-arm roundabout of Scocles Road/Thistle Hill Way at the development's western boundary and the new 40m ICD roundabout junction with Lower Road at the development's southern boundary, as shown on the illustrative masterplan, has been constructed and opened for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 23) Prior to the occupation of any dwelling accessed from Scocles Road, a footway measuring at least 2m in width shall be constructed on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 24) Prior to the occupation of any dwelling accessed from Lower Road, a 3m wide shared use footway/cycleway shall be constructed alongside Lower Road as shown indicatively on drawing BG/SRM/PCP/1 Revision A and extending to Scocles Road in accordance with details to be submitted to and approved in writing by the Local Planning Authority.



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- 25) Prior to the occupation of any dwelling accessed from Lower Road, off-site works to construct a 3m wide shared use footway/cycleway between the existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road shall be carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 26) Prior to the submission of the first reserved matters application, details of footway connections linking pedestrian routes within the development to Queen Anne Close and the southern boundary of Scocles Court shall be submitted to and approved in writing by the Local Planning Authority, in line with the approved Phasing Plan secured in line with Condition 4 of this permission, and the footways shall thereafter be constructed in accordance with the approved specification and phasing plan.
- 27) Prior to the commencement of development (including any works of site clearance or preparation) a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall include as a minimum:
- Construction phasing;
  - The parking of vehicles of site operatives and visitors;
  - Loading and unloading of plant and materials;
  - Recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic;
  - Routing and timing of construction traffic to / from site;
  - Wheel washing facilities; and
  - Temporary traffic management / signage.
- 28) No dwelling shall be occupied or the approved use commenced until space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 29) Prior to the first occupation of a dwelling/premises the following works between that dwelling/premises and the adopted highway shall be completed as follows:
- Footways and/or footpaths shall be completed, with the exception of the wearing course; and
  - Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
    - Highway drainage, including off-site works;
    - Junction visibility splays; and
    - Street lighting, street nameplates and highway structures if any.
- 30) The development hereby permitted shall not be occupied unless and until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:
- The identification of targets for trip reduction and modal shift;

- The measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- The timetable / phasing of the implementation of the Travel Plan measures shall be alongside occupation of the development and its operation thereafter;
- The mechanisms for monitoring and review;
- The mechanisms for reporting;
- The remedial measures to be applied in the event that targets are not met; and
- The mechanisms to secure variations to the Travel Plan following monitoring and reviews.

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

- 31) No occupation of any dwelling beyond the 250th hereby approved shall take place until full details of a 'Monitor and Manage Mitigation Strategy' has been submitted to, and approved in writing by, the Local Planning Authority. The Monitor and Manage Mitigation Strategy shall set out a methodology to determine the actual traffic impacts of the completed dwellings in terms of traffic flow changes, changes to road safety risk, and changes in traffic conditions (queue lengths and delays) on the Strategic Road Network (SRN) upon the occupation of the 250th dwelling. This information is to be set out in a report, and be used to confirm that:
- The agreed mitigation for the A249/A2500 Roundabout, as detailed to a preliminary design standard in SCP drawings refs: SCP/220758/D08 Rev G and SCP/220758/D09 Rev F, remains necessary; or
  - An alternative scheme of mitigation for the A249/A2500 Roundabout, detailed to preliminary design standard including but not limited to a Stage 1 Road Safety Audit, is necessary and appropriate to safely accommodate the traffic generation of the remainder of the development beyond the 325th dwelling; or
  - The traffic generation of more than 325 dwellings can be safely accommodated by the existing A249/A2500 Roundabout layout and if so, the number of occupations that, on the basis of the monitoring data and up-to-date transport evidence, renders the approved mitigation necessary. In this case, the monitoring process shall be repeated on the occupation of the Xth dwelling, X being the revised number of permitted occupations prior to mitigation becoming necessary minus 75; or
  - The traffic generation of the full development can be safely accommodated by the existing A249/A2500 Roundabout layout and therefore the approved mitigation is no longer needed.

The methodology shall set out how any review of traffic impacts shall be informed by up-to-date transport evidence including appropriate traffic modelling capable of satisfactorily replicating the operation of the SRN including junction interactions and network constraints, with reported results.



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- 32) Subject to the outcome from the Highways Monitor and Manage Mitigation Strategy confirming that physical mitigation works to the A249/A2500 Roundabout are required, no occupation beyond the agreed quantum of dwellings hereby approved shall take place until the improvement scheme identified and approved in writing by the Local Planning Authority has been completed and open to traffic.
- 33) Prior to the commencement of development a lighting design strategy for biodiversity for the site boundaries has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy shall:
- Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important foraging and commuting routes; and
  - Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit shall not disturb or prevent bats using their territory.
- All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.
- 34) Prior to the installation of any external lighting, in a particular phase, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority.
- 35) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Outline Drainage Strategy prepared by Paul Graveney Consulting Ltd (Issue 2 dated 22 April 2022) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.
- The drainage scheme shall include details of measures to mitigate the risk of flooding along watercourse corridors and land low spots. The details shall include consideration of flood resilience measures, exceedance routes away from buildings and finished floor level for any dwellings close to these locations.
- The drainage scheme shall also demonstrate (with reference to published guidance) that appropriate operational requirements for each drainage feature or SuDS component are adequately considered and that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- The drainage scheme shall be implemented in accordance with the approved details.
- 36) Prior to the commencement of development a SuDS Maintenance Schedule shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall specify ownership and any proposed arrangements for future adoption by a public body or statutory undertaker. The schedule shall specify a timetable for implementation, and it shall provide a management



and maintenance plan for the lifetime of the development. All SuDS should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each SuDS feature based on guidance in the CIRIA SuDS Manual 2015 as well as details of who will carry out the maintenance.

- 37) No building on any phase or within an agreed implementation schedule of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.
- 38) Prior to the commencement of development, details of measures to be undertaken to divert the public sewers/water mains along with a timetable for the completion of these measures, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully implemented in accordance with the approved timetable.
- 39) No development beyond the construction of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.
- 40) All non-residential buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the buildings the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.
- 41) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.
- 42) Prior to the commencement of development the final layout locations of properties on the site and their associated amenity areas shall be submitted to and approved in writing by the Local Planning Authority together with a further noise assessment identifying properties that require noise mitigation measures and full details of any proposed measures. Upon approval by the Local Planning Authority the noise mitigation measures shall be implemented in full prior to occupation of the dwellings and retained thereafter.
- 43) Prior to undertaking any piling works a Piling Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall consider the impact of the piling works on the Grade II listed Scocles Court. The piling works shall be undertaken strictly in accordance with the approved method statement.

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Planning Inspectorate

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## Appeal Decision

Inquiry held on 10 to 12 December 2024 and 18 to 20 March 2025

Site visit made on 12 December 2024

**by O S Woodward MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27<sup>th</sup> June 2025

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**Appeal Ref: APP/V2255/W/24/3350524**

**Land at Ham Road, Faversham, Kent ME13 7TX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Swale Borough Council.
  - The application Ref is 23/502113/OUT.
  - The development proposed is the erection of up to 250 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point.
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### Decision

1. The appeal is allowed, and planning permission is granted for the erection of up to 250 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point, in accordance with the terms of application Ref 23/502113/OUT, dated 12 May 2023, and subject to the conditions in the attached schedule.

### Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was released in December 2024, and further updated in February 2025. This, amongst other amendments, included changes related to flooding, which is one of the main issues for the appeal. The Inquiry was therefore adjourned in December 2024 and resumed in March 2025, to afford time to review the revised Framework and to submit new evidence as appropriate. I am therefore satisfied that sufficient time was provided to all parties to consider the amendments.
3. The appeal is for outline planning permission with all matters reserved apart from access, which has been applied for in full. Vehicular access would be from Ham Road, as shown on drawing Ref 17277 H-01 P6. There would also be pedestrian access from a Public Right of Way (PRoW) to the south east corner of the site. Sketch layout, illustrative open space, and development framework plans have also been submitted. I have had regard to these drawings whilst acknowledging their illustrative nature and the outline nature of the application.
4. A number of submissions were received prior to, during and after the Inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice

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to any party from my consideration of these documents. The appeal is therefore determined on the basis of the revised and additional documents.

5. Because the appeal relates to a proposal that would affect the setting of listed buildings, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. There are three reasons for refusal. The third reason for refusal is partly in relation to the effect on local infrastructure in the absence of a completed s106 Planning Obligation. The final s106 Planning Obligation, dated 26 March 2025 (the s106) responds to these concerns and, amongst other things, it secures:
  - a healthcare contribution;
  - a sports and recreation contribution;
  - a wheelie bin contribution;
  - a community learning contribution;
  - a libraries contribution;
  - a primary education contribution;
  - a SEND contribution;
  - a secondary education contribution;
  - a secondary education land contribution;
  - a social care contribution;
  - a waste disposal contribution;
  - an integrated children's services youth and early years contribution;
  - payment of the Council and County Council's legal costs to complete the s106; and,
  - monitoring fees for the Council and County Council.
7. The Council's and the County Council's CIL Compliance Statements set out the detailed background and justification for each of the obligations as set out above. I am satisfied that the provisions of the s106 as set out above would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at Paragraph 58 of the Framework, and I have taken them into account. The elements of this reason for refusal that relate to local infrastructure are not therefore main issues for the appeal. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.
8. The Faversham Neighbourhood Plan 2023 – 2038 Referendum Version 2024 (the FNP) was 'made', in December 2024. It therefore carries full weight, subject to any considerations of its consistency with the Framework, and I have had regard to the FNP as appropriate throughout my Decision.
9. It is common ground between the Council and the appellant that the Council cannot demonstrate a five-year supply of housing land. It has been set at 3.98 years, in accordance with a recent appeal decision<sup>1</sup> in the same Borough, and the latest Standard Method for calculating housing need. I refer to this as appropriate throughout my Decision.

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<sup>1</sup> Ref APP/V2255/W/23/3333811



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### Main Issues

10. The main issues for the appeal are:
  - whether or not the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of local and national planning policy;
  - the effect of the proposed development on the character and appearance of the area, including on landscape character; and,
  - whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance, including with regard to Best and Most Versatile agricultural land (BMV).
11. Save Ham Farm (SHF) and Faversham Town Council (FTC) both had Rule 6 status at the Inquiry. In addition to the above, they had concerns regarding drainage, ecology, accessibility and highway safety. I must also consider the planning balance.

### Reasons

#### Flooding

##### Tidal flooding

12. The appeal site is located close to the coast and therefore tidal flooding, rather than river flooding, is the most relevant consideration. Based on present day scenarios, the proposed developable area of the site is not, though, at risk of tidal flooding.
13. However, it is also necessary to consider future scenarios. In this regard, it is common ground between the main parties and the Environment Agency (EA) that the most appropriate measure to use is the 1 in 200 yrs plus 'higher central' climate change allowance undefended flood event. The use of undefended is necessary because of the likelihood that the maintenance of the embankments within the Ham Marshes frontage will cease in the medium term (2048 onwards), as confirmed by the EA. Using either the 'higher central' or 'upper end' climate change allowance makes limited difference to the flood extents in this location<sup>2</sup>. The adopted 'higher central' option is supported by the EA. For the avoidance of doubt, this also includes the EA's latest flooding data<sup>3</sup> and is based on the current accurate topography of the appeal site. I therefore agree with this approach.
14. The above approach results in a design tidal flood event depth of 5.83m AOD. In such an event<sup>4</sup>, there would be flooding to the area where some of the proposed built form would be located to the north west corner of main part of site and also to the south east corner, to the access road, and to parts of the proposed areas of open space.
15. Paragraph 170 of the Framework directs inappropriate development in areas at risk of flooding away from areas at highest risk. The Framework does not define inappropriate development in the context of flooding. Residential development is both intrinsically vulnerable to flooding and a more

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<sup>2</sup> Confirmed under cross examination

<sup>3</sup> NaFRA2

<sup>4</sup> See Appendix H2 of the appellant's Flood Risk Assessment & Outline Surface Water Drainage Strategy, dated April 2024

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vulnerable land use than the existing agricultural field<sup>5</sup>. I therefore consider the proposed residential development to be inappropriate development for the purposes of Paragraph 170.

16. Directing development away from areas at highest risk can be achieved, in principle, by adopting the sequential approach, ie placing inappropriate development on parts of the site not at risk of flooding. However, this is not what is being proposed because, as set out above, some of the areas for future homes and the proposed vehicular access are within areas at risk of tidal flooding. Even if the access point is largely dictated by the constraints of the site, it would have been possible to alter the proposed areas of built development to not be within the areas at risk of flooding.
17. Paragraph 174 further states that inappropriate development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 175 confirms that, where proposed built development is within areas at risk of flooding, the sequential test should be used. This is to establish whether or not there are reasonably available alternative sites.
18. The proposal includes changing the land levels including raising them in some areas, with the result that all areas of proposed built development would be 300mm above the design flood level, ie would not be at risk of flooding. This could be secured by condition(s). Much time was spent at the Inquiry discussing the changing land levels and whether they are occasioned by remediation works or are a direct response to the flood issues, ie a flood mitigation measure. However, such a distinction is not relevant to consideration as to whether or not a sequential test is required. Paragraph 175 clearly states that land raising, with no qualifications as to the purpose of such land raising, should not be used as a means to avoid the sequential test.
19. Annex 3 to the Framework is ambiguous as to the vulnerability classification of the access road. I do not view it as water-compatible development. It would be the only vehicular access to the site, and I view it to be either 'less' or 'more' vulnerable. I therefore consider the proposed access road to be inappropriate development for the purposes of Paragraph 170. The access road would be raised so that it could form a suitable connection to Ham Road, and its finished level would be above the design flood event and not at risk of tidal flooding. However, as with the ground remediation, the purpose of such land raising is not relevant to the necessity of the sequential test. Paragraph 175 is equally clear that access routes in areas at risk of flooding should be the subject of the test.
20. Paragraph 177 is extremely clear that an exception test can only be carried out after a sequential test has been undertaken. It starts with "Having applied the sequential test". Paragraph 172a is equally clear, stating "applying the sequential test and then, if necessary, the exception test". There is therefore no need to consider this further in terms of the obvious sequence of events. Whether or not it might be possible to compartmentalise the site is a moot point because the development is proposed as a whole and is not severable. Equally, whether or not the proposed access road would, by itself, trigger the need for a sequential test is also a moot point, because

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<sup>5</sup> Annex 3, the Framework



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being triggered by the proposed residential development is sufficient by itself. Therefore, a sequential test is required. A sequential test has not been undertaken by the appellant. This is a clear conflict with the Framework.

#### Surface water flooding

21. The site is at risk of surface water flooding, as calculated based on the NaFRA2 data and the latest topography on the site<sup>6</sup>. This includes developable areas. Paragraph 175 is clear that the sequential test applies to any form of flooding, now or in the future. It is therefore triggered. As with tidal flooding, this has not been undertaken, and there is a conflict with the requirements of the Framework.

#### Harm

22. The area at risk of flooding in the design flood event is part of the main access road and future developable areas equivalent to circa 20 homes<sup>7</sup>. The main vehicular access is obviously an important element of the site. However, it is relevant that less than 10% of the proposed homes would be in areas at risk of future flooding. In addition, it has been demonstrated that the entire appeal site could be made safe from flooding by the land changing measures, and by raising the access road, amongst other flood resistance and resilience measures at the detailed design stage, such as small flood barriers, raised services etc<sup>8</sup>. It has also been confirmed that the land changing measures have already been accounted for in the visual envelope as used as the baseline for the assessment of landscape character, as considered below. This could be controlled by condition(s).
23. The reasons for the land changing measures are a material consideration as to the weight to be applied to not undertaking the sequential test. In this regard, there is a need to remediate parts of the site, which is a former quarry. However, it is not currently known to what extent this is required or what effect this would have on the land levels after the works. It has therefore not been fully substantiated by the appellant that this is the only reason for the land changing, and it would certainly be convenient if the remediation just so happened to result in the minimum level needed to avoid flood risk. Nevertheless, remediation would form part of the reason for the land works. With regard to raising the access road for access to Ham Road, it has been demonstrated that this is required to provide suitable and safe access to the road.
24. The extent of pluvial flooding risk is relatively limited. It is from ponding on the site in existing depressions and similar factors. The depth of the flooding would be relatively shallow. There is no risk related to interrupting an off-site surface water flow path, or effects on other off-site properties. It is a fairly typical existing situation on an agricultural field. As part of the design detail for the proposal at reserved matters stages, the precise land levels, drainage solutions, and landscaping would all need to be considered. Given the limited nature of the existing and future surface water flood risk, designing out the flood risk could be comfortably accommodated as part of this natural detailed design process.

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<sup>6</sup> See Appendix 2, Mr Lane's Rebuttal Proof of Evidence

<sup>7</sup> Confirmed under cross-examination

<sup>8</sup> See Paragraph 6.5, CD2.14

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25. Overall, therefore, there is no real world harm from either the failure to undertake a sequential test for tidal flooding or the failure to properly undertake a sequential approach. This is because it has been satisfactorily demonstrated that mitigation measures can make the proposed development safe for its lifetime from tidal flooding. There are also reasons other than flooding that result, although likely only in part, in the land levels changing mitigation measures. There would also be no real world surface water flood risk to the finished and occupied development proposal.

Overall

26. Despite the lack of real world harm, due to the failure to undertake a sequential test or to fully apply the sequential approach for the proposed residential development and access road in areas at risk of flooding in the future, the proposal therefore represents an unacceptable form of development having regard to its flood zone location and the provisions of local and national planning policy. The conflicts with the Framework are set out above. With regard to the Development Plan, the proposal would conflict with Policy DM21(2) of the LP because inappropriate development is proposed in an area at risk of flooding before mitigation measures are taken into account, and Policy ST7(11) which cross-refers to Policy DM21. It would, though, comply with Policy FAV8 of FNP, which requires there be no significant adverse impact on risk of flooding and the including of SUDS, but does not directly relate to the requirements of the Framework.

*Character and appearance*

Existing

27. The appeal site is part of an agricultural field. It is relatively flat. There is limited vegetation and hedgerows, but there is an area of scrub land along the southern boundary, and a hedgerow to the western boundary. There are some scattered trees and a small group of trees to the eastern edge of the site. There is existing built form directly to the south, west and east, ie the existing built form of Faversham, which is clearly visible in the background of the site.
28. The surroundings to the site are also influenced by more rural and tranquil elements. To the north is the remainder of the field with low lying marsh and agricultural land further to the north, west and east. This low lying land has a relatively strong and distinctive character due to its marshland feel, and provides a sense of place which associates the surroundings of the site to the tributaries to the nearby Thames river ie the creek. This area is designated in the LP as an Area of High Landscape Value (AHLV) and displays some of the key characteristics of the wider NCA 81 'Greater Thames Estuary', including low lying landscape, persuasive presence of water, grazing for cattle, and feelings of remoteness. However, the appeal site itself does not particularly demonstrate these attributes and rather has the appearance of a normal agricultural field lying next to existing built form.
29. The appeal site is visible from users of Ham Road, occupiers of surrounding properties and businesses, and from several PRow, including ZF5, ZF32 and ZF23, which run both through nearby fields and alongside the creek. It is also open to the north and partly open to the east and west. It is therefore relatively visible including to sensitive receptors, in particular users of the

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PRoW. However, this is only to a certain degree because the built form blocks longer views from three sides, and the very flat land to the north and east restricts visibility from those directions.

#### Assessment

30. It is proposed to develop a large proportion of the site for up to 250 dwellings. Vehicular access would be from a new junction onto Ham Road and this would require the removal of 12m of hedgerow and a tree. There would also be fairly extensive areas of open space, of approximately 7 ha, including alongside Ham Road and to the western part of the site. Planting is proposed to the northern boundary, and a thin line of planting is indicated to the southern boundary adjacent to the existing residential area.
31. There would be some harm to the appeal site itself because of the change from an agricultural field to an urban development. This would reduce over time as planting matured, but even the planting would be clearly of an urban form and type, trees are not characteristic of the area in any event, and the built form would still be partially visible. There would therefore remain some residual harm. However, this would be localised because of the existing built form to three sides and the relative lack of visibility from the flat marshland. It would also be seen in the context of, and would read as an extension to, Faversham. Although built form would be brought closer to the more valuable marshland type landscape to the north, west and east, it would not encroach upon it. There would therefore be limited effect on this area, although there would be some, minor, harm to its setting.
32. The FNP has designated the southern boundary of the site, where it runs alongside the existing residential extent of Faversham, as a protected linear green space. Although there would be some planting alongside this boundary, the proposal includes built development that would encroach upon this green space. However, the proposal would simply read as a natural extension to Faversham. Fairly extensive public open space would be provided to the east and west of the site. In addition, there is proposed a similar green space corridor to the northern part of the site, which would largely replicate the existing green space that the FNP seeks to protect.
33. There would be a particular effect on users of the PRoWs. However, the open countryside beyond remains, and the existing site, whilst open, is already perceived in the context of the surrounding built form. There would also be open areas within the proposal, through which the existing PRoW on the appeal site would run. Any views from further afield would be limited, for the reasons set out above.

#### Overall

34. The proposal would harm the character and appearance of the area, including on landscape character, as set out above. The level of harm to the appeal site would be moderate, resulting in conflict with Policies ST1, ST3, CP4 and CP7 of the LP. There would also be limited conflict with Policy FAV11 of the FNP, which requires no adverse impact on the rural setting of Faversham. There would be a conflict with Policy FAV7, which requires no adverse impact on green infrastructure including green spaces, albeit this would largely be a technical conflict rather than one of substance given my



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conclusions above on the acceptability of the proposed intrusion into the green space area.

35. Policy DM24 of the LP sets out a hierarchy with regard to the protection of landscapes. The AHLV sits above, ie is more protected, than non-designated landscapes. Harm to non-designated landscapes must be minimised and mitigated. Whereas for AHLVs, harm should also be avoided and conservation and enhancement must be demonstrated. Therefore, although limited, the harm to the setting of the AHLV that I have identified therefore conflicts with this part of the policy.
36. With regard to the non-designated appeal site and nearby, mitigation is proposed. Whether or not landscape harm has been minimised is debatable. Of course, a smaller scheme would allow for greater areas of open space and less harmful positioning of built form. However, I view 'minimise' to mean within the context of what is proposed. Otherwise, there would always be a smaller development that would have lesser harm. The proposal therefore complies with that part of the policy.
37. It's important to note that the harm to landscape reflects the hierarchy of landscape protection set out in Policy DM24, ie the greater harm is to the non-designated landscape and the lesser harm to the AHLV. In addition, the second part of both parts of the policy state that it is only where significant adverse impacts remain that this need be balanced against the social and economic benefits of the proposal. The logical inverse of this is that where there are less than significant adverse impacts, as is the case for the appeal proposal, then it complies with this element of the policy. There is therefore only limited conflict with Policy DM24.
38. I consider the AHLV to be a 'valued landscape' as defined by Paragraph 187(a) of the Framework. There would therefore be conflict, although to a limited degree, with the requirement to protect and enhance 'valued landscapes' as set out in this paragraph. With regard to the appeal site itself, which is not a 'valued landscape', Paragraph 187(b) only requires proposals to recognise the intrinsic character and beauty of the countryside, and the moderate harm that I have identified coupled with the proposed mitigation measures, would comply with this requirement.

#### *Appropriate location*

##### Principle

39. The appeal site lies outside the Built-up Area Boundary (BuAB) as set out in the LP, and which runs along the outer extent of the existing built form of Faversham, ie directly on the southern and part of the eastern boundaries of the appeal site. The appeal site is unallocated in the LP. Policy ST3 of the LP sets out the settlement strategy for the Council. This is hierarchical, focussing development on the larger built-up areas and settlements. Faversham is the 2<sup>nd</sup> tier of settlement, out of six. Land outside BuABs, like the appeal site, is in the 6<sup>th</sup> tier. This is protected from major development and the LP is clear that such land is not needed to meet the LP housing target<sup>9</sup>. Therefore, there is conflict with the settlement strategy and

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<sup>9</sup> Paragraph 4.3.23

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therefore Policy ST3 and also Policy ST1(4), which cross-refers to the settlement strategy.

40. With regard to the FNP, Policy FAV2 sets out a number of circumstances where residential development would be acceptable, none of which apply to the proposal. However, it does not explicitly exclude residential development in other locations. It is a permissive rather than a restrictive policy. FNP also sets out several site allocations, none of which include the appeal site. This does not automatically mean that proposals outside of the site allocations are unacceptable. Nevertheless, despite the lack of clear conflict with specific policies, that the site is not allocated and is not positively promoted does represent a conflict with the obvious objectives and therefore spatial strategy of the FNP.
41. However, and importantly, the LP and the FNP spatial strategies are based on a housing need target of 776 dwellings per annum (dpa)<sup>10</sup>. This is now out-of-date and the current housing need is much higher<sup>11</sup>, at 1,086 dpa. Although the BuABs are to an extent based on the physical extent of existing development, the site allocations and the very restrictive approach to development outside the BuABs is based on this now out-of-date premise. A more flexible approach is therefore required, to reflect current and future housing need.
42. It was even known at the time of adoption of the LP that this target had a shelf life, with Policy ST2 committing the Council to a review of the LP to be adopted by April 2022. There is an emerging Local Plan in production, but this is currently at an early stage and submission to the Secretary of State is not due until next year. It is therefore a long way from adoption or from providing an alternative spatial strategy to which weight could be applied.
43. The out of datedness of the spatial strategy does not automatically mean that development on unallocated countryside sites should be seen as acceptable. Each case should be judged on its own merits. In that regard, the proposal would be a direct expansion of Faversham, and in-keeping with the principle of directing significant development to Faversham. It would be of an appropriate scale for development in or adjacent to Faversham. It would be relatively accessible to local goods and services, as set out below. Therefore, whilst there would be a technical conflict with the spatial strategy of the LP and the FNP, the proposal would broadly accord with the philosophy behind it of directing development to accessible locations and the larger settlements. Therefore, whilst there is some conflict with the spatial strategy, this is only to a limited degree.

#### Agricultural land

44. The appeal site is almost entirely agricultural land. The proposal would result in the loss of all this land, either to built form or landscaped areas of open space. Policy DM31 of the LP states that development on any agricultural land will only be permitted when there is an overriding need that cannot be met within BuABs. As set out above, the site allocations and built-up areas of the LP are now out-of-date. There is also an agreed lack of a five-year supply of housing land. An overriding need that cannot be met within BuABs

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<sup>10</sup> Paragraph 4.2.28 and Policy ST2 of the LP, and page 26 of the FNP

<sup>11</sup> Agreed by the Council under cross-examination

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has therefore been demonstrated<sup>12</sup> and the proposal complies with this part of the policy.

45. In addition, some of the agricultural land is at grades 2 (17%), 3a (22%) and 3b (55%)<sup>13</sup>. Therefore, 39% of the appeal site, or 5.6 ha, is defined as BMV by the Framework, ie is within grades 2 and 3a. With regard to BMV, Policy DM31 of the LP states that its loss will not be permitted unless one of three exceptions are met. The first is that the site be allocated, which isn't the case.
46. The second is in two parts. The first part is that there is no alternative, non BMV, site. In this regard, the appellant has undertaken a sequential test<sup>14</sup>. The appellant's assessment finds one alternative site, Rushenden South, which is assessed as having potential for 850 dwellings, on the Isle of Sheppey. There is, therefore, an alternative site, even on the appellant's own evidence. Although the Council acknowledges<sup>15</sup> that it is difficult to imagine a high growth strategy on Sheppey, it is not entirely precluded. Only a part of the 850 dwelling site would be required to accommodate the proposed 250 homes of the appeal scheme. I have therefore not seen any substantiated evidence that there is not at least one alternative location for the proposal which would result in the loss of lower value agricultural land.
47. The third is also in two parts. The first is that the loss of BMV would not result in the remainder of the agricultural holding becoming unviable. This argument is not advanced by any of the main parties. The second is that the loss would likely lead to accumulated and significant losses of BMV. In this regard, the appeal site represents a tiny proportion of the BMV in the Borough as a whole. However, the Borough-wide amount of BMV is extremely large. Any development, even a colossal site, would still represent a small fraction of the overall proportion. It is important to avoid death by a thousand cuts, in other words accumulated losses of BMV.
48. The proposal therefore fails to comply with Policy DM31 parts (2) and (3) and, by extension, Policies ST1 and ST7 of the LP which reflect and cross-refer to Policy DM31. It also fails to comply with Policy FAV7 of the FNP, which protects BMV from loss for development.

#### Overall

49. Therefore, both due to the conflict with the spatial strategy limited though it may be and the loss of BMV, the appeal site is not an appropriate location for development of this type, having regard to local and national planning policy and guidance, including with regard to BMV.

#### **Other Matters**

##### *Accessibility and highway safety*

50. The appeal site lies directly adjacent to Faversham. PRoW ZF5 runs through the site and provides access to Faversham town centre. In addition, there is a pedestrian exit, alongside the vehicular junction, onto Ham Road, which in turn leads towards Faversham town centre. There are lit pavements from

<sup>12</sup> As was also agreed by the Council under cross-examination

<sup>13</sup> See Table 1, Agricultural Quality of Land off Ham Road, Faversham Report Ref 2461/1, dated 4 October 2024

<sup>14</sup> See Appendix 6, Mr Lane's Proof of Evidence

<sup>15</sup> See Sustainability Appraisal, dated February 2021, of the LP



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Ham Road all the way to the shops and services in Faversham. These are fairly extensive, and Faversham is a 2<sup>nd</sup> tier settlement in the Borough. It also provides employment opportunities. Some of the future occupants would likely work elsewhere, or even commute to London, but there would be the option for more local employment. Faversham train station is approximately 2 km from the site. Given this, I agree with the Council and the appellant that the site is accessible to a range of goods and services by foot and by bike.

51. Whilst some of the roads on the route to the town centre, such as Priory Row, are relatively narrow and have extensive kerbside parking, there remain pavements. There is also nothing unusual about such arrangements on roads near town centres. I do not view them as dangerous or difficult to navigate either for pedestrians or cyclists. Davington Hill is relatively steep and has a narrow pavement directly next to a tall stone wall. This has the potential to be intimidating and off-putting to pedestrian users. However, there is still a pavement, albeit narrow. In addition, there is an alternative route to the town centre avoiding this road, via PRoW ZF5.
52. In addition to the above, the s106 secures a PRoW contribution, an additional PRoW contribution, sustainable transport vouchers, and a Travel Plan and associated monitoring fee. The PRoW contributions are towards the provision of ramps on the PRoW Ref ZF43 fronting Faversham Reach and Waterside Close, and also works to PRoW ZF5 and ZF32. These works would improve pedestrian facilities on the PRoWs and by extension better connect the site to both the town centre and to recreational walking along the creek and in the countryside.
53. The proposed access point to Ham Road would be on a relatively straight piece of road with good visibility in both directions. There is nothing substantive before me that the roads on the surrounding network are dangerous. Accident and injury data as provided by the appellant is at normal levels and as would be expected.
54. I am therefore satisfied that the appeal site is accessible and that the future occupants would have reasonable alternatives to use of the car to access services and facilities. I am also satisfied that the proposal would not give rise to any unacceptable effects on highway safety.

#### *Ecology*

55. The appeal site is largely an agricultural field of limited ecological importance. However, there are some areas of greater value, such as hedgerows, trees, scrub and grassland. An Ecological Impact Assessment, dated September 2023<sup>16</sup> (EcIA) has been submitted by the appellant. This finds evidence of bats, reptiles, breeding birds and amphibians.
56. The proposal would result in the loss of virtually all the existing habitat, including most of the more valuable areas. The Arboriculture Assessment, dated March 2023<sup>17</sup>, confirms that one tree and a 12m section of hedgerow would need to be removed to create the vehicular access.

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<sup>16</sup> CD2.4

<sup>17</sup> CD1.12

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57. There is therefore the potential for harm to the populations of bats and reptiles in particular. However, it is also proposed to provide significant replacement open space. This could be conditioned to provide suitable replacement habitat. It could also be controlled by condition that suitable replacement habitat be provided prior to clearance works of the higher value land, in particular the scrub and grassland. Other mitigation measures could include avoiding carrying out works during the nesting seasons for reptiles and providing a suitable reptile receptor site nearby, as could be secured by condition. In this manner, unacceptable harm to ecology on the appeal site could be avoided.
58. The SHF and FTC provided evidence collected by local residents of the ecology on the site. This includes research using the inaturalist app. I don't doubt the authenticity of the findings. However, they must be placed in context. Such observations do not tell the story of the habitats and behaviours of the species. The EcIA provided by the appellant uses recognised methodologies and assessments and has resulted in a robust baseline understanding of the ecological value of the appeal site. I am therefore satisfied that the proposal would suitably protect the ecological value of the site and would in fact result in a betterment through the creation of the new habitat.

#### *Drainage*

##### On-site

59. The proposal requires drainage. The full details of this are not yet known. However, an Indicative Surface Water Drainage Strategy has been provided<sup>18</sup>. This sets out the location for an attenuation basin, the likely routes for pipework, and the AODs throughout the site and at relevant connection points. FTC raised several points of detail regarding this strategy, with the primary concern being that the pipework and attenuation tank would need to be higher than as drawn to function correctly, which would lead to raising levels across the site.
60. There are some inconsistencies between the AOD figures used by the appellant in different documents. It is possible that an acceptable drainage strategy would require the need to raise the land, at least over part of the appeal site. If this were the case, there would be knock-on effects on a number of other considerations, such as character and appearance and ecology. However, the extent of land raising could be controlled by condition. At this stage, I do not have substantiated evidence before me that a material increase in the height of the land above that already set out by the appellant would be required. At this outline stage, I do not view it as reasonable to expect this level of detail to have been established.
61. It is also important to note that the Lower Medway Internal Drainage Board has confirmed in a letter dated 26 May 2023 that the proposal is acceptable, subject to control by conditions to agree full details of the drainage strategy. Kent County Council as the Local Lead Flood Authority has also not objected to the proposal, subject to control by conditions.

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<sup>18</sup> Ref 680663 10-05 Rev P2, page 96 of the Flood Risk Assessment & Outline Surface Water Drainage Strategy, dated April 2024

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#### Off-site

62. The drainage strategy includes discharging water from the appeal site into a drainage ditch that is in The Swale Estuary Special Protection Area (the SPA) and Ramsar sites. The extent of the works are unknown as is the likely precise water flows. However, I have seen no substantiated evidence that there would be unacceptable effects on the SPA or Ramsar from such drainage. There would also be a change from the current uncontrolled run-off into the sites to a controlled strategy. Run-off rates could be restricted as part of the drainage and SUDS strategy. The details of this could be controlled by condition(s) and other processes, such as land drainage consent. With regard to effects from construction, this could be controlled by condition(s) and other legislative processes with regard to construction practice.
63. It is appropriate to use Grampian condition(s) in this regard as it is to secure off-site works. As set out in Planning Practice Guidance<sup>19</sup>, Grampian conditions may be used unless there are no prospects at all of the associated works not being performed within the time-limit imposed by the planning permission. Although land ownership issues have been raised by FTC as well as concerns regarding the acceptability of the easements submitted to the Inquiry, none of these amount to a demonstration that there are no prospects at all of the works being able to be carried out.

#### *Land ownership*

64. The appeal site includes some land outside the ownership of the appellant. However, planning permission runs with the land, not the owner. Therefore, whilst the land ownership situation might cause some issues to the appellant in terms of being able to implement any planning permission that is granted, this is not a matter to which I give weight.

#### *Heritage*

##### Significance

65. Faversham Conservation Area (the CA) covers most of the centre of Faversham and also the area heading northwards either side of the creek. It is very close to the appeal site to the south east corner, either side of the industrial estate. The Faversham Creek character area is that nearest the appeal site, where landscape is an important part of character, including the water channel, mudflats, chalk streams and water features, and green spaces.
66. The grade II Listed 'Ham Farmhouse and Walls Attached'<sup>20</sup> and grade II Listed 'Barn about 30 metres North of Ham Farmhouse'<sup>21</sup> both lie in the same farm complex to the east of the appeal site. The farmhouse is from the early 18<sup>th</sup>-Century and extended in the 19<sup>th</sup>-Century. The barn is from the 17<sup>th</sup>-Century or earlier. Both buildings derive their significance from a combination of their intrinsic architectural value and also from their functional association with the wider farm complex, and farmland beyond. It remains a working farm, so this association is still relatively strong.

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<sup>19</sup> Paragraph: 009 Reference ID: 21a-009-20140306

<sup>20</sup> List entry number 1240464

<sup>21</sup> List entry number 1261008



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67. The grade II Listed 'Pair of houses at TR 021 627'<sup>22</sup> lie to the east of the site, beyond the farm complex. They date from c.1870. Their primary significance is due to them being an unusually early example of flat roofed, concrete construction in small domestic buildings. They were likely coastguard cottages and their functional relationship is with the creek and the coast, not the farmland, and it is therefore the visual relationship eastwards towards the creek that contributes to their significance in terms of their setting.
68. The grade II Listed 'Gate House Marsh Works'<sup>23</sup> and 'Proof House' approximately 10 metres south south west of Gate House, Marsh Works<sup>24</sup> lie to the west of the appeal site. The Gate House was at the former entrance and the Proof House was a storage building to a former gunpowder works. Both buildings and the surrounding works site have lost their original use and are now in residential use, including a new build development immediately surrounding the listed buildings. The works were originally deliberately opened in a remote location for safety. However, the remoteness of the location has also almost entirely been lost due to the expansion of Faversham and the immediately surrounding development. Nevertheless, there is some intervisibility with the agricultural field of the appeal site, which provides a very minor echo of this former isolation, and therefore positively contributes to the significance of the listed buildings.
69. The grade II Listed 'Oyster Bay House'<sup>25</sup> lies to the south of the appeal site. It is a warehouse from the mid-19<sup>th</sup>-Century, likely built at the same time the creek was improved in 1843. It is a prominent building that is relatively tall. It has a hoist to its north end with doorways at each floor. It derives its significance from a combination of its innate architectural and historic interest and also its relationship to the creek. The grade II Listed 'Standard House'<sup>26</sup> is also located on the creek, further south and is from roughly the same time. It derives its significance partly from its innate architectural quality, partly from its association with the creek, and partly from its historic association with a shipyard which made sailing barges of outstanding quality. Neither building has a direct visual or functional relationship with the appeal site or the wider agricultural land.
70. The grade I Listed 'The Parish Church of St Mary of Charity'<sup>27</sup> and separately grade I Listed 'Church of St Mary Magdalene'<sup>28</sup> lie within Faversham roughly to the south of the site. St Mary is from the 14<sup>th</sup> and 15<sup>th</sup>-Centuries and was restored in the 19<sup>th</sup>-Century. St Mary Magdalene is from the 12<sup>th</sup>-Century, and repaired and restored in the 19<sup>th</sup>-Century. Both churches significance derives primarily from their intrinsic architectural and historic interest. St Mary of Charity has a particularly striking main tower. They also derive significance from their settings, at the centre of the community they serve. The immediate and medium distance setting for both is the built form of Faversham. The towers in particular can also be seen from surrounding fields and PRow, including the appeal site. However, because of the distance and the intervening built form of Faversham, the appeal site makes only a very

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<sup>22</sup> List entry number 1260995

<sup>23</sup> List entry number 1389586

<sup>24</sup> List entry number 1389585

<sup>25</sup> List entry number 1240318

<sup>26</sup> List entry number 1069409

<sup>27</sup> List entry number 1319973

<sup>28</sup> List entry number 1069406

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minor contribution to the setting of either church. Neither church has any known current or historic relationship with the appeal site.

Assessment

71. There would be some erosion of the key elements of the character of the Faversham Creek area of the CA. However, this would only be to a limited extent because the proposal would not directly affect this area, and would be set back from the area and any proposed housing would be perceived in the context of the existing development of Faversham in the immediate background. Additionally, areas of open space are proposed along the eastern boundary of the site, providing a buffer from the proposed built form, further reducing any effect on the CA. There would, nevertheless, be some harm to the character and appearance of the CA in terms of how it is experienced in its setting, thus failing to satisfy the requirements of Paragraph 219 of the Framework. I assess the level of harm to be at the lower level of less than substantial.
72. With regard to the farmhouse and barn, the appeal site land would result in the erosion of some of the agricultural land associated with these buildings and the farm complex. However, it is set away from the farm complex with agricultural land to be retained between. A sense of openness and the direct association between the farm complex and the immediately surrounding fields would therefore remain. Nevertheless, there would be some erosion of this important relationship. This would be directly visible from the farmhouse. However, it would not be appreciable from the barn, or whilst considering the barn in its setting, due to a large intervening building. The proposal would therefore result in harm to the special interest and heritage significance of the farmhouse only, in terms of how it is experienced in its setting, thus failing to satisfy the requirements of the Act and Paragraph 210 of the Framework. I assess the level of harm to be at the lower level of less than substantial.
73. The pair of houses are largely significant because of their intrinsic architectural value from their unusual construction technique. They are not directly associated with farm and neither it nor the agricultural field of the appeal site positively contribute to their setting. The proposal would not, therefore, result in harm to the special interest and heritage significance of the listed buildings in terms of how they are experienced in their settings.
74. The Gate House and Proof House are now part of a new development on the west side of Ham Road. The significance of the buildings lies largely in their innate architectural merit. The association with the long since closed gunpowder works has largely been eroded by the residential development. The proposal would, though, partially erode the little remaining sense of isolation through the introduction of built form. However, although relatively close to the proposed built form of the appeal proposal, there would be some off-setting from a proposed area of open space. In addition, this aspect of the setting of the buildings only contributes to their significance to a very minor extent. Nevertheless, the proposal would result in harm to the special interest and heritage significance of both buildings, in terms of how they are experienced in their settings, thus failing to satisfy the requirements of the Act and Paragraph 210 of the Framework. I assess the level of harm to be at the lower level of less than substantial.

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75. There would be very limited visual intervisibility between the proposal and Oyster Bay House but the proposal would be on land that is not positively associated with it. It would be set away from the creek area that defines its setting, with fairly substantial open space providing a buffer from the proposed built form to the creek and the land around it. With regard to Standard House, this would not have any intervisibility due to the intervening industrial estate. The proposal would not, therefore, result in harm to the special interest and heritage significance of the listed buildings in terms of how they are experienced in their settings.
76. There would be limited intervisibility between the proposal and either church. However, the spire/tower of the churches would be visible in views from the appeal site. This though is in the context of the existing, substantial, intervening built form of Faversham. There would be no material change to this from the proposal. In addition, the key view of the tower of St Mary of Charity is from the PRoW which would not only be retained but would be within the large area of open space to the east of the appeal site. The proposal would not, therefore, result in harm to the special interest and heritage significance of the listed buildings in terms of how they are experienced in their settings.

#### *Air quality*

77. The appeal site is not within an Air Quality Management Area. Although SHF has provided some information regarding research into air quality levels in Faversham, none of the streets claimed to be above the Country's standards are nearby to the appeal site. In addition, the full methodology behind the calculation has not been provided. There is nothing before me to suggest that the appeal site or nearby roads suffer from poor air quality.
78. However, the future residents would create additional journeys on the local transport network. The appellant's Air Quality Assessment, dated February 2023<sup>29</sup>, has calculated the levels of future emissions and therefore the necessary mitigation measures. These include the provision of electric car parking spaces, travel plans, and a potential electric car club scheme. The electric spaces and travel plan could be secured by condition(s). The s106 secures mitigation measures, up to the amount needed to mitigate the harms caused by the proposal.
79. Two options are provided in the s106. I direct that option (a) should be chosen because it affords flexibility for the choice of mitigation measures to be made in the future. It is not necessary to specify that a car club scheme must be included, because it is that the air quality harms are mitigated that is necessary and reasonable, not the precise way it is achieved.

#### *Interested parties*

80. Several letters of objection have been submitted both in relation to the appeal and the application, including a petition. They raised various concerns, but these have been captured either by the Council or by the two R6 Parties at the Inquiry. I therefore consider the concerns of local residents throughout my Decision.

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<sup>29</sup> CD1.14



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## Planning Balance

### Positive

81. The provision of housing is one of the key aims of national and local planning policy. A recent Written Ministerial Statement said that the country is in an acute and entrenched housing crisis<sup>30</sup>. The Council can only demonstrate a 3.98 year supply of housing land, representing 1,119 homes that have not been provided. The proposal is for a relatively large development of up to 250 homes, of which 60% would be market housing. It would make a meaningful contribution to the housing supply in the Borough. In this context, I place substantial weight on the provision of market housing.
82. The s106 secures 40% of the proposed number of dwellings to be affordable housing. This is above the Policy DM8 of the LP requirement of 35%. The precise mix of affordable housing is left to be agreed with the Council, although with a starting point of 90% to be affordable rent or social rent units, which accords with the local need for social rent housing as set out in the evidence base to the FNP. I direct that Paragraph 2.8 of Schedule 5 of the s106 is a material consideration because it provides suitable flexibility to future developers to progress affordable housing whilst securing the overall percentage and still affording the Council the opportunity to negotiate and secure a suitable mix.
83. There is a shortfall in affordable homes in the Borough and this is increasing. Practical completions last year were less than half of identified need. The current shortfall of affordable home provision in the Borough is having real world effects. For example, there are 1,684 households on the housing register, 121 of which are classified as being in urgent need of housing. Waiting times to be housed are between 12 and 28 months. Overall, I place substantial weight on the provision of affordable housing.
84. There would be short term benefits to the economy from construction of the proposal. There would also be long term benefits from expenditure in the local area by the future residents of the development. It is a reasonably large proposal. That the benefits are standard for housing development does not lessen their reality or importance. I place significant weight on this factor.
85. A Biodiversity Net Gain (BNG) Feasibility Report, dated August 2023<sup>31</sup> confirms that the proposal would result in an overall BNG of 32.65% for area-based habitats, a BNG of 200.78% for hedgerows, and that trading rules will be satisfied. This exceeds the national requirements and also Policy FAV7(2) of the FNP, which requires a minimum BNG of 20% on greenfield sites such as the appeal site. I place moderate positive weight on this factor.
86. As existing, apart from the PRoW, none of the appeal site is useable or accessible to the public, because it is a private field. That there used to be allotments, as stated by SHF, does not alter the current situation. Significant public open space would be provided as part of the proposal. This would be useable not only by future residents of the scheme but also by other nearby existing residents. In addition, the s106 secures upgrades to PRoWs both

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<sup>30</sup> CD11.5

<sup>31</sup> CD2.8

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through and in the vicinity of the site. A children's play space would be provided, as secured by the s106. I place moderate positive weight on these factors.

87. As set out above, the pluvial flooding on the appeal site is not related to cross-site flows. The proposal would also not affect nearby areas with regard to tidal flood risk because it would not afford opportunities for tidal flood waters to spread further than if the site were left as existing. Any impact on tidal flood water volume would be a drop in the ocean (sic). In addition, it is common ground, and I see no reason to disagree, that by raising the access road as described above, a barrier would be created that would help protect The Goldings scheme to the west from tidal flooding. There would therefore be a betterment in this respect. I place moderate weight on this factor.
88. The provision of an electric car club is secured by the s106. This would have some benefits in terms of allowing both future and nearby residents to hire the cars. However, only five cars are proposed and the take-up of the club is not known at this stage. Overall, I place limited positive weight on this factor.
89. The appeal site contains contaminated land. The proposal would remediate this land. This would largely be so as to create an acceptable form of development. However, it would also likely result in a reduction of the existing risks to the underlying aquifers and reduce existing surface water infiltration rates resulting in a reduction of subsequent soil leaching into the underlying groundwater<sup>32</sup>. Paragraph 125(c) of the Framework supports opportunities to remediate contaminated land. However, the remediation works are largely to create an acceptable situation for the proposed development. I therefore place limited weight on this factor.

#### *Negative*

90. The appellant has failed to undertake a sequential assessment or to fully apply the sequential approach, both in relation to tidal and surface water flooding. However, as also set out above, there would be no real world harm as a result of the proposal, because the proposed mitigation works would mean that no areas of the proposed development in its final form would be at risk of flooding in the design flood event, or from surface water. Overall, though, and consistent with previous appeal decisions, I nevertheless place significant weight on this factor, which remains in conflict with the Framework and local policy and represents a departure from the overarching spatial planning requirement to direct inappropriate development away from areas at risk of flooding.
91. There would be a conflict with the spatial strategy of the Council. However, the weight I apply to this conflict is reduced because of the limited scope of the conflict. It is further reduced because the Council cannot demonstrate a five-year supply of housing land. Even a relatively small shortfall is still an important factor to take into consideration. In addition, it is accepted that the emerging Local Plan will either need to apply a more flexible approach to BuABs or widen them to accommodate likely future housing need. Nevertheless, a conflict with the spatial strategy is an important consideration, even if limited, because it means the proposal represents a

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<sup>32</sup> See Appendix 3, Mr Lane Proof of Evidence

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departure from the plan-led system. Overall, I place significant weight on this factor.

92. There would be loss of BMV in a manner in conflict with the Development Plan. It is also important to remember that loss of BMV goes beyond technical non-compliance with a spatial strategy. There would be real world harm from the loss of the land because of the loss of productive land for agriculture and associated economic effects. However, the loss of some BMV, be it at the appeal site or elsewhere in the Borough, is inevitable if the Borough is to meet its housing need moving forward<sup>33</sup>. There would also not be any loss of grade 1 land and relatively limited loss of grade 2 and 3a land. There is therefore likely no loss of BMV that would not inevitably occur in the near to medium future in any event. The conflict with the spatial strategy in this regard, important though it is, therefore must have reduced weight and importance, and I place moderate weight on this factor.
93. There would be moderate harm to the intrinsic character, beauty and tranquillity of the countryside by developing part of an agricultural field and limited harm to the setting of the AHLV marshland to the north. However, some harm to the appeal site and nearby countryside is an inevitable consequence of development. Importantly, the harm would be lowest to the area of highest value and subject to greater protection, ie the designated AHLV landscape. Overall, I place limited weight on this factor.
94. Although the land of ecological value to be lost, such as the trees, hedgerows and grassland, would be adequately mitigated, there is still some intrinsic harm from the loss of such habitat. Because of the relatively low existing ecological value, and that some habitat would be retained, such as many of the trees, I place limited weight on this factor.
95. Construction of the proposal would involve relatively large numbers of HGV movements. This would be increased above that of purely constructing the buildings and infrastructure due to the need to change the land levels, as detailed above. Although this could be controlled by condition(s) to minimise the effect on the local highway network, there would inevitably be some harm to the free-flow of traffic and highway safety. I place limited weight on this factor because there is no substantiated evidence before me that this harm would be to an unacceptable degree.
96. There is a path which runs from Upper Brents to Ham Road along the field edge behind the existing houses in Upper Brents and Springhead Road. Evidence has been provided that it has been informally used for a long time, perhaps over 100 years. This would be lost as part of the proposal. However, this is not a formal PRow. It has no formal heritage designation. It runs on private land. Nevertheless, it is evidently in use by local residents and there would be some, albeit limited, harm from the loss of this footpath, to which I attach limited weight.

#### *Heritage balance*

97. In accordance with Paragraph 212 of the Framework, I place great weight on the conservation of designated heritage assets. Although at the lower level of less than substantial, I place considerable importance and weight on the

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<sup>33</sup> Agreed by the Council under cross-examination and also as set out in its Sustainability Appraisal



harm that I have identified to the character and appearance of the CA in terms of how it is experienced in its setting, and to the special interest and heritage significance of the farmhouse, Gate House and Proof House Listed buildings in terms of how they are experienced in their settings. As set out at Paragraph 215 of the Framework, where there is less than substantial harm to designated heritage assets, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing their optimum viable use.

98. There is no contention before me, nor reason to believe, that the optimum viable use of any of the heritage assets would be affected by the proposal. With regard to the public benefits, these are substantial, as set out in the positive section of the planning balance above. These outweigh the limited and low level of harm to the farmhouse, Gate House and Proof House Listed buildings and the CA.

#### *The balance*

99. The failure to perform a sequential test with regard to both tidal and pluvial flooding is a fundamental breach of planning policy, even if there are no real world effects as a result. The proposal also represents a departure from the adopted spatial strategy of the Council. The current housing land supply situation of the Council means that some departures from this strategy are inevitable, which lessens the weight to be applied to this conflict. Nevertheless, the importance of a plan-led system is a thread which runs through planning policy. This should be respected, and the departure is an important conflict to weigh in the planning balance. In addition, as set out above, I place moderate weight on the loss of BMV, and there are further harms with regard to character and appearance, existing ecology, construction traffic, heritage and the informal footpath. Taken together, and despite the package of benefits as set out above, these harms represent a conflict with the Development Plan when read as a whole.
100. Applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004. The Framework is an important material consideration. As set out above, the Council cannot demonstrate a five-year supply of housing land. Therefore, as set out at Paragraph 11d and Footnote 8 of the Framework, the 'tilted balance' as set out at Paragraph 11dii is engaged unless the application of policies in this Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed.
101. Footnote 7 confirms that areas at risk of flooding are counted as assets of particular importance. Although the proposal has failed to perform the required sequential tests, there would be no real world effects after mitigation is taken into account. A 'strong' reason for refusal based on flooding must, to my mind, go beyond mere technical conflicts, even if they are important. There must be substantive risks and harms that go beyond policy. I do not, therefore, view this as a strong reason for refusing the development proposed. For the avoidance of doubt, I also do not view the minor harms to heritage assets as representing a strong reason for refusal, or even a reason for refusal at all, as set out in my heritage balance section above. The 'tilted balance' is therefore engaged.

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102. In this regard, the benefits of the proposal are many and weighty. It would provide a reasonably substantial housing development in a Borough with a lack of a five-year supply of housing land. There would also be benefits to the economy, BNG, public open space, off-site flooding, contaminated land and an electric car club.
103. With regard to Paragraph 14 of the Framework, the FNP became part of the Development Plan within the past five years. However, it contains policies and allocations that would only meet a housing requirement that does not accurately reflect up-to-date housing need, as set out above. The conflict with the FNP is also limited to Policy FAV7 with regard to BMV which is an inevitable loss when considered in the round, and FAV2 with regard to spatial strategy but only with regard to its overarching objectives rather than specifics parts of the policy. In this circumstance, therefore, the adverse impacts of the conflicts with FNP do not significantly and demonstrably outweigh the benefits.
104. Overall, and particularly because of the importance and weight to be applied to the proposed housing, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits of the proposal. The appeal should therefore be allowed.

#### **Conditions**

105. An agreed schedule of conditions was tabled at the Inquiry and was then discussed at a round-table session. On the basis of that discussion, and with regard to the Government's guidance on the use of conditions in planning permissions, I have amended the schedule of conditions. No parties would be prejudiced by this because it follows the discussion held at the Inquiry.
106. In addition to the standard submission of reserved matters, time limit for submission of reserved matters, and time limit for implementation conditions, a condition specifying the relevant drawings provides certainty.
107. The archaeology, reserved matters accompaniment, remediation, contamination, foul water drainage, landfill, construction environment management plan (CEMP), SUDS, Verification Report, Acoustic Design Statement (ADS), cycle parking facilities, emergency vehicle route, and water use restriction conditions are necessary to ensure compliance with these technical considerations. The water restriction is additionally a requirement of Policy DM21(9) of the LP. Foul water control is a requirement of the EA and relates to potential harm to controlled waters and is therefore necessary.
108. The reserved matters accompaniment, reserved matters plans and sections, remediation, PRoW Scheme of Management, CEMP, Landscape and Ecological Management Plan (LEMP), SUDS, bollards and signage, lighting strategy, tree and shrub replanting, and unit and density restriction conditions are necessary to protect the character and appearance of the area. I view five years tree and shrub replanting as being proportionate and necessary in this regard. The PRoW applies only to where they are within the appeal site, with off-site works captured by the s106. This is therefore necessary and enforceable.

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109. The reserved matters accompaniment, CEMP, Construction Management Plan (CMP), ADS and piling conditions are necessary to protect the living conditions of local residents.
110. The reserved matters accompaniment condition is necessary to ensure an adequate standard of accommodation for future occupiers.
111. The reserved matters accompaniment, Reptile Mitigation Strategy, PRoW Scheme of Management, Biodiversity Method Statement, CEMP, LEMP, SUDS, Verification Report, lighting strategy, tree and shrub replanting, infiltration of surface water drainage from drainage systems, piling, and habitat monitoring survey reports submissions conditions are necessary to protect ecology.
112. The reserved matters accompaniment and reserved matters plans and sections conditions are necessary to ensure that the future occupants and users of the site would be suitably protected from tidal flooding.
113. The PRoW Scheme of Management, CEMP, CMP, bollards and signage, cycle parking facilities, emergency vehicle route, and travel plan conditions are necessary to protect highway safety and the free-flow of traffic.
114. The plans and sections condition confirms the floor levels AOD and also that the maximum heights of buildings must be within the visual envelope as assessed for the proposal. It is therefore sufficient by itself to ensure that any works and the final design, be they part of remediation or the proposed development, would be within the parameters as assessed above with regard to both flooding and character and appearance. I have seen no substantiated evidence that these could not be achieved.
115. It is, therefore, unnecessary to specify the number of storeys or building heights of individual buildings, because they would need to comply with the restrictions in the plans and sections condition in any event. In addition, there is no need to specify AOD levels in relation to contamination works, because it is the final situation which needs to be controlled regarding flooding. It is also not necessary to attach a condition in relation to flood warning and evacuation plans because the final proposal would not be at risk of flooding.
116. The Reptile Mitigation Strategy, PRoW, contamination, foul water drainage, landfill, Biodiversity Method Statement, CEMP, LEMP, CMP, and SUDS conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

#### **Appropriate Assessment**

117. The appeal site is located close to The Swale Estuary Special Protection Area (the SPA) and Ramsar. The proposal could have indirect effects on the SPA and Ramsar due to recreation from the future residents, as well as direct effects both during construction and in operation through drainage that would discharge into the sites. I therefore consider that the effects of the proposal, both on its own and in combination with other development projects, is such that it is likely to have significant effects on the integrity of the SPA. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) therefore indicates the



requirement for an Appropriate Assessment (AA). As the Competent Authority, I have therefore undertaken an AA.

118. The SPA was designated due to it being a wetland of international importance. It provides habitat for wintering waterfowl and supports notable breeding bird populations, including several qualifying species. The SPA includes the largest remaining areas of freshwater grazing marsh in Kent. The Ramsar is an extensive complex of mudflats and saltmarsh which provide habitat for notable non-breeding, breeding and winter birds, as well as a high species diversity of plants and invertebrates, including several nationally rare species. The conservation objectives include maintaining or restoring the extent, distribution, function and structure of the habitats.
119. It is proposed to construct up to 250 homes. The layout of the development would include a green link between Faversham Creek and the Faversham Gravel Pits Country Park. This would give the future residents easy access to the Faversham Creek at the point where it flows out of Faversham. Very few SPA birds use the section of Faversham Creek that the residents of the new development would have easy access to. However, the footpath at this point continues northwards along the bank of the creek where more SPA birds can be found, especially redshank. Consequently, there could be a likely significant effect on birds including overwintering waterbird assemblage species, all due to recreational pressure.
120. There could also be a likely significant effect during construction due to the possibility of works, such as piling, resulting in contaminants that would pollute the habitats of the birds in the SPA and Ramsar sites. In addition, the drainage strategy, whilst not finalised, would result in drainage from the development being partly funnelled into a ditch to the north west corner of the appeal site, and thereby transferring contaminants from the appeal site into the estuary and other habitats in the SPA. There could also, therefore, be a likely significant effect from construction and the drainage works and strategy.
121. Mitigation is proposed with regard to increased recreational pressure. This would largely be the s106 securing contributions to the North Kent Strategic Access Management and Monitoring Strategy, which largely relates to access management measures including wardening and visitor engagement, a dog project, codes of conduct, site specific access and infrastructure enhancements and monitoring. On-site measures are also proposed through the creation of fairly substantial open space within the appeal site, which would partially divert recreation away from the SPA and Ramsar.
122. The mitigation for the drainage concerns would be by controlling the detail of the SUDS and other drainage works by condition(s) to ensure that the drainage amount and pollution would be within acceptable limits. I am confident this would be achievable because the draft information provided in this regard has already considered the requirement to protect the existing natural water supply and habitat quality within the adjacent ditch network and SPA. With regard to construction, conditions could minimise harmful effects, for example by controlling piling, noise, locations of compounds etc. Given the distance between the bulk of the construction works and the SPA and drainage ditch, there is no reason to believe that suitable mitigation measures could not be achieved.

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123. With regard to in-combination effects, proposed and recently approved developments located within 5km of any part of the SPA and Ramsar site have been considered, and there are no predicted significant in-combination impacts with any other projects or plans.
124. Overall, therefore, taking into account mitigation measures, there are no adverse effects predicted on site integrity of the SPA and Ramsar site as a result of the proposed development alone or in-combination with other plans or projects. The Council agrees with this conclusion and Natural England has been consulted and has issued no comment.

**Conclusion**

125. For the reasons above, the appeal is allowed.

*O S Woodward*  
INSPECTOR

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**ANNEX A: APPEARANCES**

**FOR THE APPELLANT:**

Guy Williams KC. He called:

Laurie Lane MRTPI	Director, Lane Town Planning
Colin Whittingham CIWEM	Director, RSK
Ian Grimshaw CMLI MRTPI (TEP)	Technical Director, The Environment Partnership
Andy Nyul CEnv MCIEEM	Associate Director, TEP

**FOR THE LOCAL PLANNING AUTHORITY:**

Rowan Clapp, of Counsel. He called:

John Etchells CMLI	Director, John Etchells Consulting Ltd
Edward Hartwell MCIWEM	Principal Analyst, JBA Consulting
Martin Carpenter MRTPI	Director, Enplan
Matt Duigan	Planning Officer, Swale Borough Council

**SAVE HAM FARM:**

Frances Beaumont	Chair, Save Ham Farm
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**FAVERSHAM TOWN COUNCIL:**

Peter Cook PNL	Faversham Town Councillor, Prior Ward
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**INTERESTED PARTIES:**

Stephen Atkins	The Faversham Society
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## **ANNEX B: DOCUMENTS**

- ID1 – Opening Submissions of the Appellant
- ID2 – Opening statement on behalf of Swale Borough Council
- ID3 - Comment on TEP comment on Rule 6 Proof of Evidence, by Peter Cook
- ID4 – FTC opening comments
- ID5 – SHF opening comments
- ID6 – Email dated 10 December 2024 regarding FNP being 'made'
- ID7 – Suggested Route for Inspector's Site Visit Ref ID9624.01.003
- ID8 – Update to condition schedule by Council regarding condition 17, incorporating inspector's comments
- ID9.1 – s106 Agreement Draft, as updated regarding footpath ramps
  - ID9.2 - Public Rights of Way Ramps Map 'ZF43 Faversham'
  - ID9.3 - Andrew Osborne email regarding ramps, dated 4 February 2025
  - ID9.4 – Email from Kent County Council regarding public footpath contribution, dated 11 February 2025
  - ID9.5 - Extract of the working copy of the definitive map of Public Rights of Way for the County of Kent Ref ZF43/a01992
  - ID9.6 – Planning Obligation Summary
- ID10 – Stephen Atkins Supplementary Statement
- ID11 – Flood Risk Statement of Common Ground, dated 25 February 2025
- ID12 – Council's Planning Proof of Evidence, Martin Carpenter
- ID13 – Environment Agency Comments, dated 31 January 2025
- ID14 – Updated Statement of Common Ground, dated February 2025
- ID15 – Revised Proof of Evidence following publication of NPPF in December 2024 by Peter Cook
- ID16 – Appellant's Planning Supplemental Proof of Evidence, dated February 2025
- ID17 – Appeal Decision Ref 3350855, dated 14 March 2025
- ID18 – Appeal Decision Ref 3343144, dated 18 March 2025
- ID19 – Closing submissions on behalf of Swale Borough Council
- ID20 – Closing statement by FTC including appendices
- ID21 – Final submissions of the appellant
- ID22 – Final, engrossed s106 Agreement

**ANNEX C: CONDITIONS SCHEDULE****Reserved matters**

- 1) Details of the appearance, landscaping, layout, and scale, "the reserved matters", shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to any Reserved Matters application, the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority.

A) 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.

B) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.

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

- A description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
- 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; and,
- A scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

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



- 5) Reserved Matters applications shall be accompanied, as appropriate, by the following documents and/or information:
- A Design Statement that demonstrates how the proposals generally accord with the Development Framework Plan (PS9624.01.014H) and the Design and Access Statement;
  - Details of measures to minimise opportunities for crime, according with the principles of Crime Prevention Through Environmental Design;
  - Details of the siting and orientation of the proposed buildings and any relevant roads, as well as the location of any landscaped or open space areas;
  - Details of building heights and massing;
  - Details of housing mix;
  - Details of the internal layout of buildings identifying how "regard" has been had to the Nationally Described Space Standards;
  - Details of the external treatment and design of the buildings;
  - Details of finished floor levels;
  - A contextual study looking at the physical, social and economic context of the site. Evidence that the design provides a reflection of urban forms, block patterns, development to space relationships, open space typologies, local landscape character, local habitat creation and patterns of vegetation boundary treatments and architectural vernacular details that are characteristic of the locality;
  - The extent to which the proposal is consistent with the guidance on design set out in the National Design Guide;
  - Plans, drawings, sections, and specifications (including planting specification) to explain full details of the hard and soft landscaping treatment and works including; materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, open spaces, edges, boundary treatments, public rights of way and roads;
  - Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas, to include provision for advanced planting (in the first available planting season) to the northern and southern boundary of the site;
  - The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas;
  - Significant landscaping provided within the core of the site and internal streets and roads are tree lined;
  - The width and configuration of proposed carriageway layouts including any footways/foot paths and verges; a link from the proposed Neighbourhood Equipped Play Area to the existing Springhead Road Play area. The details shall show path widths, sufficient to allow pedestrians, wheelchair users, scooters, cyclists and mobility scooters, to move freely throughout the development;
  - The layout of street lighting;
  - The layout and configuration of surface water sewers, drains and outfalls serving the internal streets and footways;



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- The layout and configuration of any retaining walls and highway supporting structures;
- The layout of service routes and corridors within highways;
- Street nameplates;
- Identification of any vehicle overhang margins, embankments, visibility splays, property accesses, carriageway gradients, driveway gradients, street furniture;
- Details of the programme for implementing and completing the planting; and,
- An Arboricultural Method Statement produced in accordance with BS5837 and:
  - A Tree Protection Plan showing trees that would be retained and the arrangement of temporary protection measures that would be installed prior to the commencement of development;
  - A methodology for any special construction that is required to ensure the success of proposed tree retention;
  - Detail for any temporary construction measures, products or construction methods that are specified; and,
  - Details of a proposed watching brief, monitoring or reporting.

The development shall thereafter accord with the approved details and shall be provided prior to the occupation of each dwelling to which they relate and retained for the life of the development.

- 6) Reserved Matters applications shall, as appropriate, include plans and sections, indicating the proposed ground levels, cross-sections through the streets, building heights, gradients and finished floor levels. The details shall demonstrate that:
  - All finished floor levels within the proposed development at the site must be raised to a minimum of 300mm above the flood level of 5.83m AOD; and,
  - The maximum height and extent of proposed dwellings does not result in an extension of the Visual Envelope of the development identified the Landscape and Visual Appraisal ref: 8938.01.001 (March 2023) and Landscape and Visual Appraisal Addendum Note 9624.01.005 (August 2023).

#### **Pre-commencement**

- 7) Prior to commencement of development including site clearance, a detailed Reptile Mitigation Strategy for the translocation of reptiles shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:
  - A methodology for the collection of reptiles and measures to prevent reptiles returning to the site during construction;
  - Exact location of a suitably sized receptor area within the site boundary. The minimum size of the receptor will be as shown on the Reptile Receptor Site Plan of the BNG Feasibility report, TEP, November 2023 and will include connectivity with existing northern and western boundary habitats;

- Details of how the receptor site will be established and be in a suitable condition to support the likely number of animals which will be moved, prior to any animals being captured for translocation; and,
- Details of the management of the translocation site in perpetuity.

The translocation shall be undertaken in strict accordance with the approved details and the development shall not commence until a Verification Report has been submitted to and approved in writing by the Local Planning Authority confirming that the reptiles have been removed from the site.

- 8) Prior to commencement of development, a Public Rights of Way (PROW) Scheme of Management shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- The management of PROW routes ZF5 and ZF1 where they fall within the appeal site during the construction period; and,
  - Details of the width, surface, signage, exit and entry points of the routes where they fall within the appeal site during the construction period.

Thereafter the construction of the development shall accord with the approved Scheme.

- 9) Prior to commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the Local Planning Authority:
- A) A Preliminary Risk Assessment which has identified:
- all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors; and,
  - potentially unacceptable risks arising from contamination at the site.
- B) A Site Investigation, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- C) Subject to the results of (B) and if required a Remediation Method Statement (RMS) based on the Site Investigation results and the detailed risk assessment. This should give full details of an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The RMS shall also include a verification plan to detail the data that will be collected 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.

D) Subject to the need for (C), a Closure Report shall be submitted upon completion of the works. The Report shall include full verification details as set out in (C). This shall include detailed results of sampling, analysis and monitoring together with documentation certifying quantities and source/destination of any material brought onto or taken from the site and to confirm remediation has been carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

The Scheme shall thereafter be implemented as approved.

- 10) Prior to commencement of development, a Foul Water Drainage Strategy to deal with foul water drainage shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall accord with the approved Strategy.
- 11) Prior to commencement of development, a scheme for detailing how this proposal takes the permitted landfill into account, shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - How the ongoing management and maintenance of the site and monitoring of in-waste and perimeter monitoring points will be facilitated;
  - Detail to show that monitoring points within the proposal boundary will remain accessible and in a useable condition; and
  - The potential impact on the engineered liner of the landfill from the drainage proposals.

Thereafter the development shall accord with the approved scheme.

- 12) Prior to commencement of development including site clearance, a Biodiversity Method Statement which details all precautionary mitigation methods to be implemented for the protection of protected and priority species including bats, reptiles, badger, breeding birds (including ground-nesting species), wintering birds, otter, common amphibians and hedgehog shall have been submitted to and approved in writing by the Local Planning Authority.

The approved Statement shall align with the recommendations of the Ecological Impact Assessment (EcIA), TEP, Ref: 9634.014 (September 2023) and appended protected species reports. The Statement will include, but not necessarily be limited to, the following:

- A schedule detailing seasonal timing for precautionary works and surveys;
- An update site walk-over no earlier than 3 months prior to commencement to:
  - confirm that the condition/management of the onsite habitats is consistent with that recorded during the ecological assessment, such that the potential for protected species to occur has not changed;
  - identify the presence of any additional non-native/invasive species;

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- o identify any badger setts. Should new setts be identified during the pre-works walk over and/or monitoring during the construction period, all required surveys and mitigation/licensing will be implemented prior to further works being undertaken in the vicinity of the sett/s;
  - o update the preliminary assessment followed by close-inspection, presence/likely absence surveys and mitigation (as required) of all trees which require removal or pruning under the proposals. Mitigation for tree removal will be designed in accordance with the Bat Mitigation Guidelines, CIEEM, 2023. Where roosting bats are confirmed, all mitigation and licensing will be approved by Natural England and implemented as appropriate prior to the relevant tree works being undertaken;
- Precautionary methods for breeding birds including Schedule 1 species and measures to avoid disturbance of wintering birds;
- Precautionary measures for badger and their setts;
- Precautionary methods to avoid capture of animals within open trenches and use of temporarily stored materials as refugia; and,
- Procedure to be followed should a protected species be found within the construction area.

Thereafter the development shall strictly accord with the approved details.

- 13) Prior to commencement of development including site clearance, a Construction Environment Management Plan (CEMP) shall have been submitted to and approved in writing by the Local Planning Authority.

Details will include the following:

- Purpose and objectives for the proposed works;
- Reference to the Biodiversity Method Statement;
- The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;
- Detailed design(s) and/or working method(s) necessary to achieve stated objectives including (but not excluded to) all relevant measures outlined within the EcIA, Habitat Regulations Assessment, TEP, March 2023, and the Arboricultural Impact Assessment, TEP, March 2023;
- Sensitive lighting proposals with reference to the Bat Conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23';
- Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats;
- Reference to any environmental permits required and any relevant mitigation measures;
- A Method Statement for the removal and disposal of Schedule 9 invasive species Virginia creeper and Russian vine (and any other species identified during update site visits) in accordance with the Wildlife and Countryside Act 1981 (as amended) and with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991;
- Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction and landscaping;



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- Persons responsible for implementing the works, including times during construction/landscaping when specialist ecologists need to be present on site to undertake / oversee works;
- Initial aftercare and reference to a long-term maintenance plan (where relevant);
- Disposal of any wastes for implementing work; and,
- Details of how surface water and storm water will be managed on the site during construction.

The works shall thereafter be carried out in accordance with the approved details and shall be retained in that manner for the duration of construction and landscaping works.

- 14) Prior to commencement of development including site clearance, a Landscape and Ecological Management Plan (LEMP) shall have been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP will be based on the information submitted within the Biodiversity Net Gain Feasibility report V3.1, TEP, November 2023, Biodiversity Metric V3, TEP, November 2023 and Illustrative Masterplan, Gladman, February 2023, and will include the following:
- Description and evaluation of features to be managed;
  - Constraints on site that might influence management;
  - Mitigation measures set out in the Habitat Regulations Assessment (ref: 9624007 V4)
  - Aims and objectives of management, in alignment with the Biodiversity Net Gain habitat type and condition targets detailed within the Biodiversity Net Gain Feasibility report V3.1, TEP, November 2023 and Biodiversity Metric V3, TEP, November 2023;
  - Details of additional building-integrated, tree-mounted and free-standing biodiversity enhancements to be provided for protected and priority species including bats, red/amber list bird species, reptiles and invertebrates;
  - Measures for monitoring and control of non-native invasive species;
  - Measures to be implemented to ensure habitat connectivity for protected and priority species throughout operation, including gaps at the base of any proposed solid fencing;
  - Measures to ensure long term retention and appropriate management of hedgerows and trees bordering residential gardens, including fencing to exclude such features from residential curtilage;
  - Appropriate management prescriptions for achieving aims and objectives;
  - Information regarding remedial measures;
  - Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period, for the lifetime of the development;
  - Details of the body or organisation responsible for implementation of the plan; and,
  - Details of a long-term monitoring program for all habitats (in accordance with the BNG habitat types and targets).

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

- 15) Prior to commencement of development, a Construction Management Plan (CMP) shall have been 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 CMP shall include:
- Routing of construction and delivery vehicles to / from site;
  - Parking and turning areas for construction and delivery vehicles and site personnel;
  - Timing of deliveries;
  - Provision of wheel washing facilities;
  - Temporary traffic management / signage; and,
  - Measures to control dust.

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

- 16) Prior to commencement of development, a detailed Sustainable Urban Drainage Scheme (SUDS) for the site, shall have been submitted to and approved in writing by the Local Planning Authority. The SUDS shall be based upon principles contained within the Flood Risk Assessment and Outline Drainage Strategy report (Issue 3 05/04/2024). 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 SUDS 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;
  - How it is to be maintained to include a maintenance schedule, details of ownership, and a timetable for implementation of maintenance and management of the Scheme;
  - That the operational, maintenance and access requirements for each drainage feature or component are adequate, including any proposed arrangements for future adoption by any public body or statutory undertaker; and,
  - Ongoing monitoring of the SUDS to ensure there is no pollution risk to receiving waters.

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



**Pre-specific element**

- 17) Prior to above ground works, a Stage 2 Acoustic Design Statement (ADS) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall accord with the approved Stage 2 ADS.
- 18) Prior to installation of highway signage and reflective bollards, details of the bollards and signage to be used at or close to the new access to the site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall accord with the approved details.
- 19) Prior to occupation, a Sensitive Lighting Strategy for Biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall accord with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions) and the Bat Conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23'. Plans included shall show how and where all external lighting will be installed and shall include a baseline lighting assessment for the site and site boundaries.

The Strategy shall detail the expected vertical and horizontal light spill in Lux levels, so that it can be clearly demonstrated that areas to be lit will not increase lighting impacts on designated sites and the associated designated features, or impact on areas of retained vegetation, proposed landscaping (including wetland features) and biodiversity enhancement features.

The Lux contour plan should incorporate any mitigation measures proposed to reduce impacts from external and internal lighting, including shielding, sensitive positioning / recessing of internal lighting, use of cowls, and/or tinted glazing treatments.

All lighting shall be installed in accordance with the approved specifications and locations set out in the plan and be maintained thereafter.

- 20) Secure, covered cycle parking facilities shall be provided for the relevant dwelling in accordance with the Council's adopted parking standards. Areas for the parking (including garages and carports) and manoeuvring of vehicles in the development in accordance with the Council's adopted parking standards. The development shall accord with the approved details and shall be provided prior to the occupation of each dwelling to which they relate and retained for the life of the development.
- 21) Prior to the first occupation of the development the emergency vehicle route serving the development shown on drawing Ref H-01 R6 shall be surfaced and access controlled in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 22) Prior to first occupation of the development, a Travel Plan which shall include clear objectives and modal split targets, together with a time-

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bound programme of implementation, monitoring, regular review and update; and be based on the particulars contained within the approved development, shall be submitted to and approved in writing by the Local Planning Authority and thereafter operated in accordance with the agreed details.

- 23) Prior to first occupation of the development, a Verification Report, pertaining to the SUDS and prepared by a suitably competent person, shall have been submitted to and approved in writing by the Local Planning Authority. The Report shall contain 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 SUDS as constructed.

**For observation**

- 24) The development hereby permitted shall be carried out in accordance with drawing Refs 9624.01.001A and 17277 H-01 P6.
- 25) The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 250. Density shall not exceed 35 dwellings per hectare.
- 26) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
- 27) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall thereafter be implemented as approved.
- 28) No infiltration of surface water drainage from drainage systems into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 29) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a Piling Risk Assessment that there is no resultant unacceptable risk to groundwater. The development shall thereafter be carried out in accordance with the approved details.

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- 30) Copies of the habitat monitoring survey reports will be submitted to the Local Planning Authority for written approval in years 2, 5, 10, 15, 20 and 30 (or in accordance with the timescale stated in the Biodiversity Management and Monitoring Plan if different). Details of, and a timetable for, any required remedial measures will also be provided.
- 31) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.

===== END OF SCHEDULE =====

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