

# Agenda

## Planning Committee Meeting

Date: Thursday, 11 September 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**

### Recording and Privacy Notice

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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 17 July 2025 (Minute Nos. 197 – 207) as a correct record.

4. Declarations of Interest

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

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

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

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

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

5 - 8

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 10 September 2025.

- |    |  |           |
|----|--|-----------|
| 5. | 2.1 - 24/500125/FULL Land at Pitstock Farm, Pitstock Road, Rodmersham, Kent, ME9 OQN | 9 - 86    |
| 6. | 2.2 - Land West of Church Lane, Newington, Kent, ME9 7JJ                             | 87 - 146  |
| 7. | 2.3 - Rose Cottage, The Street, Hartlip, Kent, ME9 7TJ                               | 147 - 158 |
| 8. | 3.1 - 25-25A West Street, Sittingbourne, Kent, ME10 1AL                              | 159 - 174 |
| 9. | Part 5 applications  | 175 - 244 |
- Decisions by County Council and Secretary of State, reported for information.

**Issued on Tuesday, 2 September 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

**11<sup>th</sup> September 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 – 11<sup>th</sup> September 2025**

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

### **PART 2**

<b>2.1</b>	<b>24/500125/FULL</b>	<b>RODMERSHAM</b>	<b>Land At Pitstock Farm, Pitstock Road</b>
<b>2.2</b>	<b>25/500761/FULL</b>	<b>NEWINGTON</b>	<b>Land West Of Church Lane</b>
<b>2.3</b>	<b>25/501620/FULL</b>	<b>HARTLIP</b>	<b>Rose Cottage, The Street</b>

### **PART 3**

<b>3.1</b>	<b>23/500931/FULL</b>	<b>SITTINGBOURNE</b>	<b>25-25A West Street</b>
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### **PART 5**

<b>5.1</b>	<b>25/500365/FULL</b>	<b>EASTCHURCH</b>	<b>6 Lawday Avenue</b>
<b>5.2</b>	<b>24/505056/ADV</b>	<b>HERNHILL</b>	<b>A299 Thanet Way</b>
<b>5.3</b>	<b>22/505772/FULL</b>	<b>SHEERNESS</b>	<b>Ivy Pham House, 123 Marine Parade</b>
<b>5.4</b>	<b>25/500299/FULL</b>	<b>EASTCHURCH</b>	<b>34 Court Tree Drive</b>
<b>5.5</b>	<b>22/505752/FULL</b>	<b>LEYSDOWN</b>	<b>Vanity Farm Camp, Leysdown Road</b>
<b>5.6</b>	<b>23/501832/OUT</b>	<b>NEWNHAM</b>	<b>Units 1 &amp; 2 Parsonage Farm, Seed Road</b>
<b>5.7</b>	<b>24/503813/OUT</b>	<b>MINSTER-ON-SEA</b>	<b>Redcot, Bell Farm Lane</b>
<b>5.8</b>	<b>24/501388/FULL</b>	<b>MINSTER-ON-SEA</b>	<b>51 Parsonage Chase</b>
<b>5.9</b>	<b>23/502126/FULL</b>	<b>MINSTER-ON-SEA</b>	<b>Land at Honeysuckle Drive</b>
<b>5.10</b>	<b>25/500049/FULL</b>	<b>SITTINGBOURNE</b>	<b>22 East Street</b>
<b>5.11</b>	<b>23/503792/FULL</b>	<b>NEWINGTON</b>	<b>Moat View, Church Lane</b>
<b>5.12</b>	<b>24/505003/FULL</b>	<b>FAVERSHAM</b>	<b>24 Athelstan Road</b>

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## PLANNING COMMITTEE –

## PART 2

Report of the Head of Planning

### PART 2

Applications for which **PERMISSION** is recommended

<b>2.1 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 necessary and appropriate.		
<b>APPLICATION TYPE</b> - Major – Full Planning Application		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The application was called in by Rodmersham Parish Council due to their concerns of adverse impacts arising from the proposal and high degree of local public interest in the proposed development.		
<b>Case Officer</b> – Ben Oates		
<b>WARD</b> West Downs	<b>PARISH/TOWN COUNCIL</b> Rodmersham Bapchild Milstead	<b>APPLICANT</b> Volitalia 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> The full suite of documents submitted and representations received 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=S71D6NTYMJ100">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=S71D6NTYMJ100</a>		

## 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 770m 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. The Rodmersham Church Street Conservation Area is located approx. 900m to the north-east of the site, which contains the grade I listed St Nicholas Church (approx. 930m from the site). 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 site is within Flood Zone 1 and therefore has a low risk of flooding, however the EA flood maps indicate small pockets of the site are subject to surface water flooding.

## 2. PLANNING HISTORY

### 2.1. Pitstock Farm:

**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 December 2023, stating that an EIA for the proposals was not required. The screening opinion is valid for 3 years in accordance with the EIA Regulations.

### 2.2. Highstead Park:

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

#### **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.

### 2.3 **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.

### Revisions

- 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. The Heritage Environment Desk Based Assessment was revised and a supporting Heritage Technical Note was provided to ensure all relevant heritage assets were included in the assessment.

### Effect of the revisions on the EIA Screening

- 3.6. The following table shows the changes to site size and proposal during the various stages of the planning process. As can be seen, there is only a marginal difference in the proposal from the screening to application submission. Furthermore, the revisions during the application have not changed the size of the site or its energy production.

	Screening	Final Application	Post-Revisions
Used Land (ha)	65.04ha	64.89ha	No change
Energy produced (MW)	41MW	41MW	No change

- 3.7. Officers have considered the scope of changes, issues and material considerations during the life of an application in light of a previous EIA

screening. A new formal screening is not required during the application process due to the limited amount of changes to the scheme since the screening opinion was made by the LPA. Furthermore, there are no new permissions nearby that would create cumulative impacts that need to be considered under an EIA – noting that the Highsted applications are currently live applications and therefore not committed developments.

#### 4. REPRESENTATIONS

- 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. During the first round 40 letters of representation were received in relation to the consultation, including 38 objections, 1 letter of support and 1 neutral comment. Following receipt of further information, 6 letters of representation objecting to the proposal were received in relation to the second consultation.
- 4.3. Concerns / objections were raised in relation to the following matters during the first round of consultation:

First Round Comments	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	Section 7.1

agricultural land to suit their proposal.	
<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 unacceptable impact on the quality and safety of the local road network.	Section 7.5

There is no consideration for cyclists and pedestrians on the construction route.	Section 7.5
Panteny 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 operator 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;	Section 7.6

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.	
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	Section 7.4

footpath, degrading the amenity value.	
<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

4.4. 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.

4.5. Objections were raised in relation to the following additional matters during the second round of consultation:

<b>Second Round Additional Comments</b>	<b>Report reference</b>
<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>	
Concerns that transport and highways impacts are not appropriately mitigated	Section 7.5
<b>Amenity impacts</b>	
Glint and Glare impacts have not been assessed correctly.	Section 7.6
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 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

- 4.6. Objections were received from the local Parish Councils in the first and second rounds of full public consultation. The Parish Councils were consulted a third and fourth time following the receipt of updated documents in relation to specific concerns raised. Objection to the application on behalf of **Bapchild, Milstead and Rodmersham Parish Councils** (combined) was received, which raised the following concerns during the first round of consultation:

<b>First Round Comments</b>	<b>Report reference</b>
<b>Agricultural Land</b>	
Concern that the Orchards were removed in preparation for an application – rather than for issues	Not a material consideration in this application.

including financial reasons and poor fruit yields.	
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 land and there is not sufficient justification why two smaller parcels could not be viable.	Section 7.1
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	Section 7.2 and 7.16

construction and decommissioning phases.	
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	Section 7.13

disturbance and is not fully addressed.	
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 EclA.	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	Section 7.1

2050, which the proposal aligns with.	
<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.

- 4.7. The objection to the application on behalf of **Bapchild, Milstead and Rodmersham Parish Councils** raised the following concerns during the second round 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

4.8. **Tonge Parish** Council objected once 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

4.9. Rodmersham Parish Council and Milstead Parish Council objected separately to the third (direct) re-consultation stating that the amendments did not resolve their previous concerns. Rodmersham Parish Council raised a fourth objection to the application on 11 July 2025 raising concerns as follows:

<b>Grounds</b>	<b>Report reference</b>
Failure to Undertake a Habitats Regulations Assessment (HRA)	Section 7.9
Failure to Update or Revisit the Environmental Impact Assessment (EIA) Screening	Section 3
Cumulative and In-Combination Effects	Section 7.3
Failure to recognise impacts on the Grade I Listed Saint Nicholas Church and Rodmersham Church Street Conservation Area	Section 7.4
Concern that construction traffic will have adverse impacts on nearby heritage assets.	Section 7.4
Glint and Glare impacts and associated screening	Section 7.7
Decommissioning – remnant ancillary infrastructure	Section 7.17

4.10. The Kent branch of the Campaign to protect Rural England (CPRE) objected twice to the application, the first objection raised the following concerns:

<b>First Round</b>	<b>Report reference</b>
<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 at the outer extremity of the current 8km zone	Section 7.1
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	Section 7.2

designated Kent Downs National Landscape.	
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

4.11. The CPRE (Kent) raised a second objection to the application reiterating the concerns from Rodmersham Parish Council's fourth objection (above) regarding the potential impacts on the Grade I listed St Nicholas Church and Rodmersham Conservation Area.

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

## 5. CONSULTATIONS

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 Internal Drainage Board (LMIDB):** No objection.

5.4 **National Highways (NH):**

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):** 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, Brickearth. 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:** Three rounds of consultation have been carried out.

Initially agreed with the 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.

A 3<sup>rd</sup> round of consultation was carried out following the provision of the updated Heritage Environment Desk Based Assessment and supporting Heritage Technical Note. This clarified the reasons for scoping out the grade I listed St Nicholas Church and Rodmersham Church Street Conservation Area. The SBC Heritage officer advised that he disagrees with the suggested limited setting of the church as stated within the Technical Note. SBC Heritage considers that the proposal sits within the setting of the listed church, which derives its setting from the surrounding agrarian landscape. Furthermore, given the proposed solar farm would replace the existing agricultural land, it would therefore have an adverse effect on this setting, albeit this would be at the very low end of the scale of less than substantial harm due to the distance and limited intervisibility.

Regarding the potential harmful effects on the Rodmersham Church Street Conservation Area, SBC Heritage advise that due to the development type, significant separation distance, intervening topography, planting and existing development there would be no intervisibility and therefore no harm.

- 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:**

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 Protection (Mid Kent EP):**

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 Ecological Advice Service (KCC EAS):**

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 (EclA).

A revised EclA was submitted and confirmed by KCC EAS 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 EclA, 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 KCC Highways 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 Public Rights of Way (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 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 PROW 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 Officer:** No objections.

**5.21 SBC Tree Officer:** 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.

#### 5.25 **Historic England**

Historic England will not be engaging as the case does not meet their engagement threshold.

### 6. DEVELOPMENT PLAN POLICIES

#### **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

### **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

### **National Planning Policy Framework (the NPPF)**

### **National Planning Practice Guidance (NPPG)**

**Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.**

## **7. ASSESSMENT**

7.1. 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

## **7.2. 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.

### Proposed use for renewable energy production

7.2.3. 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.

7.2.4. The Council declared a Climate and Ecological Emergency in June 2019 and announced a target to be carbon neutral as a Council by 2030, as well as to address the Ecological Emergency, which is resulting in unprecedented rates of nature decline. In order to implement meaningful action, SBC prepared a Climate and Ecological Emergency Action Plan (2020). An updated Climate and Ecological Emergency Action Plan was adopted in 2025.

7.2.5. 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 CO<sub>2</sub> 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.

- 7.2.6. 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

- 7.2.7. The application site is located within the countryside and comprises agricultural land.
- 7.2.8. 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.*
- 7.2.9. 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.*
- 7.2.10. 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:*  
  - The site is allocated for development by the Local Plan; or*
  - There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
  - The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.”*
- 7.2.11. 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)**

- 7.2.12. 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.
- 7.2.13. 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.
- 7.2.14. 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.
- 7.2.15. 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:

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

- 7.2.16. 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.

7.2.17. 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.

7.2.18. 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%

7.2.19. 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*

- 7.2.20. 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.
- 7.2.21. 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).
- 7.2.22. 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.
- 7.2.23. 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.
- 7.2.24. 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.

- 7.2.25. 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*

- 7.2.26. 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.

- 7.2.27. 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 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 of the Local Plan.

*Conclusion on Agricultural Land*

- 7.2.28. 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.
- 7.2.29. 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.

- 7.2.30. 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.

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

- 7.3.1. Paragraph 187 of 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.
- 7.3.2. The NPPF at paragraph 189 also states that great weight should be given 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’.
- 7.3.3. Section 85(A1) of the Countryside and Rights of Way Act 2000 requires a relevant authority, in exercising or performing any functions in relation to, or so as to affect, land in a National Landscape, must seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
- 7.3.4. To comply with this duty, the decision maker should first assess whether the proposed development will accord or conflict with the purposes stated in the statutory duty. If there is conflict, then the decision maker should go on to consider whether to grant planning permission and to explain why they have decided that planning permission may justifiably be granted. This may include consideration of the size and scale of the development, the extent and severity of conflict with the stated purposes and any mitigatory or compensatory measures. Paragraph 189 of the NPPF reflects the statutory duty insofar as it relates to the effects of development proposals on protected landscapes and scenic beauty, and provides the ability for a decision maker to apply a suitable amount of weight to this matter when determining proposals that either accord or conflict with the statutory duty.
- 7.3.5. Local Plan Policies ST1 and DM14 both contain parts that seek to conserve and enhance the natural environment. Policy DM26 seeks to protect the character of rural lanes and applies to Pitstock Road, Slough Road, Cheney Hill, Bottles Lane and Green Lane.
- 7.3.6. Policy DM24 of the Local Plan supports the NPPF and seeks to conserve and enhance valued landscapes, including National Landscapes. Part A of this Policy specifically 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.

7.3.7. 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.

7.3.8. 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.

7.3.9. 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.

7.3.10. 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.

7.3.11. 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.

7.3.12. 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.

7.3.13. 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.

7.3.14. 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.

7.3.15. 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.

7.3.16. 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, which 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.

- 7.3.17. 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.
- 7.3.18. 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.
- 7.3.19. 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.
- 7.3.20. 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.
- 7.3.21. 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.

- 7.3.22. The LVIA Addendum provides an assessment of potential cumulative impacts at section 10.2. In line with the GLVIA3 it includes development proposals that have applications submitted but are not yet decided, including the Highsted South proposal (ref: 21/503914/EIOUT), which at the time of writing is still being heard at a public inquiry. Paragraphs 10.2.9-13 of the LVIA Addendum specifically deal with Highsted and concludes there would be little if any intervisibility and therefore no significant cumulative effect. Whilst PRA note that this has not been verified through cumulative visualisations, officers agree with PRA that the conclusions within the LVIA Addendum are reasonable and therefore accepted.
- 7.3.23. 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.
- 7.3.24. 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.
- 7.3.25. 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.

- 7.3.26. 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.
- 7.3.27. The impacts on the PROW are discussed in section 7.4 of this report.
- 7.3.28. 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. It follows that the proposal conflicts with the purpose of conserving and enhancing the natural beauty of the National Landscape.
- 7.3.29. 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.
- 7.3.30. Where there is conflict with the purposes stated in the statutory duty under section 85(A1) of the Countryside and Rights of Way Act 2000, as advised above, the decision maker should go on to consider whether planning permission may justifiably be granted. Paragraph 189 of the NPPF reflects the statutory duty insofar as it relates to the effects of development proposals on protected landscapes and scenic beauty and provides the ability for a decision maker to apply a suitable amount of weight to this matter when determining proposals that either accord or conflict with the statutory duty. This is discussed further with the overall planning balance in section 7.18 of this report.
- 7.3.31. Concern was raised by Rodmersham Parish Council that the Landscape & Setting of the Kent Downs National Landscape was not included in the EIA screening report. However, the EIA screening report and officer report identified

the proximity of the Kent Downs National Landscape (KDNL). The KDNL Unit confirmed that there would be no visual connection between the proposal and the KDNL and there is no evidence that the revised scheme demonstrably increases visual harm. The harm identified by the KDNL Unit relates to its setting only due to the similarities in landscape character, however this is a minor degree of harm and would not have changed the previous position on whether an EIA is required. The matter of EIA Screening is discussed further in section 3 of this report.

#### **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. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.3. 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.
- 7.4.4. 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.
- 7.4.5. 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.

- 7.4.6. The application proposals are supported by a Historic Environment Desk Based Assessment (HEDBA) provided by Stantec. 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).
- 7.4.7. The HEDBA scopes into the assessment 7 heritage assets as potentially having their wider settings materially affected by the proposed development scheme, these being:
- Dungate 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
- 7.4.8. In respect of the 7 heritage assets scoped into the assessment, 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.
- 7.4.9. SBC Heritage agrees with the 7 heritage assets scoped into the HEDBA, which would be indirectly impacted by the development proposal (through a change to their respective wider setting). SBC Heritage also 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.
- 7.4.10. It was identified late in the application process that the applicant's HEDBA scoped out the Grade I listed St. Nicholas Church, which is approx. 930m to the north east of the site. This matter was put before the SBC Heritage team, who disagrees with scoping out this listed building and, as such, further assessment has been undertaken. As a result, SBC Heritage considers that the proposal sits within the setting of the listed church, which derives its setting from the surrounding agrarian landscape. Furthermore, given the proposed solar farm would replace the existing agricultural land, it would therefore have an adverse effect on this setting, albeit this would be at the very low end of the scale of less than substantial harm due to the distance and limited intervisibility. In providing

this advice, SBC Heritage reflected on the evidence provided by Ms C Sones (the Council's Built Heritage witness) in the ongoing Public Inquiry for Highsted Park South (ref: 21/503914/EIOUT). Her evidence (document number 38.3.2) on page 101 describes the listed church as follows:

*The significance of the listed building derives primarily from its age and architectural interest as a medieval parish church of great aesthetic merit. The church tower is an important landmark in the landscape enhanced by the higher ground on which the building is located. This enables identification of the church and its related settlement in views across the surrounding agrarian landscape comprising fields and orchards.*

- 7.4.11. The Heritage Technical Note (July 2025) provides the applicant's justification for scoping out the listed church, which disputes the points made in Ms Sone's evidence. The Technical Note alleges at para. 3.6 that the *"views towards the church are relatively limited and the tower does not appear as a 'landmark' feature within the landscape"*. The technical note further alleges at para. 3.6 that there is no functional or associative relationship between the site and the church. The Note states that *"The setting of the church is defined initially by its enclosed churchyard which as a result of the mature planting means that the churchyard is very private and secluded in character"* and that *"the agricultural landscape surrounding the building makes little, if any contribution to the appreciation of the church"*.
- 7.4.12. Officers disagree with these statements given that officers have observed numerous locations within publicly accessible areas in and adjoining the agricultural fields surrounding Rodmersham where the church is visible (particularly its tower), which demonstrates it to be a landmark feature of Rodmersham. The very purpose of a church tower is to be visible from the surrounding area and this church tower continues to rise well above the canopy of the trees surrounding the church courtyard. As such, it can be easily demonstrated that it continues to be well visible from the surrounding agrarian landscape as stated in Ms Sone's evidence. Officers note that the applicant has not offered any visual evidence of their own to support their statement.
- 7.4.13. Officers have also observed taller trees further to the south of St Nicholas Church within the grounds of Rodmersham House (south of Muddy Lane). It is acknowledged that these trees provide a degree of screening between the listed church and the application site, which reduces the level of impact as stated by SBC Heritage above. However, the screening provided by these trees is limited and therefore officers disagree with the conclusion of the Heritage Technical Note (July 2025) that the *"agricultural landscape surrounding the building makes little, if any contribution to the appreciation of the church"*.
- 7.4.14. Historic England were consulted on the application and advised that they will not be engaging as the case does not meet their engagement threshold. The

assessment of harm is therefore based on the harm identified by the SBC Heritage as being a very low degree of less-than-substantial harm to the setting of the grade I listed St Nicholas Church.

- 7.4.15. Objections were also raised in the consultation response from Rodmersham Parish Council with regard to potential harmful effects on the Rodmersham Church Street Conservation Area. The proposed development is located approx. 900m south of the boundary of the Conservation Area. It is considered that due to the development type, significant separation distance, intervening topography, planting and existing development there would be no intervisibility other than the St Nicholas Church tower. However, the setting of the grade I listed church is different given its particular prominence and significance. As such, the proposal would not be read within the setting of the conservation area or have a harmful impact on its significance as a heritage asset.
- 7.4.16. An objection also raised concerns that the construction traffic from the proposal would lead to harmful impacts on nearby heritage assets. However, the Transport Assessment indicates that construction traffic would be relatively limited and would only last for a period of approximately 6 months. It would also be controlled by condition for a Construction Transport Management Plan. The Conservation Officer has confirmed that it would not lead to any adverse heritage impacts.
- 7.4.17. Officers note that no specific mitigation is proposed to address the setting harm to listed buildings from the proposal, 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.
- 7.4.18. 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.
- 7.4.19. 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 from the proposed mitigation, 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 8 heritage assets remains, but note that, for the 5 designated heritage assets (the 5 listed buildings), 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.

7.4.20. The identified harm to the setting of the 5 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.

7.4.21. 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.

7.4.22. 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 5 listed buildings identified above. However, in this case the benefits are considerable and clearly outweigh the low degree of less than substantial harm.

## **7.5. Public Rights of Way**

7.5.1. 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.

7.5.2. 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.

- 7.5.3. 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.
- 7.5.4. 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.
- 7.5.5. 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.
- 7.5.6. 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.
- 7.5.7. 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.
- 7.5.8. 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.

7.5.9. 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.

7.5.10. 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.

7.5.11. 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.

7.5.12. 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.

## 7.6. Transport and Highways

7.6.1. 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 DM26 also seeks to protect the character of rural lanes and applies to Pitstock Road, Slough Road, Cheney Hill, Bottles Lane and Green Lane.

7.6.2. 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 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.”*

7.6.3. 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.

7.6.4. 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 para. 5.18 of this report.

7.6.5. 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.

7.6.6. 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.

7.6.7. 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.

7.6.8. 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.

7.6.9. 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.

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

## **7.7. Glint and Glare**

7.7.1. 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.

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

### Aviation Activity

7.7.3. 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.

- 7.7.4. 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.
- 7.7.5. 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.
- 7.7.6. 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

- 7.7.7. 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.
- 7.7.8. 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

- 7.7.9. 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.

- 7.7.10. 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. A further 7 address points are not assessed further in the Study as solar reflections are not geometrically possible.
- 7.7.11. 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.
- 7.7.12. 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.
- 7.7.13. 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.
- 7.7.14. Officers note that concerns were raised by the Rodmersham Parish Council that glare impacts on neighbouring properties have not been properly mitigated due to ineffective screening measures and properties missing in the assessment. The Glint and Glare Report has been updated several times at officer's request to

address concerns raised by officers and objectors. As described above, the most recent report clarifies that receptor points cover multiple residences in several occasions where the context and nature of the properties in relation to the site would lead to similar or the same effects. A table is included within the GGS report to show which properties are covered by the respective receptor points, which is discussed in detail in the paragraphs above. Pinks farm has also been included at officer's request. As discussed above, the landscaping proposal has also been revised at officer's request to plant mature vegetation screening to ensure there is sufficient mitigation to the adjoining affected properties from the outset.

## **7.8. Trees**

- 7.8.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.
- 7.8.2. 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.
- 7.8.3. 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.
- 7.8.4. 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.
- 7.8.5. Subject to the inclusion of the recommended conditions the proposal would be acceptable in accordance with Local Plan Policy DM29 and the NPPF.

## **7.9. 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.
- 7.9.2. 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, 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”.*

- 7.9.3. 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.”
- 7.9.4. National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments.
- 7.9.5. 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.
- 7.9.6. 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.
- 7.9.7. The initial consultation response from KCC EAS 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 EAS confirmed that they are satisfied that sufficient information has been submitted to adequately assess the impact on ecology.

#### Habitats

- 7.9.8. The proposals require the removal of the existing arable habitats, with boundary habitats largely retained and enhanced. KCC EAS 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.

- 7.9.9. 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 EAS advise that the proposed measures, effectively implemented, could result in a biodiversity net gain for the site.
- 7.9.10. 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.
- 7.9.11. Concern was raised in objections that a Habitats Regulations Assessment (HRA) and Appropriate Assessment have not been carried out. However, the Local Planning Authority (LPA) have undertaken a HRA screening exercise as the competent authority and found no need for a HRA. Natural England have been consulted and they advise they will not comment on this application and refer us to their standard advice.
- 7.9.12. The application is supported by an Ecological Impact Assessment, which has been reviewed and accepted by KCC EAS and includes surveys of breeding birds and wintering birds. This assessment confirms that no species associated with Swale or Medway Estuary & Marshes SPA/ Ramsar sites were recorded. Furthermore, the assessment confirms that due to the distance from the site, and considering the absence of qualifying species identified on the site, no direct impacts on the Swale or Medway Estuary & Marshes SPA, SSSI or Ramsar are anticipated during construction or operation, either from disturbance or pollution. The Assessment concludes that, given the nature of the proposed development, no mitigation measures are required and there are no significant residual effects anticipated. As such, the exercise screened out the requirement for an Appropriate Assessment. KCC EAS have confirmed that they agree with the screening outcome.

#### Breeding Birds

- 7.9.13. KCC EAS 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.

- 7.9.14. 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".
- 7.9.15. 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 EAS 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.
- 7.9.16. Officers noted that the Highsted South application (ref: 21/503914/EIOUT) identified parts of the Pitstock Farm site as a location for its offsite skylark mitigation. Essentially, this overlap has no bearing on this application for the proposed solar farm as the onus lies on the Highsted application to secure suitable skylark mitigation for its proposed development. If land it has previously identified is developed before it is properly secured for skylark mitigation then the Highsted developer will need to find other suitable land.

#### Wintering Birds

- 7.9.17. 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. The 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

- 7.9.18. 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.

- 7.9.19. 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

- 7.9.20. 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

- 7.9.21. 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.
- 7.9.22. 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

- 7.9.23. 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

- 7.9.24. 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

- 7.9.25. KCC EAS 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

- 7.9.26. 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.

## **7.10. Archaeology**

- 7.10.1. 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.
- 7.10.2. 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.
- 7.10.3. 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.
- 7.10.4. 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.
- 7.10.5. 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.

7.10.6. 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.

7.10.7. Concern was raised by Rodmersham Parish Council that new archaeological evidence was not considered in the original EIA screening. The EIA Screening report identified a low potential for features of archaeological importance and therefore did not rule this out completely. The evidence of some limited archaeological remains found during the application would not have changed the previous position on whether an EIA is required.

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

7.11.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed.

7.11.2. 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.

7.11.3. 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.

7.11.4. 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.

7.11.5. 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.

7.11.6. 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.

## **7.12. Contamination**

7.12.1. Policy ST1 of the Local Plan states that development proposals shall conserve and enhance the natural environment by applying national planning policy in respect of pollution, despoiled, degraded, derelict, contaminated, unstable and previously developed land. 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.

7.12.2. 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.

7.12.3. 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.

7.12.4. Subject to the imposition of the suggested condition, the proposal is in accordance with Policy ST1 of the Local Plan and the NPPF.

### **7.13. Air Quality**

- 7.13.1. 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.
- 7.13.2. 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.
- 7.13.3. 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.
- 7.13.4. 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.

### **7.14. Living Conditions**

- 7.14.1. The NPPF and Policy DM14 of the Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.14.2. The visual impact and the impact of glint and glare has been considered above. Views from individual private properties are not protected and the loss of a view from a private property is not a material planning consideration. 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.
- 7.14.3. 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.

- 7.14.4. 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.
- 7.14.5. Mid Kent EP 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.
- 7.14.6. 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.
- 7.14.7. Mid Kent EP advised that in response to the clarification provided lighting could be dealt with as a condition.
- 7.14.8. 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.
- 7.14.9. 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.

## **7.15. Designing Out Crime**

- 7.15.1. 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.
- 7.15.2. 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.

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

## 7.16. Community Infrastructure

7.16.1. 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

7.16.2. 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).

7.16.3. The following financial contributions have been sought by KCC PROW and KCC EAS to mitigate the impact of development.

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.

7.16.4. 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.

### **7.17. Decommissioning**

- 7.17.1. 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.
- 7.17.2. 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.
- 7.17.3. 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. In order to secure the suitable restoration of the land a detailed Decommissioning Plan is recommended to be secured by condition.
- 7.17.4. The applicant advises that the only element that may need to be retained is the DNO substation and the fence surrounding it. However, UKPN (as a utility provider) have their own permitted development rights, and whilst the DNO works are included on the plans for clarity and transparency, they don't require consent as they can be delivered under permitted development rights. UKPN will deliver the DNO substation and associated 33kV point of connection themselves after the implementation of the development. Therefore, the utility provider may seek to retain this development as part of their network following the decommissioning of the solar farm. Hence it was not included within the detail of the application.

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

- 7.18.1. 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.
- 7.18.2. 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 low 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.

- 7.18.3. 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

- 7.18.4. 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.
- 7.18.5. 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.
- 7.18.6. 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.
- 7.18.7. 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

- 7.18.8. Officers conclude that the proposal would have a minor adverse impact on the setting of the Kent Downs National Landscape and therefore the proposal conflicts with the purpose of conserving and enhancing the natural beauty of the National Landscape. In accordance with Paragraph 189 of the NPPF, great weight should be attached to this disbenefit.

- 7.18.9. Officers conclude that the proposal would also have a minor adverse impact on the setting of the Rodmersham and Milstead Dry Valley AHLV, which is a designated landscape. 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 sensitivities of these landscapes, moderate weight is attached to this disbenefit.
- 7.18.10. 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, the effects on non-vehicle users, particularly on Bottles Lane, during the early operational phase would 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.
- 7.18.11. 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.
- 7.18.12. The identified harm to the setting of the 5 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. The heritage balance is set out within section 7.4 of this report, whereby it was concluded that the public benefits of the scheme are considerable and clearly outweigh the low degree of less than substantial harm to heritage assets.

## **7.19. Conclusion**

- 7.19.1. 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.

- 7.19.2. With regard to the statutory duty under section 85(A1) of the Countryside and Rights of Way Act 2000, officers advised above that the proposal conflicts with the stated purpose of conserving and enhancing the natural beauty of the National Landscape. However, officers note that this is not caused by a direct visual link but due to a connection created by similarities in the landscape character. Furthermore, there are mitigating factors including the distance between the site and National Landscape, the physical barrier created by the M2, and the relative scale of the proposal in the context of the National Landscape area. The proposal also provides an improvement to biodiversity, which is another key component of the KDNL and therefore would benefit the setting of the National Landscape in this regard. Other key components of the natural beauty of the KDNL that are defined in the Kent Downs AONB Management Plan would not be affected by the proposal at all, such as geological features, tranquillity and the Heritage Coasts. As such, in addition to consideration of the abovementioned benefits of the scheme and the minor degree of harm to the setting of the KDNL, officers advise that the proposal may be justifiably granted planning permission and in doing so the Council would comply with its statutory duty.
- 7.19.3. 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) and DM20 of the Local Plan and would help to address the Climate and Ecological Emergency declared by the Council. 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.

## **7.20. RECOMMENDATION**

- 7.20.1. 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 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.



<b>2.2 REFERENCE NO - 25/500761/FULL</b>		
<b>PROPOSAL</b> - Erection of 90 no. residential dwellings, together with associated access, open space, landscaping, drainage, infrastructure works and earthworks, and the provision of car parking spaces for existing residents.		
<b>SITE LOCATION</b> - Land West Of Church Lane, Newington, Kent		
<b>RECOMMENDATION</b> - Delegate to the Head of Planning to grant planning permission subject to appropriate conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be necessary and appropriate.		
<b>APPLICATION TYPE</b> – Full		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Cllr C. Palmer and Cllr R. Palmer Called-In the application as they are aware that matters have been raised by the public that they consider should lead to the application being considered by the Planning Committee.		
<b>Case Officer</b> – Ian Harrison		
<b>WARD</b> Hartlip, Newington and Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> Fernham Homes Operations Limited <b>AGENT</b> DHA Planning
<b>DATE REGISTERED</b> – 03/03/2025		<b>TARGET DATE</b> – 15/09/2025
<b>BACKGROUND PAPERS AND INFORMATION:</b>  The full suite of documents submitted and representations received 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=SS73LLTYMFW00">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SS73LLTYMFW00</a>		

## 1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is located to the north of the railway line that passes through the built-up area of Newington and to the side or rear of the properties of Church Lane, Vicarage Court, Denham Road, Hasted Road and Westwood Walk. To the north of the site is Newington CE Primary School and, at the time of the Officer site visit, an on-going residential development which was approved, at appeal, following the refusal of application 21/504028/FULL, was under construction. The developer at that site is also the applicant for this application. To the west of the site are fields in agricultural use.

- 1.2. The site is irregularly shaped with the main part of the site measuring approximately 4.8 hectares. The site includes a line of hedgerow and trees that passes from north to south at the western part of the site.
- 1.3. At the western part of the site is an off-shoot which is intended to represent the route of a footpath that would lead to the south west and connect to an existing pedestrian underpass that runs below the abovementioned railway line. That route would connect to Public Right of Way ZR38 (PRoW) which leads generally in a north westerly direction from the gate to the north of the underpass.
- 1.4. To the east of the site is a small section of additional land that would connect the main part of the site to the turning head at Denham Road. That section of land would be used to provide a vehicle access into the site. A further, small protrusion from the main part of the site would exist at the south east, where a pedestrian link is proposed to be formed. A large tree is located in a small area of green land that is adjacent to that small protrusion.
- 1.5. The ground levels at the site change gradually, falling from the south to the north and from the east to the west. At the south west corner of the site and in the area that is outside the site but between the footpath route and the main part of the site is a somewhat incongruous mound.
- 1.6. In terms of the wider context of the site, with all measurements being taken from the proposed vehicular entrance to the site and using pedestrian routes throughout the area, the site is approximately 300 metres from the entrance to Newington Station and 400 and 450 metres, respectively, from the closest east and west bound bus stops on the A2. The entrance to the site is approximately 360 metres from the closest shops on the A2 and 350 metres from the entrance to St Mary the Virgin Church. The closest equipped Children's Play Area appears to be at Orchard Drive, 1.1 kilometres from the site. The site is adjacent to a primary school. The closest secondary school to the site is Westlands School, 3.6km to the east. The nearest Air Quality Management Area to the site is High Street, Newington, with one also being close to the site, at Keycol Hill.

## 2. PLANNING HISTORY

- 2.1. SW/74/1046 – 125 Residential Units  
Refused – 14/03/1975
- 2.2. SW/75/1156 – Residential Development (57 Units)  
Refused – 07/01/1977
- 2.3. SW/76/0803 - Residential development (61 units - Phase II)  
Refused - 07/01/1977
- 2.4. SW/77/0465 - Residential 32 units (outline)  
Refused – 01/08/1977
- 2.5. SW/79/1104 - Extension to residential development  
Refused – 17/09/1979

- 2.6. SW/85/961 - Residential development of 20 bungalows and 5.25 acres of public space Refused – 06/12/1985
- 2.7. SW/10/1088 - Creation of vehicular access Refused – 06/12/1985

#### Other Nearby Developments

- 2.8. As set out in the description of the site, land to the north west of the application site is the subject of an on-going development comprising of, amongst other associated works, the erection of 25 dwellings and a 20 space staff car park and 20 space pupil pick-up/drop-off area for the adjacent primary school. That application was the subject of appeal APP/V2255/W/22/3312284, following application 21/504028/FULL being refused for, in part, the reason set out below:

*1. The proposed development would represent unjustified and unnecessary residential development within the countryside resulting in an urbanising impact, outside of the defined built-up area boundary, in a manner which is significantly and demonstrably harmful to the character, appearance, and intrinsic amenity value of the countryside. The proposal is therefore contrary to policies ST1, ST3, ST5, CP4, DM14, DM24, and DM26 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework.*

- 2.9. A second reason for refusal related to the lack of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act and the associated lack of provisions with regard to infrastructure. This was, however, addressed prior to the determination of the appeal through the completion of a legal agreement.
- 2.10. The Inspector identified that that proposal would have adverse impacts in terms of the impact of the proposal on the character and appearance of the area, albeit the adverse impacts were concluded to be very limited. Overall, it was found that the approach set out at paragraph 11d of the NPPF was applicable and “the very limited adverse impact of the proposal is nowhere near sufficient to significantly and demonstrably outweigh the multiple benefits of the proposal.” Therefore, the development was found to accord with the NPPF in such a way that there was justification to set aside the provisions of the development plan and allow the appeal.
- 2.11. Other ‘major’ applications (10+ dwellings) within the area of Newington that are deemed to be of relevance due to reference by interested parties or proximity to the site include the following:
- Land to the rear of Eden Meadow – 23/505365/OUT – 25 Dwellings. Committee Resolution to Grant.
  - Land South of London Road - 22/500275/OUT – Allowed at Appeal - 135 dwellings.
  - 128 High Street, Newington - 21/505722/OUT and 24/500761/REM – 46 Dwellings. Approved.
  - 111 High Street - 20/505059/FULL – 10 additional dwellings. Approved.

- 99 High Street And Land To The North Of High Street, Newington - 16/501266/FULL- 124 Dwellings. Approved.
- Land East of St Mary's View - 15/509664/OUT – Refused on the grounds of highways, amenity, landscape and loss of agricultural land. An appeal was dismissed with the landscape and agricultural land reasons being found to be determinative.
- Parsonage Farm, School Lane, Newington - SW/14/0486 – 14 dwellings. Approved.

### 3. PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the erection of 90 dwellings. 36 of the dwellings (40%) would be affordable in the context of the formal definition. The housing mix would be as follows:

	One Beds	Two Beds	Three Beds	Four Beds	Total
Open Market	0	0	24	30	54
Affordable	4	17	14	1	36
Total	4	17	38	31	90

- 3.2. The housing provision would include 42 detached open market dwellings. There would be 28 semi-detached dwellings, 12 of which would be open-market units and 16 of which would be affordable.
- 3.3. There would be 12 terraced dwellings, arranged in 4 blocks of 3 dwellings, all of which would be affordable. A block of 6 flats, also all affordable, is proposed at the southern part of the site. The entrance to two of the flats would be at the south elevation, facing the railway line, one would be at the east, facing the parking court serving those flats and three would be to the north, facing highway. Two dwellings would be flats above garage buildings and would also be affordable units.
- 3.4. The applicant's initial submissions indicated that 5 of the dwellings would be self/custom build dwellings. However, they have been removed from the proposal and should not be afforded any weight in the assessment of the application.
- 3.5. In terms of layout, the main estate road would lead westwards from the access onto Denham Road. From that main route, three roads would run northwards, with two leading to a further 'east/west' road and three would run southwards with one of those curving westwards and the other splitting to east and west branches. The dwellings would be arranged within the layout formed by those roads with dwellings being arranged to face the highways in most instances. There would also be an emergency access/egress from the site at the north west corner, leading to School Lane.
- 3.6. All of the buildings would feature accommodation over two storeys. 42 of the dwellings would feature single storey garages/car ports to the side. In terms of materials, the applicant's Planning Statement indicates that the dwellings would be constructed from

a consistent palette featuring rustic red and red multi bricks brickwork to most dwellings with the occasional use of a buff brick, weatherboarding and hanging tiles to the elevations, hanging tiles also to the elevations and red and grey tiles to the roofs. All dwellings would be served by air source heat pumps.

- 3.7. To serve the development, 222 parking spaces would be provided. The 6 flats would each have one space. All of the four bedroom dwellings would have access to at least three parking spaces and some would have four. All other dwellings would have access to at least two parking spaces. 18 visitor spaces and 4 unallocated spaces are also proposed. Cycle parking is provided for each of the dwellings, either within the proposed garages or within dedicated timber store buildings. The proposed flats would be served by a detached refuse store building within the parking court serving it.
- 3.8. In addition to the dwellings, the application seeks permission for a car parking area to serve existing residents within the locality. 23 parking spaces would be provided in a parking court at the eastern part of the site, to the rear of the properties to the west of Hasted Road. The applicant's Planning Statement indicates that this would be managed by the Site Management Company.
- 3.9. The proposed parking is, in part, proposed to compensate for the impact on existing on-street parking that would result from the use of parking restrictions (double yellow lines) that are proposed within the vicinity of the site as a result of the proposal. These parking restrictions, which would need to be authorized under the terms of a Traffic Regulation Order outside of the planning regime, would include the south side of Denham Road, the parts of Church Road to the immediate north and south of the junction with Denham Road (a length of approximately 54 metres when measured along the eastern edge of the carriageway) and an area of extended parking restrictions at the southern part of Church Lane (amounting to a length of 10.8 metres at each side of the road). "Keep Clear" markings are also proposed at the junction of London Road and Church Lane.
- 3.10. To the west of the proposed dwellings is a proposed play area, at the north west corner of the site is a proposed surface water drainage feature and to the west and south west of the site is a proposed footpath route that would link the site to the PRow that is described above.

#### 4. REPRESENTATIONS

- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers. Four notices were displayed near to the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. 115 letters of representation objecting to the proposal were received. Concerns and comments were raised in relation to the following matters:

<b>Comments</b>	<b>Report Reference</b>
Health care services will not be able to cope with the development.	Section 7.11.7
There are insufficient school places to serve the occupiers of the development.	Section 7.11.7
Additional traffic and the impact on highway safety, congestion and the capacity of surrounding roads, particularly given the inadequacy and narrowness of the existing roads and the incidents of accidents at junctions, including the junction of Church Lane and the A2.	Section 7.9.9 to 7.9.18
Cars within surrounding roads have been damaged as a result of the existing situation.	Section 7.9.9 to 7.9.18
Cars have hit existing buildings, including a listed building.	Section 7.9.9 to 7.9.18
The proposed access is inadequate and unsafe.	Section 7.9.9 to 7.9.18
Noise pollution, particularly from traffic.	Section 7.6.1 to 7.6.9
Air pollution and the impact on the Air Quality Management Area.	Section 7.10
Impact of construction traffic.	Condition 4
Regard should be had to appeal decisions APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 and the associated subsequent High Court and Court of Appeal judgements that address air quality at Pond Farm.	Section 7.10
Potential flood risk.	Section 7.13
Future occupiers will not be from the local area, with some possibly coming from London.	Section 7.16.7
The development, combined with others, would unduly enlarge Newington and result in it not being a village.	Section 7.16.8
The development in Newington, combined with others in Medway and Swale are a threat to the rural character of the area.	Section 7.16.8
Development is in the countryside, outside the defined built-up areas.	Section 7.2.5 to Section 7.2.8
Bus services are inadequate to support the development.	Section 7.9.3
The footpaths of the area are inadequate and have a worrying interaction with traffic.	Section 7.9
Impact on daylight within neighbouring properties.	Section 7.6.1 to 7.6.9
Contrary to Development Plan.	Section 7.17.2
The proposal would cause the loss of Best and Most Versatile Agricultural Land and have a harmful impact on the rural economy and food production as a result.	Section 7.2.9 to Section 7.2.15
Inadequate parking to serve the proposed development.	Section 7.2.9 to Section 7.2.15

The loss of on-street parking within the vicinity of the site as a result of the use of parking restrictions within nearby roads. The potential impact on security and car insurance prices.	Section 7.6.9
The proposed public parking provision is not allocated and so will not be effective.	Section 7.6.9, 7.9.23 and 7.9.25
Deliveries should be factored into the transport assessment.	Section 7.9.9 to 7.9.18
The development would not include adequate affordable housing.	Section 7.2.24 to 7.2.29
The development would include too much affordable housing.	Section 7.2.24 to 7.2.29
The mix of housing proposed would not reflect the needs of the local area.	Section 7.2.17 to 7.2.23
Harmful impact on wildlife.	Section 7.8
Inadequate police presence.	Section 7.16.4 and 7.16.5
Inadequate regard to energy efficiency and renewable energy generation.	Section 7.15.1 and 7.15.2
Impact on quality of life of residents of Newington and the impact on a 'right to village life.'	Section 7.6.8 and 7.16.8
One point of access is inadequate for emergency services.	Condition 27
The provision of cycle parking is illogical as it is unlikely to be used.	Section 7.9.21 and Conditions 20 and 21
Impact on the character and appearance of the area.	Section 7.3
The Applicant's LVIA demonstrates that there would be a harmful impact on landscape.	Section 7.3.3 to 7.3.13
Harmful impact on archaeology.	Section 7.5
Harmful impact on PRow.	Section 7.9.7
Inadequate leisure and youth facilities to cope with the development.	Section 7.11.4
Impact on minerals safeguarding area.	Section 7.16.2
Insufficient soft landscaping, particularly tree planting.	Section 7.3.19
Impact on Swale and Medway Special Protection Area.	Section 7.8.2 to 7.8.4
Impact of surface water flooding.	Section 7.13
The proposed air source heat pumps should not be a reason to find the proposal acceptable.	Section 7.10.5 and 7.15.2
The proposed electric vehicle charging points should not be a reason to find the proposal acceptable.	Section 7.9.25
10% Biodiversity Net Gain is "utter nonsense."	Section 7.8.8 and 7.8.9
The loss of on-street parking within the vicinity of the site as a result of the provision of the access into the site.	Section 7.6.9
The impact on living conditions of residents as a result of the effect on the ability to park within nearby roads, particularly in terms of convenience and disabled access.	Section 7.6.9 and 7.9.24

The parking study undertaken by the applicant is inaccurate, the survey of local residents is insufficient and did not fully engage with local residents.	Section 7.6.9 and 7.9.24
Inadequate pedestrian access to the school, along Church Lane and throughout the area.	Section 7.9.3 to 7.9.18
Unacceptable loss of green spaces.	Section 7.2.5
Loss of privacy and increase of overlooking.	Section 7.6.1 to 7.6.9
Inadequate parking.	Section 7.9.19 to 7.9.24
Unauthorised use of the Village Hall Car Park, due to existing shortfalls, is likely to worsen.	Section 7.9.23
Rubbish collectors will not be able to accommodate the development.	Section 7.9.17
Harmful impact on setting of Conservation Area and Listed Buildings.	Section 7.4
Harmful impact on views from PRowWs.	Section 7.3.3 to 7.3.13
The planning history of the area should include SW/10/1088.	Section 2.7
Only one of the railway station platforms have level access as opposed to two as suggested by the applicant.	Section 7.9.5
The bus services are not as good as is suggested by the applicant within their submissions.	Section 7.9.3
The future residents will cause anti-social behaviour.	Section 7.16.4 and 7.16.5
The density of development is far greater than the surrounding area, harmfully so.	Section 7.3.14 to 7.3.20
There are insufficient details of the management of the proposed car parking area.	Section 7.16.6
There is no demand for the proposed development.	Section 7.17.3
No regard has been had to Westwood Walk by the applicant.	Section 7.6.7
The impact of construction traffic and the inability of local roads to cope with that traffic.	Condition 4
The unavailability of parking will prevent existing hobbies which are dependent on loading items into or onto a car and, in turn, this would harm mental health.	Section 7.6.9
Controlled crossings should be provided within surrounding roads.	Section 7.9.9 to 7.9.18
The figures quoted in the Transport Assessment do not reflect the Transport Assessment for the School Lane development.	Section 7.9.9 to 7.9.18
The proposal would not derive any economic benefit for the local area.	Section 7.16.3
A reliance on routes within the area conflict with the Equality Act 2010 as they are inadequate to serve wheelchair users.	Section 7.9.5
The applicant has indicated that the proposed development would be built through access from School Lane but this has not been factored into the applicant's traffic submissions.	Section 7.9.9 to 7.9.18
Kent Police's comments relating to the car parking area have not been addressed within the applicant's amendments.	Section 7.16.5

The proposed parking restrictions would be in place years before the compensatory parking.	Section 7.9.9 to 7.9.18
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- 4.3. The representations received also included the following comments which, unlike the other comments, have not been addressed within the report. They are, therefore, addressed within this section.

Comments	Response
The applicant's aim is financial gain.	This would not be a sound reason to refuse the planning application.
Concern that the Council Tax will go to Maidstone Borough Council as the letter received was from the Council's shared planning administration service.	The Councils have a shared administrative service and this should not be taken as an indication of how Council Tax revenue would be distributed.
A transport and highways assessment submitted by an applicant is not independent.	The applicant is required to submit one and it has been independently assessed by the Highway Authority and others.
The developer has ignored public consultation.	Not for the Local Planning Authority to comment. However, Officers have had regard to all comments received.
The self-build plots would be too expensive to purchase.	The self-build element of the original proposal has been removed.
If this is approved there must have been "brown envelopes involved"	Due process has been followed and this is an unfounded comment. Any accusations should be submitted through the Council's complaints procedure / to the Police.
Impact on property values.	Not a material planning consideration.
The applicant did not accord with previous commitments at an adjacent development, such as the CEMP.	The application has to be considered on the planning merits of the case rather than the conduct of any party.
The description of the development is inadequate as it does not refer to off-site highway works.	This matter has been addressed with the objector who has accepted that the description is adequate.
The flaws of the proposal are not sufficiently prominent within the applicant's submissions.	The applicant's submissions are considered to be sufficient for the application to be considered valid.
Loss of views of the countryside.	The planning system does not afford protection to private views.
Alternative access proposals should be explored.	The Council is required to determine the acceptability of the application on the basis of the plans that have been submitted.
Reasons for refusal of application 15/509664/OUT should be applicable to this proposal.	All applications should be considered on their own merits. Regard has been had to that decision.
The site is not a brownfield site.	This is the case, but there is no policy requirement for development to only be

	on previously development land and, therefore, this is not determinative.
Site not mentioned in the Housing Land Supply Position Statement 2024/25	This is not considered to be determinative or grounds to find the development unacceptable.
The proposal represents Phase 1 of 3.	The application has to be considered on its own merits and as it has been presented.
Permit parking should be introduced around the station.	This would fall outside the scope of the application, it has not been suggested by the applicant or the Highway Authority.
Speed limits within the surrounding highways are not enforced.	This goes beyond the scope of the assessment of a planning application but traffic speed is factored into the Transport Assessment.
Insufficient dentists to cope with the proposed development.	There is no planning policy to enable dentist provision to be sought.
Impact on rural lanes.	Church Lane is not designated as a rural lane. Traffic impacts and visual impacts have been fully considered below.
The affordable housing should be provided to local residents and the development would include insufficient housing for first-time buyers.	The type of affordable housing sought would align with what there is a policy justification to seek. Nomination rights can be secured through a Section 106 agreement.
The shop within Newington is not sufficient to cope with the additional demand.	There are no planning policy standards relating to the level of retail provision required to serve a development and so this cannot be determinative, but is considered below.
The train station will not cope with additional passengers.	There is no evidence available to suggest that this is the case.
The applicant's submissions are inaccurate in terms of a number of the matters set out above.	The applicant's submissions are not the sole basis for the assessment and it is not considered that any shortcomings have prevented a robust consideration of the application.
Impact on disabled driver parking spaces.	The proposal and the proposed parking restrictions would not cause the loss of disabled parking spaces.
Light pollution from new buildings.	There is no reason to conclude that the proposal would cause light pollution beyond what could reasonably be expected of a residential development and as such this is not a ground of officer objection in this location.
The utilities (electric, gas, drainage, sewage, broadband and water supply) within the area cannot cope with the additional demand.	Whilst drainage and sewage is addressed at Section 7.13, the others are addressed under separate legislation and there is no known reason to conclude that the

	development would not have adequate utilities or that there would be an unacceptable strain that would harm existing living conditions.
The traffic surveys were undertaken during school holidays.	The parking surveys were conducted between 17 <sup>th</sup> and 20 <sup>th</sup> April 2024. School Easter Holidays in 2024 were from 29th March to April 12 <sup>th</sup> . Traffic counts occurred on Tuesday 23 <sup>rd</sup> January 2023.

4.4. Newington Parish Council object to the application on the following grounds:

Comments	Response
The application should be refused alike the School Lane refusals.	The application should be considered on its own merits
The development is outside of the defined built-up area boundary.	Section 7.2.5
Impact of the development on parking and safety within Church Lane.	Section 7.9.8 to 7.9.18
The impact of traffic.	Section 7.9.8 to 7.9.18
The impact on sewerage.	Section 7.13.6
The proposal is in conflict with the development plan and is not part of any emerging plan.	Section 7.17.2
527 houses have been built or approved in the past 15 years in / around Newington.	Section 7.16.8
The school would not be able to cope with additional demand. The findings of an appeal decision in Upchurch are cited in this regard.	Section 7.11.7
Facilities and transport connections are limited.	Section 7.2.7 and 7.9.3
The proposal does not represent sustainable development and does not ensure or maintain the vitality of rural communities.	A broad subject that is considered throughout.
The proposal would not utilise brownfield land.	Agreed.
The proposal would cause the loss of Best and Most Versatile Agricultural Land.	Section 7.2.9 to 7.2.15
The 2015 appeal decision at land to the East of St Mary's View is quoted with large tracts of the appeal decision being cited.	Section 7.16.10
Appeals were dismissed for development outside the built-up boundary including at 132 and 148 High Street, Newington, 6 Ellen's Place, Lower Hartlip Road and Jubilee Fields, Upchurch. Consistency with these appeal decisions should be a fundamental principle of planning.	Section 7.16.10 and 7.16.11
The impact on Air Quality and the case of Pond Farm where mitigation measures were found to be unacceptable.	Section 7.10

The transport assessment does not reflect the limitations of public transport services.	Section 7.9
The effectiveness of the proposed travel plan measures are doubted.	Section 7.9.4 and condition 31
The absence of a wheelchair access to Newington Railway Station undermines the findings of the applicant's submissions.	Section 7.9.5
The comments submitted by Kent Police for the School Lane application are cited as are one of the points made by Kent Police in respect of this application with respect to natural surveillance.	Section 7.16.5
The management of the car parking area is unclear.	Section 7.16.6
The proposed footpath would not be a safe route to the recreation ground.	Lighting would be proposed, it would not be worse than the existing PRow and residents would have the choice of 2 routes.
The proposed 'Keep Clear' markings would be ineffective.	Section 7.9.8 to 7.9.18
Tandem parking is considered to be problematic, as identified within the Swale Parking Standards.	Section 7.9.22
The provision of electric vehicle charging points is a token gesture.	Sections 7.9.25 and 7.10.5
The proposal would not improve the economy of Newington and there would be no obvious social benefits of the proposal. There would, however, be environmental harm through loss of farm land and pollution.	Section 7.16.3
Newington Parish Council have also instructed an appraisal of the applicant's highways submissions and the response of KCC Highways to be undertaken. The findings of the two reports are:	
The content of the School Lane appeal decision is cited.	Section 7.9.
The trip rates from the development have been contested, as they also were by the Highway Authority. The trip rates relied upon were lower than applied at the School Lane site. Applying the rates from School Lane would equate to an increase of 40% in the AM peak, 20% in the PM peak and 23% across the period of 07:00 to 19:00.	Additional information has been submitted since these comments were made. Section 7.9.8 to 7.9.18
Traffic surveys undertaken on two days, with the highest surveyed figures being quoted in this summary, indicate that, in Church Lane, there is 28% more traffic in the AM peak and 41% more traffic in the PM peak and, in the High Street there is 20% and 34% more traffic respectively. The applicant's traffic surveys are therefore not considered to be reliable.	Additional information has been submitted since these comments were made. Section 7.9.8 to 7.9.18

As a result of the above, queues at the junction of High Street and Church Lane are longer than predicted, are problematic and would not be mitigated by the proposals.	Additional information has been submitted since these comments were made. Section 7.9.8 to 7.9.18
Security of the proposed parking court is a concern due to limited natural surveillance.	Section 7.16.5
The proposed parking mitigation would be ineffective as it is 100m from some of the properties within Church Lane that would lose on-street parking.	Section 7.6.9
Parking would displace to other parts of Church Lane rather than use the proposed parking court.	Section 7.9.23
Some footways within the development are insufficient, being 1.2m wide.	Those which are shown to be thinnest are routes through areas of open space where other routes are also available.
The garages for plots 29 and 90 would not be large enough to accommodate cars and bicycles.	Section 7.9.21.
Cycle storage is not adequately shown.	Conditions 20 and 21
There is an over-provision of parking in respect of some dwellings.	Section 7.9.21
Refuse collection would require long drag distances.	Section 7.9.26

## 5. CONSULTATIONS

- 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 some consultees where necessary as a result of amended submissions by the applicant.
- 5.2. **KCC Highways** – The detailed comments are discussed further below but, in summary, conditions and planning obligations can be imposed to adequately address all matters relating to the public highway and, as such, no objection is raised.
- 5.3. **KCC Flood and Water Management** - It is advised that there are options to address surface water drainage discharge and, whilst there may be complications in delivering these provisions, there is scope to address this through the imposition of conditions.
- 5.4. **KCC Development and Investment** – No objection subject to contributions to education and learning facilities, integrated children's services, library, registration and archive services, adult social care and waste facilities.
- 5.5. **KCC Minerals and Waste** – No objections or comments.
- 5.6. **KCC Ecological Advice Service** – The site is not considered to be functionally linked land in relation to the nearby protected habitats. The impact of the proposal on

badgers, bats, slow worms and common reptiles at or near the site is considered capable of mitigation in line with the applicant's submissions and through the imposition of a condition. The content of the applicant's Shadow Habitat Regulations Assessment is agreed and it is recommended that its content forms the basis of an Appropriate Assessment that is required to be adopted by the Local Planning Authority. Following modification to the proposals to enable the retention of a tree (T28) the BNG proposals are considered to be feasible and acceptable. A Habitat Management and Monitoring Plan is recommended to ensure that the BNG measures are secured.

- 5.7. **KCC Archaeology** – The detailed comments are discussed further below but, in summary, a condition can be imposed to adequately address the archaeological interests of the site.
- 5.8. **KCC Public Rights of Way (PROW)** - No objection. The link to Public Footpath ZR38 to the west of the site is welcomed as it will be a safer and more enjoyable route. An upgrade of footpath ZR38 to a 2 metre wide all weather surface footpath is requested and £14,000 is sought to achieve this.
- 5.9. **SBC Heritage and Design** – In terms of design, no objection was raised but improvements were suggested, many of which have been incorporated within amendments to the proposal. In terms of heritage assets, the proposal would preserve the setting of listed buildings within the vicinity and the character and appearance of Newington Church Conservation Area. As such no objections are raised.
- 5.10. **SBC Affordable Housing** – The application of policy DM8 means that 40% of the homes should be affordable (equating to 36) and 90% of those (equating to 33) should be social rent housing and the remaining 10% (equating to 3) being shared ownership. Whilst the amount of affordable housing aligns with policy, the applicant has offered an equal split between the tenures and it is noted that there is just a single four bedroom affordable dwelling which is low relative to the mix of housing within the overall development. It is, however, recognised that delivering affordable housing is difficult, particularly for sites such as this where the provision is considered to be relatively small, and that flexibility can be shown where it is demonstrated that this is required. It is advised that at least 10% of the housing should be built to M4(3) standard and that all others should be built to M4(2) standard.
- 5.11. **SBC Greenspaces** – No objection subject to conditions to secure on-site provisions and a financial contribution towards off-site formal outdoor sport facilities.
- 5.12. **SBC Tree Officer** – No objection subject to the tree protection measures being incorporated as detailed within the applicant's supporting submissions. Moreover, the proposed landscaping proposals are considered to be reasonable and acceptable subject to the imposition of conditions relating to their detail and management.

- 5.13. **Mid-Kent Environmental Protection** – The submitted Noise Impact Assessment is acceptable and, whilst it is identified that the garden areas of three dwellings would exceed conventional thresholds, it is advised that this should be found acceptable in the context of the overall development. Contamination is also considered to be able to be addressed through the imposition of a condition.
- 5.14. The Air Quality Assessment was also considered sufficient and it has been recommended that mitigation measures in accordance with the IAQM and a Construction Environment Management Plan (CEMP) are secured. An air quality damage cost calculation of £21,627 was calculated and a condition was recommended to address this. However, following the receipt of the applicant's 'Technical Note 3' it was concluded that this would no longer be required.
- 5.15. **National Highways** – No objection.
- 5.16. **Environment Agency (EA)** – No comment.
- 5.17. **Natural England (NE)** – No objection subject to securing appropriate mitigation.
- 5.18. **Historic England** – No Comment.
- 5.19. **NHS** – A contribution towards healthcare services in the community is sought, amounting to £91,620. The justification for this is available within their submission and relates to an expected occupancy rate of 255 persons across the development and the need to mitigate the impact of this on local health care provision.
- 5.20. **SBC Active Travel** – Positive elements were identified including the footpath provision and the lighting of footpaths, the accessibility to public transport, the permeability of the proposed development, the provision of cycle parking and a contribution to a cycle hire scheme. Improvements to the travel plan were suggested, it was suggested that social spaces and play equipment would foster a sense of community that could encourage car sharing and it was suggested that the estate should have a 20mph speed limit and that footpath improvements should be included.
- 5.21. **Lower Medway Internal Drainage Board (LMIDB)** – No Comment.
- 5.22. **Southern Water** - No objection. The connection to the main network and the capacity within that network is addressed through other measures. It is stated that no soakaways should connect to the surface water sewer and that an application should be made to connect the site to a public sewer under separate legislation. A condition is sought to require details of soft landscaping to be agreed with Southern Water in order to ensure that it does not impact upon assets.
- 5.23. **Kent Police** – 11 recommendations are made relating to areas of potential informal association spaces and their surveillance, boundary treatments, the provision of pavements and trees, the inclusion of parking courts, the provision of defensible space

for corner plots, lighting, the specification of doors, windows, mail boxes and cycle stores.

- 5.24. **Medway Ramblers** - The link to the PRowWs should be suitably surfaced.
- 5.25. **Swale Footpaths Group** - The existing adjacent footpath should be given a clear status and a separate cycle lane should be provided. Comments about the diversion of footpaths and the proximity to Medway are also made.
- 5.26. **UK Power Networks** - Overhead lines run close to the site and it is therefore recommended that accurate records of the route should be checked prior to the commencement of development.

## 6. DEVELOPMENT PLAN POLICIES

### **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 strategy area
- CP1 Building a strong, competitive economy
- CP2 Promoting sustainable development
- 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 design and construction

DM20 Renewable and low carbon energy

DM21 Water, flooding and drainage

DM26 Rural Lanes

DM28 Biodiversity and geological conservation

DM29 Woodland, trees and hedges

DM31 Agricultural land

DM32 Development involving listed buildings

DM33 Development affecting a conservation area

DM34 Scheduled Monuments and archaeological sites

### **Supplementary Planning Guidance/Documents -**

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

Developer Contributions Supplementary Planning Document, 2009.

Noise and Vibration – Planning Technical Guidance Document, 2020.

Parking Standard Supplementary Planning Document, 2020.

Planting on New Developments Supplementary Planning Guidance.

**Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.**

**National Planning Policy Framework (the NPPF)**

**National Planning Practice Guidance (NPPG)**

## **7. ASSESSMENT**

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

- Principle
- Landscape Effect, Layout, Scale and Appearance
- Heritage
- Archaeology
- Living Conditions
- Trees
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure

- Open Space
- Flood Risk, Drainage and Surface Water
- Contamination
- Sustainability / Energy
- 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.
- 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.
- 7.2.3. Policy ST1 sets out the general approach to delivering sustainable development in Swale with reference to, amongst other things, building a strong competitive economy, supporting the rural economy, according with the settlement strategy, supporting the transport strategy, delivering high quality homes, achieving good design, promoting health communities, meeting the challenge of climate change and flooding and conserving and enhancing the natural and historic environments. These aims generally align with the NPPF and will be considered in further detail below.

### Settlement Strategy

- 7.2.4. Other than the point of access on to Denham Road and the pedestrian access point at the south east of the site which leads to Hasted Road, the application site is located outside the built-up area of Newington and is therefore in the open countryside.
- 7.2.5. In such locations, Policy ST3 states that development will not be permitted, unless it is supported by national planning policy and it is demonstrated 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. For reasons that will be set out below, the proposal would neither protect or enhance the intrinsic value, landscape setting, tranquillity and beauty of the countryside. The proposal would, therefore, conflict with Policy ST3, criteria 4 of Policy ST1 and Criteria 1 of Policy CP3.
- 7.2.6. Although it is only stated in respect of the land within the built-up area boundary and is not therefore applicable to this site which is outside of that defined area, it is noted that Policy ST3 identifies Newington as a Rural Local Service Centre and the land within the settlement is, therefore, a location which is able to be a “*tertiary focus for growth in the Borough*”. In this regard it is noted that Newington is served by train and bus

connections, a medical facility, a school, shops and other such services and therefore, whilst not being within the settlement and noting that not all facilities and service are available, it is considered that the site is reasonably well served and relatively accessible. Notwithstanding this, Policy ST3 goes on to state that development will be at allocated sites and the pre-ambles to that policy identifies that, *“despite its role and level of services, development opportunities are relatively limited due to the valued and important heritage, landscapes and habitats to the north of the village, poor pedestrian connections between north and south of the village, a restricted internal road network, poor air quality and surrounding high quality agricultural land. Opportunities are limited to brownfield sites or to the east of the village where there is potential to develop a visually well contained site.”*

- 7.2.7. Whether the proposal accords with national planning policy and the weight to give the conflict with policies will be considered further below but this is considered to be moot in relation to an assessment of whether the proposal accords with the development plan.

#### Loss of Best and Most Versatile Agricultural Land

- 7.2.8. Policy DM31 states that development on such land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. For reasons that will be set out elsewhere, there is a demonstrable housing need that cannot currently be met within built-up area boundaries.
- 7.2.9. As far as is relevant to this site and proposal which relates to a site that is not allocated for development by the local plan, the policy goes on to state that development on Best and Most Versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless there is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development and the development will not result in the remainder of the agricultural holding becoming unviable or leading to likely accumulated and significant losses of high quality agricultural land.
- 7.2.10. The proposal would involve development on Grade 1 agricultural land. The applicant has provided a generic commentary in relation to the abundance of Best and Most Versatile agricultural land within the Borough, indicating that there are few sites which would not be affected by this designation other than on the Isle of Sheppey which the applicant considers to be restricted by other constraints. The submissions do not represent a detailed assessment of other sites and, as such, it is not considered to have met the requirement that is set out at criteria 2 of policy DM31.
- 7.2.11. In respect of the third criteria, the applicant has indicated that the land at the application site is a small parcel of land that is 0.34% of the landowners overall holding. Whilst the site appears to have been in agricultural use this summer, it is accepted that it represents a small parcel of a much wider holding and, as such, its loss would not result in the remainder of the agricultural holding becoming unviable. Even noting

other developments within the area, it is not considered that the loss of this land would represent accumulated and significant loss of high quality agricultural land.

- 7.2.12. Overall, as the proposal would not meet both criteria 2 and criteria 3, as is required for the policy to be complied with and, as such, the loss of Grade 1 Best and Most Versatile agricultural land would conflict with the abovementioned policy. To build on such land would also conflict with paragraph 187b) of the NPPF which states that planning decisions should contribute to and enhance the natural and local environment by 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.
- 7.2.13. For reasons that will be set out elsewhere, it will be relevant to consider how much weight to afford the harm arising from the loss of Grade 1 BMV. In this regard, the applicant has highlighted that Planning Inspectors within appeal decisions within the Swale Borough have given this conflict varied weight, ranging from very limited in the case of the appeal at School Lane, Newington to moderate weight in the case of the appeal at London Road, Newington (APP/V2255/W/23/3318448) and Swanstree Avenue, Sittingbourne (APP/V2255/W/22/3311224). Each case should be considered on its own merits and it is for a decision maker to consider how weight should be applied but it is considered that these decisions can be used to guide a decision maker in determining how much weight to afford to the harm arising in this regard.

#### Housing Development and the Size and Type of Housing

- 7.2.14. 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.
- 7.2.15. Policy CP3 of the Local Plan requires the mix of tenures and sizes of homes provided in any particular development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types, which reflect that of the Strategic Housing Market Assessment (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%	44.4%	55.6%
Affordable Required	27%	23%	30%	20%
Affordable Proposed	11.1%	47.2%	38.8%	2.8%

- 7.2.16. 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.
- 7.2.17. On a more local level, Policy CP3 indicates that housing proposals should be tailored to the issues present within the local housing market area. The pre-amble to the policy provides background to this stating that, in the area of Newington and the ME9 post code generally, house prices are relatively high and there are reasonable levels of demand. It goes on to state that *“the aspiration could be to encourage the development of good quality family housing, for which the greatest local demand exists”*.
- 7.2.18. From this basis, whilst the proposal does little to address the needs of the Borough as a whole and conflicts with criteria 5 of Policy CP3 as a result, it is considered that the proposal is tailored to the local housing market in terms of providing open-market housing of a high quality and suitable to accommodate families and, therefore accords with criteria 3 of that policy.
- 7.2.19. Moreover, in respect of criteria 3 of Policy CP3 which requires development to be at a density that is determined by the local context, it is considered that the prevalence of dwellings within the development and the overall density of the development is reflective of the surrounding area. In this regard it is noted that there is a mixture of tightly-knit dwellings close to the centre of Newington which dilute to more suburban arrangements as can be seen to the north and immediate west of the application site. The proposal is considered to generally reflect this pattern.
- 7.2.20. Overall, whilst not complying with Policy CP3 in all respects, it is considered that the proposal is consistent with other parts of the policy in such a way that no objection is raised to the mix of dwellings that is proposed.

#### Affordable Housing

- 7.2.21. Policy DM8 indicates that the development at this site should include 40% affordable housing and states that the size, tenure and type of affordable housing units should be in accordance with the needs of the area. It also requires that, where possible, homes are designed for use by disabled, elderly and vulnerable residents. Policy DM8 is supported by Policy CP3.

- 7.2.22. The tables set out above highlight that 36 affordable housing units would be provided, including 4 units with one bed, 17 with two, 14 with three and 1 with four. The applicant has indicated that, in the first instance, the proposal would intend to deliver 90% rented affordable housing and 10% shared ownership. However, they wish to include a cascade mechanism within the Section 106 agreement to allow this to vary to a equal split between rented and shared ownership units in the potential circumstance where it proves impossible to secure a Registered Provider for the preferred mix. This is considered to be a sensibly pragmatic approach given recent experiences at other sites.
- 7.2.23. Consequently, the affordable housing provisions do not align proportionately with the needs of the Borough which are set out above. However, given that the need of the Borough is considerable and, therefore, there is a need for each of the housing units that are proposed, the proposal would still go some way to meeting the need, albeit not proportionately to the needs of the Borough.
- 7.2.24. The proposals include the provision of two affordable units that would be built to M4(3). The provision of M4(3) units can be secured through a planning obligation with the Council's preference being for 10% of the affordable units being built to this standard.
- 7.2.25. Overall, the proposal would accord with Policy DM8 in terms of the number of units proposed to be provided and in terms of the tenure of that affordable housing. Whilst the mix of housing would not wholly accord with the preferred mix, it is considered that this represents a partial conflict with policy and, where there is an overall need for all types of affordable housing, it is not considered that this is grounds to conclude that the proposal is contrary to the policy as a whole.

### 7.3. **Landscape Effect, Layout, Scale and Appearance.**

- 7.3.1. Policy DM14 sets out general development criteria, requiring, amongst other elements, developments to reflect the positive characteristics and features of the site and locality, be well-sited and of a scale, design and appearance to be sympathetic and appropriate to the location.
- 7.3.2. Policy DM24 of the Local Plan states the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed. For 'non-designated' landscapes such as the application site, policy seeks to minimise and mitigate adverse impacts and, where significant adverse impacts remain, requires 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.

#### Landscape Effect

- 7.3.3. The site is located within the North Kent Plain National Character Area (NCA113) with the supporting documentation providing a description of the varied character that exists between South East London and the east coast, between the Thames and North Sea and the North Kent Downs. The content is noted but is considered to provide little

prescriptive guidance for the assessment of this site, other than to recognise the mix of agricultural land and settlements of varied scale.

- 7.3.4. The Swale Landscape Character and Biodiversity Appraisal (2011) includes the site within the “Fruit Belt Landscapes” area that includes the majority of the west of the Borough, between Sittingbourne and Medway. At a more local level, it is included at the very south east corner of the “Upchurch and Lower Halstow Fruit Belt.” The appraisal identifies areas with a *“strong sense of enclosure emphasised by the significant network of mature hedgerows and shelterbelts that are associated with the agricultural landscape.”* These enclosing features are identified as having a screening effect, as does the undulating topography which limits the places where lengthy views can be achieved. The appraisal identifies that building styles and materials vary greatly and provides guidance for development relating to the use of appropriate materials in built form development and suitable hedgerow mixes within landscaping belts.
- 7.3.5. The Council’s Landscape Sensitivity Assessment (2019) includes the site within area NN4 which the supporting commentary identifies as being comprised of *“small to medium scale arable farmland and pasture/paddocks and small areas of commercial orchards.”* It states that *“The landscape has an undulating landform, moderate sense of rural character with limited modern human influences, moderate time depth with some heritage assets and semi-natural habitats and has some visual prominence. The very strong settlement edge formed by the railway and woodland, in combination with the above attributes including the rising landform at Mill Hill, indicate a moderate-high overall sensitivity to future change from residential development.”*
- 7.3.6. The applicant has submitted a Landscape and Visual Impact Assessment (hereafter referred to as the LVIA), which appears to follow a conventional methodology and concludes that visibility of the development would be localised. The LVIA has utilised 15 assessment locations and identified that the greatest adverse impact would be experienced by residents adjacent to Hasted Road who would perceive a major adverse impact when first built, with this reducing to a moderate adverse impact in year 15. It identifies that residents adjacent to Church Lane / Denham Road and users of the PRow to the west would experience moderate adverse impact initially, with this dropping to a minor adverse impact over the same time period. The impact is considered to be neutral from 8 locations and from all other vantage points, the impacts are considered to be minor adverse, negligible adverse or neutral in year one, with the harm being reduced over time as a result of the proposed mitigating features of the development.
- 7.3.7. The LVIA identifies that Green Infrastructure proposed within the development will enable the proposal to accord with landscape character guidance and provide new recreation and biodiversity opportunities.
- 7.3.8. Overall, the LVIA concludes that the effects of the development are low and localised and reduce in time. Therefore, the proposed development *“minimises and mitigates*

*the adverse landscape impacts and where possible enhances the landscape value of the Site via the new recreational linkages and increased planting.”* In reaching this view, the LVIA suggests that the development would be well located in the context of the Newington settlement pattern and that the proposal represents a logical infill of the residential settlement pattern, whilst providing landscape enhancements and raising the design standard of the area.

- 7.3.9. The LVIA is generally considered to be a sound assessment. The development would be prominent from within the settlement of Newington, particularly the areas of public domain within the highways to the east of the site. Moreover, there would be clear views of the development from the PRow to the west and the highway to the north west. However, in the context of the overall landscape, these are relatively short to medium range views and it is not considered that there are more wide-ranging views of the development in which the proposal would be particularly impactful. From the west and north west, the development would be seen against the backdrop of the residential areas of Newington that are to the north of the railway line. From that basis, whilst the development would come closer to receptors using the PRow, views would continue to be of residential development. In this regard, whilst larger in scale, the impact would not be dissimilar to that which has been caused by the School Lane development which the Inspector identified to be of very limited harm.
- 7.3.10. From the east, there would be substantial restrictions on views into the countryside. However, the topography of the area means that the views are not expansive and through the opening up and provision of pedestrian routes, there would be more opportunity for the public to access and view the countryside than currently exists, such that there would be some mitigating factors to off-set the harm that has been identified.
- 7.3.11. As per the LVIA, it is considered that the retention and reinforcement of trees, hedges and other such vegetation will be essential to the success of the site. At present there is a belt of trees at the west of the site which partially intervenes in views into and out of the main part of the application site. This would be retained and supplemented through additional planting, particularly to the west. Alike the School Lane proposal to the north west, this will not remove the impact of the proposals entirely, even when the landscaping has fully matured, but it would reduce the harm and contain the spread of development.
- 7.3.12. Overall, there would be an impact on the landscape. However, this would be relatively localised due to the topography of the area and would not represent significant landscape harm. As such, criteria 2 of Part B of Policy DM24 is not applicable and it is considered that the proposal would accord with criteria 1 by virtue of the impact being minimised and mitigated. There is, however, harm that is considered to be required to be considered in the context of the NPPF which requires at paragraph 135 that development is sympathetic to local character, including the landscape setting, and requires at paragraph 187b) that development recognises the intrinsic character and beauty of the countryside. This also partially conflicts with criteria 6 of Policy

DM14 which, amongst other things, requires that development conserves and enhances the natural environment.

Layout, Scale and Appearance.

- 7.3.13. The Council's Design and Heritage Manager reviewed the initial proposals and found that, in general terms, the scheme achieves a compact and efficient layout based on a series of perimeter blocks with the back of dwellings facing towards inactive areas around the site and the frontage of dwellings generally facing the streets and open spaces. It has been found that *"the proposed pattern and grain of the development responds to different site characteristics, with the eastern edge of development drawing upon the character of Hasted Road, Denham Road and Church Lane."* It has been commented that *"The western edge structure follows a looser profile at the interface with the countryside using 'crumbly' edges which is contextually appropriate. Accordingly, the proposed layout relates to the undeveloped countryside and development patterns and grain evident within Newington. The scheme therefore has the potential to physically and successfully knit to the existing village fabric and transition to the countryside to the west."* The advice received concluded that *"the scheme is encouraging and has the potential to be a well-designed place that links well with Newington."*
- 7.3.14. However, the Design and Heritage Manager also made a number of recommendations and these have generally been incorporated into amended plans that have been submitted and re-consulted upon. These amendments focused on the lighting of the proposed footpath to the west, the addition of windows to increase surveillance of some parking areas, the retention of a tree and the improvement of boundary treatments. In follow up comments, the Design and Heritage Manager identified that, despite being relatively minor in nature, the amendments were positive and consistent with the character of the scheme.
- 7.3.15. The design advice received is agreed with and it is considered that the arrangement of development is considered to be logical in arrangement and of a density that is compatible with the locality. The arrangement of dwellings to face the public domain that would be formed within the site is considered to be appropriate and it is considered that the development would attach onto the settlement of Newington in a way that would appear as a suitably integrated extension.
- 7.3.16. The two storey scale of the built form is considered to be compatible with the surrounding area given that most surrounding buildings are of the same scale. Moreover, the conventional housing types are considered to be of sufficient design quality and visual interest to meet the requirement for development to represent high quality design.
- 7.3.17. It is considered that there is ample scope for soft landscaping to be incorporated within the development and the proposed boundary treatments would be suitably chosen to reflect their prominence in public views.

- 7.3.18. From this basis, no objection is raised to the scale, layout or appearance of the development in terms of their impact on the character and appearance of the site and the surrounding area.

Overall Assessment of Landscape Effect, Layout, Scale and Appearance.

- 7.3.19. For the reasons given, whilst the proposal would have an impact on the landscape, it is not considered that the impact would be harmful to a degree, after mitigation, that would conflict with Policy DM24. The proposal would not accord wholly with Policy DM14 as this requires, amongst other things, that development conserves and enhances the natural environment, the proposal would accord with Policy DM14 in terms of being of acceptable layout, scale and appearance, thereby not harming the character and appearance of the site and the surrounding area.

**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. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.3. 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.
- 7.4.4. 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.
- 7.4.5. 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.

7.4.6. 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 to listed buildings, therefore having the potential to impact their setting. The following heritage assets have been identified as being potentially impacted by the proposal within the applicant's submissions and have also been assessed by the Council's Design and Heritage Manager:

- The Church of St. Mary (Grade I Listed Building)
- The Oast House adjacent to Church Farmhouse (Grade II Listed Building)
- The Newington Church Conservation Area.

7.4.7. In this case, given the separation distance and the presence of existing buildings separating the site from these heritage assets, it is considered that the proposed development would have a minimal impact on the setting of the listed buildings and the Newington Church Conservation Area. There are a few locations where the heritage assets and the proposed development would both be able to be seen and where this is the case, mostly from within the site itself or the adjacent PRoW, there is a clear distinction between the sites and intervening buildings and soft landscaping that reduce any impact on the setting of the listed buildings and Conservation Area. Noting that the setting of the listed buildings and the Conservation Area are now defined by later residential development, the proposal would preserve the setting of the historic assets and would not harmfully affect their special historic interests. The proposal, therefore, appropriately responds to the surrounding environment and conserves the historic interest of those heritage assets.

7.4.8. Other nearby heritage assets include the Newington High Street Conservation Area and 44 Church Lane (Grade II listed) which are located to the south east of the site but, due to the railway line and other intervening development, it is not considered that the development would impact on the setting of those heritage assets. The same is also true of Parsonage House (Grade II listed) which is to the north of School Lane which is separated from the application site by other dwellings, the school and its grounds and a tree belt.

7.4.9. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the duties of the Council pursuant to the Planning (Listed Buildings and Conservation Areas Act) 1990 and it is concluded that the proposal will preserve the setting of listed buildings and conservation areas, thus complying with policies CP8, DM14, DM32 and DM33 of the Swale Local Plan 2017 and the NPPF.

## 7.5. **Archaeology**

7.5.1. 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.

- 7.5.2. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, Local Planning Authority's should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.5.3. The KCC Archaeological Officer has set out that the applicant's report has been assessed alongside other evidence available including a report relating to significant findings at 99 High Street, Newington which found very significant, multi-period archaeological remains including a Roman industrial area and a temple. It has been advised that Newington is a focus of Roman settlement, although this was generally focused more to the east of Newington, and a commentary has been provided of the historic reasoning for this including reference to the 'Mill Hill' route which ran through the area. It has also been highlighted that nearby searches have led to Bronze Age and Iron Age remains being found.
- 7.5.4. It has been highlighted that there have been limited investigations on the west side of Newington and consequently the Historic Environment Record is under represented but, as identified by the applicant's study, there is potential Palaeolithic interest in the form of Head deposits in the area with a number of casual finds having been made around the station. Moreover, there is an enclosure noted on aerial photographs near Mill Hill and Mill Hill itself is considered to have potential to be of interest as an attractive location for early activity.
- 7.5.5. Topographically the west side of the site lies within a shallow dry valley. The work by the Canterbury Archaeological Trust identified deep colluvial deposits including traces of prehistoric and Roman pottery as well as medieval and post medieval pottery in the hill wash deposits in the valley. A limited number of poorly dated features were found west of the valley and focused mainly to the north on School Lane.
- 7.5.6. Overall, the KCC Archaeological Officer suggests that *"the site has potential for remains mainly of prehistoric and Roman date given the proximity of Mill Hill though I expect would fall between the two main Roman routes. There is a potential for Palaeolithic and Mesolithic deposits in the Head deposits of the area."*
- 7.5.7. It is advised that there is potential for the development to affect archaeological remains but the KCC Archaeological Officer is *"satisfied that the potential impacts of the scheme on archaeology can be appropriately addressed through further assessment, evaluation and mitigation that can be secured through a condition."*
- 7.5.8. The advice given is considered to be sound and therefore, subject to the imposition of a condition, it is considered that the proposal can be made acceptable and, therefore, the proposal would accord with the requirements of Policy DM34 and the abovementioned section of the NPPF.

## 7.6. **Living Conditions**

Existing residents

- 7.6.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.6.2. To the north east of the site are the properties of 3 to 7 Vicarage Close and The Vicarage. The nearest dwellings within the site (plots 70 and 71) have been designed to each have two first floor windows on the east facing elevation, with one each being able to be obscured glazed as they serve en-suites. In the case of the dwelling on plot 71, the one clear glazed window would be positioned away from the shared boundary with 3 Vicarage Court. As a result of this and north elevations being perpendicular to the adjacent plots of Vicarage Court, the proposals would not cause overlooking or a loss of privacy within those properties to an extent that would represent unacceptable harm. Moreover, the separation distance of 14.5 metres and the dwellings being positioned to not be entirely to the rear of the neighbouring dwellings ensures that the impact on light and outlook would not be unacceptable. The two clear glazed east facing windows would be 5.4 metres from the boundary with The Vicarage and 45 metres from the dwelling on that plot. As a result, whilst there would be some additional views relative to the existing situation, the impact on living conditions, either through light, privacy or outlook, would not be such that the proposal could be deemed to be unacceptably harmful.
- 7.6.3. To the north of the proposed access is 8 Hasted Road. Adjacent to that dwelling would be a substation and a terrace of dwellings which would be positioned away from the shared boundary and in alignment with the existing dwelling. Whilst there is an extensively glazed extension at the side of 8 Hasted Road which has many windows facing towards the proposed development, that part of the dwelling also appears to have rearward facing openings that look out onto the garden of that property and a small forward facing opening. As such, whilst there would be an impact on sunlight at the later part of the day which would detract from living conditions for part of the day, it is considered that there would still be sufficient light received within that part of the neighbouring dwelling and, noting that there is no scope to protect the view from a private property, it is considered that the development would not cause an unacceptable loss of light, privacy or outlook with that neighbouring property. Whilst it is noted that the substation would be close to the neighbouring dwelling, subject to a condition requiring details of its enclosure, it is not expected that this would generate noise that would justify the refusal of the application.
- 7.6.4. That dwelling and the other properties of Hasted Road would experience additional noise and disturbance as a result of the vehicle and pedestrian movements that would occur as a result of the development. This is also true for the properties of Church Lane, to varying degrees and Denham Road, particularly number 2. However, whilst being different than the existing situation, it is not considered that the level of vehicle movements would be unusual within a residential setting. No objection has been raised to the proposal by the Council's Environmental Health Officer in relation to the noise impacts of the proposals.
- 7.6.5. The properties at the northern part of Denham Road have their rear elevation facing the application site. The proposed car park is located to the rear of these properties and, as such, the nearest dwellings are positioned well away from the shared

boundary. The exception to this is the flat at plot 46 which is orientated perpendicularly to those dwellings. As with above, whilst the use of the car park would inevitably cause additional noise and disturbance relative to the existing situation, no objection has been raised by the Council's Environmental Health Officer and, as it is intended to be used by nearby residents, it is not considered that its use would be of a nature that would be at odds with a residential setting.

- 7.6.6. The properties of Westwood Walk would broadly align with the proposed dwellings on plots 1 to 3. The position to the side of the existing dwelling ensures that the impact on light, privacy and outlook within the existing dwellings would be limited and not unacceptably harmful.
- 7.6.7. All other existing dwellings would be located sufficiently far from the proposals for the development to not have an unacceptably harmful impact in terms of light, privacy or outlook and the general impact of noise and disturbance resulting from the use of the dwellings and highways would not be such that it could be argued to be incompatible with an existing residential environment. It is noted that local residents perceive that there would be a loss of rural life, but this is not a factor in the assessment of harm on living condition.
- 7.6.8. The access to the proposed development would be dependent on the provision of parking restrictions within Church Lane and Denham Road which would impact on the ability of some residents to park within the immediate vicinity of their property as they are currently known to do. The representations from interested parties make it clear that this is the case and the full range of consequences are noted including the ability for disabled and less mobile residents to access their properties and move items from their cars to their homes, the potential impact on hobbies which require items to be transported and car insurance premiums. Not all of these matters can be material planning considerations but where they are, it is considered that the primary function of the highway is to enable the movement of vehicles rather than parking and any parking opportunities within a highway are not directly attributable to a property. The convenience of this parking and reliance on this parking is understood but, noting that the affected parking is within a public highway rather than private land or a formally designated parking space and that compensatory parking is proposed, it is not considered that the less convenient provision of parking should be a ground to conclude that the proposal would have an unacceptable impact on living conditions.

#### Future residents

- 7.6.9. The layout of the proposed development ensures that all plots are served by a private garden area of acceptable size and it is considered that the dwellings are proposed to be arranged in such a way that there would be no issues of unacceptable overlooking within habitable rooms or garden areas. Moreover, it is considered that the spacing between dwellings would ensure that all properties are served by sufficient light. This is even the case at the southernmost part of the site where, although those dwellings and flats would have an outlook towards the railway line and the landscape belt adjacent to it, the relationship is not materially different to that which exists between the railway line and the properties of Westwood Walk to the east. All dwellings would meet conventional size standards and be provided with adequate waste storage provisions.

7.6.10. The dwellings at the southern part of the site would be likely to experience noise from the use of the adjacent railway but this would not be likely to be different to that which is already experienced by the properties at the southern end of Denham Road and elsewhere adjacent to the railway. In this regard it is noted that the submitted Noise Impact Assessment identifies that three properties would have garden areas where the noise would exceed WHO guidelines. However, the Environmental Health Officer has advised that this is “*acceptable in the context of the wider proposed development*”. Consequently, no objection has been raised by the Council’s Environmental Health Officer. From this basis, it is considered that the proposal should be found to be acceptable in this respect.

7.6.11. On the basis of the above the scheme complies with Policy DM14 of the Local Plan.

## 7.7. **Trees**

7.7.1. Policy DM29 of the Local Plan and the NPPF recognise the contribution of trees to the intrinsic character and beauty of the countryside.

7.7.2. The Council’s Tree Officer has advised that the applicant’s supporting submissions demonstrate that the most important trees can be retained and protected and therefore, subject to the imposition of conditions, no objection has been raised. The landscaping proposals within the development are also considered to be acceptable subject to conditions.

7.7.3. Notwithstanding this, whereas the supporting arboricultural submissions indicated that T28 was to be removed, the ecology and design advice that has been received has requested and supported its retention. The applicant has agreed to this and, therefore, it is considered that the condition proposed with respect to trees incorporates the retention of that tree.

7.7.4. The advice provided is considered to be sound and is agreed with. Therefore, the proposal is considered to accord with the abovementioned policy development plan policy and the NPPF.

## 7.8. **Ecology**

### Habitats

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.

7.8.2. The application has been the subject of an Appropriate Assessment (AA) under the Habitats Regulations, the conclusion of the AA was that there is a potential risk of harm to the European designated sites at the Swale/Medway SPA and Ramsar Site.

Moreover, there is a potential risk from an invasive, non-native species of plant at the southern boundary of the site (Variegated yellow archangel).

- 7.8.3. The impacts were assessed for this development and this development in combination with other planned development. The AA concludes that these impacts can be mitigated through the eradication of the plant and through a SAMMS payment amounting to £337.49 per dwelling. As a result of these measures, which can be secured, the development would not be likely to have a significant effect on the protected habitats. This stance is supported by the specialist consultee response.

#### Protected Species

- 7.8.4. 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.’
- 7.8.5. 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 applicant’s submissions indicate the presence of some protected species at and within the vicinity of the site. Options of protection, re-location and undertaking works under the terms of a license that will be required from Natural England have been set out within the applicant’s supporting submissions. These findings have been found to be acceptable by KCC Ecological Advice Service subject to the imposition of conditions. From this basis, no objection is raised to the proposal on the grounds of the impact on protected species.

#### Biodiversity Net Gain (BNG)

- 7.8.7. This application was submitted after the commencement of Mandatory BNG and is therefore required to deliver at least a 10% BNG under the Environment Act 2021. The application submissions demonstrate that a 12.1% BNG would be achieved on-site and this has been corroborated by KCC Ecological Advice Service. This is considered to be able to be secured through conventional conditions relating to this matter.

- 7.8.8. As a result of the above the scheme complies with policy DM28 of the Local Plan and the relevant paragraphs of the NPPF.

**7.9. Transport, Highways, Access and Parking**

- 7.9.1. 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. The requirement to "*achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services, together with parking and servicing facilities in accordance with the County Council's standards*" is also set out within Policy DM14.
- 7.9.2. 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 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."*

Sustainable Transport

- 7.9.3. The distances to Newington Railway Station and the closest bus stops of the A2 are set out above. It is considered that the availability of these services means that the development site is reasonably well served by public transport options. Moreover, whilst the comments of interested parties are noted, it is considered that there is a reasonable range of shops, services and other comparable facilities within Newington which would enable many residents to access facilities and services and meet many day-to-day needs by walking and cycling to local facilities rather than having a need to travel for all services.
- 7.9.4. The applicant has submitted a draft travel plan which includes various measures to attempt to promote sustainable modes of transport. Whilst most are appropriate, it is considered that a contribution to a cycle share facility would be ineffective in this instance. Therefore, it is considered that an amended travel plan should be submitted, agreed and monitored under the terms of a condition.
- 7.9.5. It is noted that level access to west bound railway services is prohibited by virtue of there only being a pedestrian footbridge to that side. This is unfortunate and it is noted that this would prevent usage by those that are not able to use stairs. The Council is required to have due regard to the Public Sector Equality Duty by virtue of the Equality Act 2010 and as such, the decision maker should have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not. For the purposes of the Equality Act, protected characteristics include disability. It is understood that there is a convoluted work around relying upon travel to an alternative station and then a return to the

accessible platform which is not ideal and not fostering of good relations and could impact on the equality of opportunity. However, this is already the case and it is not considered that harm would arise that is not outweighed by the wider public benefit of providing housing and, in this case, some housing that would accord with the M4(3) standard. Consequently, whilst due regard has been had to the public sector equality duty, it is not considered that doing so should alter the overall conclusion that is reached below.

#### Public Right of Way

- 7.9.6. The proposal would include a footway link to the west comprising of a new route that would connect to PRow ZR38 which leads through under the railway line to Wickham Close and on to the A2. The KCC Public Right of Way Officer supports this subject to a contribution towards the upgrade of the PRow and the Highway Authority is also supportive provided that the proposed footpath is of suitable construction to enable its use throughout the year. From this basis, the proposal is considered to be acceptable in terms of aiding and encouraging use of the PRow and also through mitigating the impact of that use on the PRow. The proposal is, therefore, considered to accord with the NPPF which states that planning decisions should protect and enhance public rights of way and access and take opportunities to provide better facilities for users.

#### Highway Safety and Access

- 7.9.7. The vehicular and pedestrian access arrangements are set out within the description of the proposal. Moreover, the proposed parking restrictions within surrounding highways have been described above.
- 7.9.8. The development would see an uplift in vehicle movements along Church Lane and it is recognised that this is a lane of narrow proportions with pinch-points caused by parked cars and the railway bridge. The existing situation is known to cause difficulties for existing users, particularly within the carriageway where the situation is often undesirable for drivers and cyclists. The primary school and church are trip generators that draw traffic northwards from the A2 and it is known that the rural lanes to the north of Newington are used by those wishing to avoid traffic and the regular roadworks that occur along the A2. It is noted that this was reflected in the appeal decision for the nearby 'School Lane' site where the Inspector said *"Church Lane is narrow and a challenge for the driver in either direction given the manner in which vehicles are parked along it. I have no doubt that this must lead to difficulties for drivers, particularly where the road passes under the railway bridge. Moreover, I experienced for myself the difficulties involved in turning into Church Lane from the High Street (the A2), and emerging from Church Lane on to High Street, particularly when turning right."* This did not, however, prevent the Inspector finding that development acceptable.
- 7.9.9. It is noted that trip rates from the development have been contested by the Highway Authority and by the Parish Council's representative. Subsequently, amended trip rates have been utilised, at the acceptance of the Highway Authority. In this regard, it is noted that the trip rates are different to those that were referenced in the abovementioned School Lane appeal. However, it is also the case that the School Lane trip rates were taken from TRICS evidence available at that time, which was based on surveys of seven sites between 2013 and 2018. Conversely, the current

application has based its assessment on TRICS data that is based on a greater number of surveys between 2010 and 2024 (excluding Covid effected surveys). From this basis, whilst the criticisms of the assessment are noted, it is considered that the assessment of the Highway Authority is sound.

- 7.9.10. The approach suggested by the applicant to mitigate the impact of the proposal in this context is to reduce the amount of parked cars within Church Lane, thereby creating space for vehicles to wait to give way to on-coming traffic whilst also creating less obstacles to the free-flow of traffic. This approach has been concluded to be acceptable by the Highway Authority. In this regard, whilst all the criticisms of the applicant's submissions that have been provided by the Parish Council's representative have been considered and it is noted that they conclude that there *"may be an increase in congestion and queuing on Church Lane"* it is perhaps noteworthy that the assessment does not go so far as to suggest that the impact would be severe, which is the test within the NPPF, and it is considered that most weight should be given to the conclusion of the Highway Authority who have found the proposal to be acceptable.
- 7.9.11. The impact of traffic on the junction of Church Lane and High Street is also proposed to be addressed through the use of parking restrictions, which would create more space for cars to wait for other vehicles to pass, and through the use of "Keep Clear" markings. These measures are considered to be acceptable by the Highway Authority who have concluded that *"in all future scenarios, Church Lane/A2 junction is expected to operate within capacity."* From this basis, whilst all the criticisms of the applicant's submissions that have been provided by the Parish Council's representative have been considered and it is noted that they conclude that *"there is a significant risk that the proposals will lead to unacceptable highway safety issues at the High Street/Church Lane junction"*, it is considered that most weight should be given to the conclusion of the Highway Authority.
- 7.9.12. An impact of the abovementioned parking restrictions is that it results in a loss of on-street car parking which is considered elsewhere in this report. Assessing this aspect of the proposal solely in relation to highway safety, it is considered that removing parked cars would be likely to reduce the number of conflicts that occur and improve safety, addressing the situation that is the basis for many of the objections that have been received.
- 7.9.13. The proposed increase of vehicle movements has been forecast to have an impact on vehicles using the Key Street roundabout. A financial contribution of £104,603.52 would therefore need to be secured, if this development were to be approved, with it being a condition of HIF funding that developments which rely on the works that are being undertaken to Key Street continue to make contributions to enable the funding to be recovered.
- 7.9.14. In terms of the dimensions and arrangement of the access into the site, the Highway Authority have confirmed the acceptability of the proposal and it is considered that adequate visibility splays would be able to be provided and it is noted that dropped kerbs for pedestrian use will be sought through a Section 278 agreement. However, details of certain elements of the proposal are requested to be submitted and agreed through the imposition of conditions. These include further details of the road and

footway widths, materials, service margins and visibility splays within the site. Accommodating these elements may require some minor alterations to the fringes of the roads that are shown, but it is considered that these can be addressed through a suitably worded condition.

- 7.9.15. It is considered that a condition should be imposed to require details to be provided and implemented of measures to ensure that the emergency access at the north west corner of the site is not used as an alternative means of accessing either of the respective developments by non-emergency vehicles.
- 7.9.16. It is noted that interested parties have suggested various other means of providing an access to the site. Given the presence of the railway line and other existing dwellings, it is likely that these would be unfeasible or unviable for a development of this scale. Moreover, whilst a link to the applicant's School Lane development might be more achievable, this would be a less direct route and require vehicles to use School Lane and Church Lane, thereby re-directing the impacts rather than removing them, benefitting some but not others. In any case, the Council is required to consider the proposal that is before it and determine the application on the basis of the plans that have been submitted rather than any other scheme that interested parties might have wished to see.

#### Parking Provision

- 7.9.17. Policy DM7 indicates that the Council's parking standards will be applied. Of relevance to the accommodation proposed within this application, the Council's Parking Standards require the provision of 2-3 car parking spaces per 3 bed and 3 spaces per 4 bed house, 1 to 2 spaces per smaller houses and 1 space per flat with one cycle parking space per bedroom.
- 7.9.18. The Council's parking standards have been met by the proposals with adequate parking being provided for all of the proposed dwellings. Moreover, with the exception of the proposed flats, adequate cycle parking arrangements are shown. A condition can be imposed to ensure that this is also provided for the proposed flats. Moreover, whilst it is noted that the garages on plots 29 and 90 are not of sufficient length to accord with the Council's Parking Standards, the garages are deep enough to accommodate a car and, as each dwelling is shown to be served by 4 parking spaces, even if half of the garage is used for storage and cycle parking to accommodated as a result of the shortfall of the garage length, there would still be ample parking for each dwelling to accord with the parking standards.
- 7.9.19. The comments of the Parish Council in relation to tandem parking are noted. In this regard, it is noted that the Council's parking standards refers to some difficulties in relation to the layout of tandem parking where it impacts on the use of garages and includes a requirement for spaces to measure 6.0m and 5.0m in length. The guidance does not, however, preclude tandem parking.
- 7.9.20. In terms of the impact on existing on-street parking, it is noted that the proposal would cause a loss of parking through the use of additional parking restrictions. The parking

restrictions in Church Lane (dividing the length of the parking restrictions by the length of a car parking space and making allowance for it being unfeasible for cars to park on both sides of the road at the same time and noting that some of the markings extend across dropped kerbs) would amount to 11 full parking spaces being lost. Approximately 8 further spaces would be lost within Denham Road, with this figure being based on a 20m stretch of parking restriction to the east of Hasted Road and the loss of the parking that occurs within the turning head. These figures would, however, reduce even further if no parking was to occur within 10 metres of a junction or opposite a junction as is advised within the Highway Code. Consequently, in terms of numbers, the provision of 23 parking spaces would more than compensate for this loss of parking space. Moreover, given the small impact on parking within the immediate vicinity of the village, it is not considered that this would be likely to be an unacceptable impact and, in any case, that could be controlled through other means.

- 7.9.21. The convenience of use is largely considered in the living conditions section. However, in relation to highway matters, the Highway Authority have accepted that the parking court has been provided in response to a parking beat survey that has been undertaken and, provided that it is of sufficient quality to encourage its use, it is considered that it is an acceptable re-provision.
- 7.9.22. Whilst it is noted that the Highway Authority have suggested the imposition of a condition relating to the provision of Electric Vehicle charging. It is not considered that such a condition is necessary due to the matter being addressed by Building Regulations.

#### Other Matters

- 7.9.23. Whilst the Parish Council's representative has raised concerns about refuse collection, the applicant's submissions show that adequate refuse collection arrangements would exist in most respects. Concern about 'drag distance' relative to plots 80 and 90 was raised by the Highway Authority but this was resolved and, therefore, no objection is raised on this ground.
- 7.9.24. As identified within the summary of objections and planning history, it is noted that an agricultural field access was refused in November 2010 on the grounds that the proposal would result in the loss of dedicated parking facilities, cause the displacement of parking to surrounding roads and increase the risk of hazards to all road users. Moreover, that application was refused on the grounds that Denham Road, by virtue of its width and residential status, would be unsuitable for use by agricultural vehicles. However, the nature of the proposals is different, with sufficient mitigation measures proposed in order to address the loss of parking. Given that decision was reached 15 years ago, it is considered that the previous application should not be determinative in this case, particularly noting that the Highway Authority consider the proposal to be acceptable.

#### Overall

7.9.25. The proposed development is considered to be acceptable in all respects related to highway impacts and would not have a traffic impact that is severe. It is noted that the Highway Authority, the Public Right of Way Officer and the Council's Active Travel Officer have found the proposal acceptable and, whilst regard has been had to the comments of interested parties and the specialist assessment that has been provided on behalf of Newington Parish Council, it is considered that the advice provided by the consultees is sound. Consequently, neither the development plan nor the NPPF indicate that the application should be refused on these grounds.

#### 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. Of particular relevance to this case is that the High Street, Newington Air Quality Management Area (AQMA) extends along the A2 and, as such, will be the inevitable route of most traffic resulting from the occupation of the site and the undertaking of the development. A further AQMA exists to the east, at Keycol Hill which would be a focus for much of that same traffic that heads east.

7.10.2. Policy DM6 of the Local Plan 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.

7.10.3. 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.

7.10.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

*“whether 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 have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.*

7.10.5. The Council's Environmental Health Officer initially identified that, whilst generally acceptable, further air quality mitigation was required based upon a damage cost calculation equating to £21,627. However, following the submission of additional information, that Officer has been satisfied that there is no longer a requirement to secure any form of mitigation beyond the matters that are proposed within the

applicant's assessment. The measures intended to be utilised to mitigate air quality impacts during the "operational" phase include the provision of cycle stores, the agreement, implementation and monitoring of a travel plan, the distribution of travel packs, the use of air source heat pumps and the provision of a footpath at the west of the site. During the construction phase, measures would include the adoption of a Construction Environment Management Plan which would be secured by condition. From this basis, subject to a condition requiring the implementation of the measures within the submitted Air Quality Assessment, no objection is raised on the grounds of the air quality impact of the proposal and the proposal is considered to accord with the abovementioned development plan policy and the NPPF.

- 7.10.6. It is noted that the matter of air quality was considered extensively in relation to application 20/505427/OUT (and appeal APP/V2255/W/21/3271838) at Pond Farm, Newington, and through court cases that followed the dismissal of the appeal. However, since that time, the Council has adopted its Air Quality and Planning – Technical Guidance (July 2024) and this application has been considered in light of the supporting evidence which has been found to be acceptable by the Council's Environmental Health Officers. On this basis and noting the history of that nearby site, which was subsequently granted planning permission under the terms of application 22/500275/OUT (and appeal APP/V2255/W/23/3318448) subject to a suite of mitigation measures relating to air quality that are comparable in nature to the measures that are now being relied upon by the applicant, it is not considered that the earlier appeal that was the subject of challenge should be determinative in this case.

#### 7.11. **Community Infrastructure**

- 7.11.1. Policies CP5 and CP6 of the Local Plan set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.
- 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. The following outlines the financial contributions that are necessary to mitigate the impact of the development upon services, with these contributions all for specific capital projects which have been identified and assessed by Officers to comply with the Regulations (as amended).
- 7.11.4. The following financial contributions have been sought by KCC Economic Development and Investment Team, KCC Highways, the NHS and Swale Borough Council to mitigate the impact of the development upon services.

<b>KCC Contribution Requests</b>		<b>Total</b>
Primary Education	£7,081.20 per dwelling £1,770.30 per flat	£591,280.20
Secondary Education	£5,587.19 per dwelling £1,396.80 per flat	£466,530.38
Special Educational Needs and Disabilities (SEND)	£559.83 per dwelling £139.96 per flat	£46,745.82
Integrated children's services	£74.05 per dwelling	£6,546.40
Libraries	£62.63 per dwelling	£5,636.70
Adult Social Care	£180.88 per dwelling	£16,279.20
Community learning	£34.21 per dwelling	£3,078.90
Waste	£194.13 per dwelling	£17,471.70
Highways Improvements at Key Street roundabout		£104,603.52
Public Right of Way Improvements		£14,000
<b>NHS Contribution Requests</b>		
NHS contribution	£360 per occupant	£91,620
<b>Swale Borough Council Contribution Requests</b>		
Swale Bin provision		£11,575.32
SAMMs	£337.49 per dwelling	£30,374.10
Formal sport provision	£729.57 per dwelling	£65,631.30

- 7.11.5. 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, required by policy and necessary to make the development acceptable in planning terms to provide sufficient community infrastructure to serve additional populations. The applicant has agreed to pay contributions in each of these respects with the only one that is unresolved being the highway improvements contribution where the need for a contribution is agreed but the amount is disputed. The applicant is suggesting that, with the exception of the SAMMs payment, half of each contribution is paid prior to the first occupation of any dwelling and half is paid prior to the occupation of the 45<sup>th</sup> dwelling. These trigger points have not been agreed and will be discussed during negotiations related to the completion of a legal agreement.
- 7.11.6. Subject to all necessary contributions being secured in a 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 2017, and the NPPF.
- 7.11.7. It is noted that several comments received from interested parties raise concerns about the strain on existing health and education facilities and the ability for these facilities to cope with the additional demand that would result from additional residents being within the locality. In this regard, it is considered appropriate to stress that planning obligations can only be sought that are reasonably related in scale and kind to the proposed development. The role of planning obligations is to mitigate the impact

of development rather than solve pre-existing capacity issues and from this basis, it is considered that the development making a proportionate contribution to these facilities should be considered acceptable.

## **7.12. Open Space**

- 7.12.1. Policy DM17 of the Local Plan sets out that new housing development shall make provision for appropriate outdoor open space proportionate to the likely number of people who will live there. This space should be fully accessible all year round.
- 7.12.2. The applicant's submissions demonstrate that there would be an overprovision of open space at the site relative to the standards that are set out within Policy DM17. The details of this will be able to be secured by condition to ensure that it is of sufficient quality and usability, with particular attention being paid to the play space that is shown to the west of the site. However, as set out above, to meet the increased demand on sports facilities, a contribution of £65,631.30 has been sought and is considered to meet the relevant tests. Subject to these matters being suitably secured, the proposal is considered to accord with the abovementioned policy.

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

- 7.13.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed.
- 7.13.2. The site is within Flood Zone 1 in terms of fluvial and tidal flood risk. However, the Environment Agency (EA) mapping indicates that three small parts of the site are susceptible to surface water drainage flood risk and, as such, the sequential test would be applicable.
- 7.13.3. In this case, the search area for the sequential test can reasonably be limited to a very small area by virtue of the inclusion of the public footpath within the site, which would link to the public right of way. Whilst partially mitigating the impact of the development, this goes beyond what would be needed to enable pedestrian access to the site and would be able to be used by the wider community in such a way that it can be considered to represent a benefit of the proposal. There are no other locations within the area that could achieve this without interacting with land at risk of surface water flooding whilst also accommodating a development of the scale that is proposed. Therefore, it is considered that the proposal would pass the sequential test.
- 7.13.4. The submitted Flood Risk Assessment demonstrates that the site would not be at risk of flooding once measures of mitigation and suitable design have been incorporated and would not increase flood risk. From this basis, the proposal is acceptable in terms of residual flood risk and, if the exception test was required to be passed, it would be as a result of this and the wider sustainability and public benefits that are mentioned in the paragraph above and elsewhere in this report.

- 7.13.5. Moreover, the proposal would include Sustainable Urban Drainage provisions which, subject to conditions, would meet the requirements of the Lead Local Flood Authority.
- 7.13.6. Southern Water have indicated that, subject to Southern Water providing any necessary capacity which they are statutorily required to do, the proposed development would be able to be accommodated within the network. Therefore, they raise no objection to the proposal. A condition suggested in relation to the positioning of trees is considered to be addressed through the conventional landscaping condition.
- 7.13.7. Overall, the proposal would accord with the abovementioned development plan policy and the NPPF insofar as it relates to flood risk, drainage and surface water.

**7.14. Contamination**

- 7.14.1. Policy ST1 of the Local Plan states that development proposals shall conserve and enhance the natural environment by applying national planning policy in respect of pollution, despoiled, degraded, derelict, contaminated, unstable and previously developed land. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 7.14.2. Subject to a condition, the Environmental Health Officer has raised no objection to the proposal on the grounds of potential contamination which is considered to be sound advice given the agricultural use of the land. From this basis, the proposal is considered to accord with the abovementioned policy.

**7.15. Sustainability / Energy**

- 7.15.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.15.2. The applicant has submitted an Energy and Sustainability Statement which indicates that there would be a 66.4% reduction of carbon dioxide emissions compared to a dwelling that is built to accord with building regulations. The proposals would include measures to increase energy efficiency (including high-performance building envelopes) and utilise renewable energy (through the provision of Air Source Heat Pumps). Consequently, subject to the imposition of a condition to secure compliance with the measures that have been detailed, the proposal would accord with the abovementioned policy.

**7.16. Other matters**

- 7.16.1. A condition can be imposed to require lighting to be agreed prior to its installation. This is required in the interests of protecting biodiversity but would also be used to prevent light pollution which has been a concern of an objector.
- 7.16.2. No objection has been raised by KCC Minerals Team on the grounds of the impact on safeguarded minerals and there is no known reason to disagree with this conclusion.

- 7.16.3. The applicant has submitted an Economic Benefit Statement which indicates that the three year construction process would generate 81 FTE jobs, of which 56 would be within the Swale Borough. The temporary economic benefit has been assessed to be £15.2 million of which £10.5 million would be within the Swale Borough. The applicant also considered that 122 residents would be in employment, with an economic output of 8.3 million, of which £4.6 million would benefit the Swale economy. The applicant has forecast that £1.4 million would be spent on retail, leisure and service goods per year by occupants. Moreover, there would be Council Tax receipts to a value of £199,000 per year and a New Homes Bonus of £190,000.
- 7.16.4. Whilst the concerns of interested parties are noted, there are no reasonable grounds to suppose that future residents of this development would be any more or less likely to cause anti-social behaviour than the residents of any other dwelling. Moreover, the lack of a police presence within the area is a matter that would be addressed by other organisations and is outside the remit of the planning regime.
- 7.16.5. Whilst the comments received from interested parties and Kent Police are noted with respect to surveillance of the proposed communal car parking area, it is noted that the side elevation of the adjacent dwelling (plot 47) would feature side facing windows that would look towards this area. Moreover, the forward facing windows of the dwellings on plots 52 to 54 would face the entrance and the flat above the garaging at plot 46 would have rear facing windows facing that area. Consequently, it is considered that there would be sufficient natural surveillance.
- 7.16.6. The future maintenance, management and availability of public and communal areas including the open space, footpath and car park can be controlled through a planning obligation.
- 7.16.7. Notwithstanding affordable housing nomination rights, it is not considered that the former address of potential residents of the proposed development could be a reason to find the development unacceptable.
- 7.16.8. The concerns raised by interested parties about the cumulative impacts of developments in and around Newington are noted and it is recognised that the character of a rural area will inevitably erode where development is undertaken. To varying degrees this factor is considered to be inherent to a number of considerations including the application of the Council's Settlement Strategy and the assessment of the visual impact. For the reasons given, no objections are raised on these grounds. Similarly, whilst the Parish Council and other parties have commented on the number of dwellings approved in the area in the past 15 years, each proposal has to be considered on its own merits and, as will be undertaken below, a judgement has to be made as to whether further development is acceptable based on those merits.
- 7.16.9. Several appeal decisions from the locality and wider area have been cited by Newington Parish Council and interested parties, some of which have been addressed

above. Other dismissed appeals include decisions relating to 132 High Street (application 19/500029/FULL), 148 High Street (19/505596/FULL) and 6 Ellens Place (19/503203/FUL). Whilst some had elements that were specific to those cases, it is noted that each was dismissed on the grounds of the conflict with the settlement strategy at a time when the Council was not able to demonstrate a 5 year housing land supply. This matter, and the weight to give that conflict is considered elsewhere.

- 7.16.10. A dismissed appeal at Land to East of St Marys View, Newington (application 15/509664/OUT) is also noted. In that case, the Inspector found the highways impacts acceptable but the proposal was found unacceptable on the grounds of loss of agricultural land and the landscape impact. These matters have been considered above, with regard being had to a more recent appeal decision.
- 7.16.11. The cited dismissed appeal at Jubilee Fields, Upchurch (19/501773/OUT) is noted insofar as it relates to the conflict with the settlement strategy at a time where an inadequate housing supply existed. However, the content of that decision relates very specifically to the circumstances of Upchurch rather than Newington and, as such, it is not considered to be determinative. The same is also considered to be true in respect of dismissed appeal in Hartlip.

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

- 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.
- 7.17.2. In this case conflict with policies in the development plan have been identified as set out above. This primarily relates to conflict with policies ST1, ST3 and CP3 by virtue of the development being outside the built-up area boundary and, therefore, being within the countryside and contrary to the Council's Settlement Strategy. The proposal also conflicts with Policy DM31 as it would result in the loss of Best and Most Versatile Agricultural Land and the visual impact on the landscape conflicts with Policy DM14 (albeit not Policy DM24). Consequently, the development does not accord with the development plan.
- 7.17.3. 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:

*“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.”*

- 7.17.4. In this case, there are no protected areas or assets of particular importance that would be impacted in such a way that this would represent a strong reason for the refusal of the application. Consequently, 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

- 7.17.5. The primary benefit of the proposal is the provision of 90 residential units at a time when the Council does not have a five year housing land supply. This is often afforded significant weight and it is considered appropriate to do so in this case.
- 7.17.6. Moreover, whilst the benefit is moderated by virtue of the fact that the affordable housing mix does not align proportionately with the needs of the Borough, there is a need for the housing that is proposed and the benefit of securing such housing can be given significant weight.
- 7.17.7. The provision of an improved footpath to link the north and south of Newington is considered to be a benefit of the proposal which is afforded moderate weight. Similarly, the achievement of a small amount of BNG beyond the 10% minimum and the achievement of energy efficiency which goes beyond the standards required and the use of renewable energy within the development should be viewed as a benefit of the proposal, albeit the weight to give this is considered to be limited due to these being conventional aims of planning policy. In addition, a temporary economic benefit would arise during the construction process and there would be subsequent economic benefit through the support for local shops and services which would be moderate given the scale of the development in the context of the settlement of Newington. The applicant's forecast economic benefits are set out above.

#### Harm

The harms are those that have been set out at 7.17.2. It is considered that the conflict with the settlement strategy can only be given limited weight as there is no allowance for built-up area boundaries within the NPPF and the built-up area boundaries as currently drawn are not providing the required level of residential development. Moreover, in line with other appeal decisions, the loss of BMV agricultural land can, at most, be given moderate weight. Although there is not harm arising from the proposal to the degree that there is conflict with Policy DM24, it is considered that the

development would cause a moderate degree of landscape harm, albeit at a localised level. This harm is afforded moderate weight.

### NPPF Balance

- 7.17.8. Based on the above, it is not considered that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits.

### 7.18. **Conclusion**

- 7.18.1. The proposal is contrary to the development plan. However, the NPPF is a material consideration which indicates that planning permission should be granted. In this case, it is considered that the NPPF can be considered to outweigh the harm that would arise from the conflict with the development plan and therefore, on balance, it is recommended that planning permission is granted subject to conditions and the planning obligations pursuant to those discussed at paragraphs 7.2.25 to 7.2.29 (affordable housing), 7.11.4 (financial contributions) and 7.16.6 (maintenance, management and availability of open space, public and communal areas) subject to any amendments deemed necessary by the Head of Planning.

- 7.18.2. 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.

### 7.19. **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.

#### Plans

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

#### Received 24/02/2025

029\_31073A\_001 - Site Location Plan  
029\_31073A\_010 - Site Block Plan  
029\_31073A\_200 P1 - Plot 1.2.3 Plans and Elevations  
029\_31073A\_201 P1 - Plot 4.5.6.7.8.9 Plans and Elevations

029\_31073A\_202 P1 - Plot 10.11.12 Plans and Elevations  
029\_31073A\_203 P1 - Plot 13.14 Plans and Elevations  
029\_31073A\_204 P1 - Plot 15.16 Plans and Elevations  
029\_31073A\_205 P1 - Plot 17.18 Plans and Elevations  
029\_31073A\_207 P1 - Plot 21.39.69.80.87 Plans and Elevations  
029\_31073A\_209 P1 - Plot 23.57.67.77.84 Plans and Elevations  
029\_31073A\_210 P1 - Plot 25.63.72.81 Plans and Elevations  
029\_31073A\_211 P1 - Plot 26.79.82 Plans and Elevations  
029\_31073A\_215 P1 - Plot 30.31.42.43.49.50 Plans and Elevations  
029\_31073A\_216 P1 - Plot 32.33 Plans and Elevations  
029\_31073A\_217 P1 - Plot 34.35.44.45 Plans and Elevations  
029\_31073A\_218 P1 - Plot 36.37 Plans and Elevations  
029\_31073A\_219 P1 - Plot 46 Plans and Elevations  
029\_31073A\_220 P1 - Plot 47.48 Plans and Elevations  
029\_31073A\_221 P1 - Plot 51 Plans and Elevations  
029\_31073A\_224 P1 - Plot 62 Plans and Elevations  
029\_31073A\_225 P1 - Plot 66.86 Plans and Elevations  
029\_31073A\_228 P1 - Plot 76 Plans and Elevations  
029\_31073A\_229 P1 - Bin & Bike Store Plans and Elevations  
029\_31073A\_400 P1 - Proposed Street Elevations  
33628 H-02 P2 – Off-Site Highway Improvements

Received 03/06/2025

029\_31073A\_100 P2 - Proposed Site Layout Plan  
029\_31073A\_102 P2 - Proposed Coloured Site Plan  
029\_31073A\_108 P1 - Proposed Parking Strategy Plan  
029\_31073A\_110 P1 - Proposed Building Heights Plan  
029\_31073A\_112 P1 - Proposed Housing Mix Plan  
029\_31073A\_114 P1 - Proposed Fire Strategy Plan  
029\_31073A\_116 P1 - Proposed Refuse Strategy Plan  
029\_31073A\_118 P1 - Proposed Boundary Treatment Plan  
029\_31073A\_120 P1 - Proposed Air Source Heat Pump Plan  
029\_31073A\_122 P1 - Proposed Affordable Housing  
029\_31073A\_126 - Proposed Bollard Lighting Plan  
029\_31073A\_128 - Movement Plan  
029\_31073A\_212 P1 - Plot 27 Plans and Elevations  
029\_31073A\_213 P2 - Plot 28.73.78.89 Plans and Elevations  
029\_31073A\_214 P2 - Plot 29.90 Plans and Elevations  
029\_31073A\_222 P2 - Plot 52.53.54 Plans and Elevations  
029\_31073A\_223 P2 - Plot 59.60.61 Plans and Elevations  
029\_31073A\_227 P1 - Plot 70.71 Plans and Elevations  
6612-LLB-XX-XX-D-L-0001-S4 P04 - Landscape Masterplan  
33628 H-01 P2 - Proposed Access Arrangement  
33268-H-03 P2 – Internal Visibility Splays

Received 20/06/2025

029\_31073A\_206 P3 - Plot 19.20.24.38.58.74.75.83.85.88 Plans and Elevations  
029\_31073A\_208 P2 - Plot 22 Plans and Elevations  
029\_31073A\_226 P2 - Plot 68 Plans and Elevations

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

### Archaeology

3. 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.

Following completion of archaeological evaluation works (if it is identified that further works are required), 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.

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

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

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

### Construction Management Plan

4. Prior to the commencement of the development hereby approved, a Construction Management Plan comprising of
- (a) Routing of construction and delivery vehicles to / from site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries
  - (d) Provision of wheel washing facilities
  - (e) Temporary traffic management / signage
  - (f) a Dust Management Plan (according with 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')
  - (g) details of all other measures require to accord with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites

shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken in full compliance with the approved Construction Management plan.

Reason: To control the construction process in the interests of highway safety, neighbouring living conditions and air quality.

### Ecological Mitigation Strategy

5. No development shall be undertaken (including any site and/or vegetation clearance) until an Ecological Mitigation Strategy (EMS) which contains full details of the measures outlined in section 9 of the submitted Ecological Assessment (Bakerwell, February 2025) have been submitted to and approved in writing by the local planning authority. The EMS shall include consideration of the following:
- Measures to avoid impacts to roosting bats;
  - Measures to avoid indirect impacts to foraging and commuting bats with adherence to a sensitive lighting scheme;
  - Measures to avoid impacts to individual reptiles;
  - Licensed and non-licensed measures to avoid and mitigate impacts to badgers;
  - Measures to avoid impacts to nesting birds; and
  - Measures to control the spread of invasive non-native species (INNS).

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

Reason: To avoid an offence under the Wildlife and Countryside Act 1981 and with consideration for Species of Principal Importance under the Natural Environment and Rural Communities Act 2006.

### Sustainable Drainage

6. Prior to the commencement of development, a detailed sustainable surface water drainage scheme for the site (based upon the Flood Risk and Drainage Strategy prepared by Civil Engineering Practice, February 2025) shall have been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall demonstrate compliance with the required technical standards at the time of submission 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 any required agreements for offsite drainage connections have been secured.
- 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 prior to the occupation of any dwelling or in accordance with a timetable of works that shall have been submitted to and agreed in writing by the Local Planning Authority prior to the occupation of any dwelling.

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.

### Tree Protection

7. Prior to any works occurring within 20 metres of the Root Protection Zone of the tree marked T28 within the Tree Protection Plan that has accompanied the application, details of the means of protecting that tree during the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, all approved means of protecting that tree shall be installed and retained at all times when work is occurring within 20 metres of the Root Protection Zone of that tree.

Otherwise, all tree protection measures detailed within drawings numbered 6612-LLB-XX-XX-DR-Ab-0003 Rev P03 (sheet 1 of 2 and sheet 2 of 2 inclusive) shall be adhered to all times.

Reason: In the interests of tree protection and all the visual and environmental benefits that arise from the retention of trees.

#### Contamination (Pre-Works)

8. 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:

i) A remediation method statement (RMS) based on the site investigation submitted with this application. 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.

All required remediation shall be undertaken prior to the occupation of any dwelling that is hereby approved.

Reason: To ensure that any contamination is adequately addressed.

#### Contamination (Post Works)

9. Upon the completion of works required by condition 8 and prior to the occupation of any dwelling a Verification Report shall be submitted. The Verification Report shall include full verification details as set out in the approved Verification Plan. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean. Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that any contamination is adequately addressed.

#### Open Space and Landscaping

10. No development above floor slab level shall take place until full details of both hard and soft landscape works, including any play space provisions and footpaths, have been submitted to and approved in writing by the Local Planning Authority.

These details shall include, planting schedules of plants, noting species (which shall include be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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 character, appearance and assimilating the development into the setting.

#### Open Space and Landscaping

11. 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

#### Road Design and Detail

12. Prior to any works occurring above slab level, details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the final detail of the development is acceptable in terms of highway safety, accessibility and visual amenity.

#### Lighting

13. Prior to the commencement of works above slab level, a lighting plan which has been designed to minimise impacts on biodiversity shall be submitted to and approved in writing by the local planning authority. Details of any proposed external lighting shall accord with the Bat Conservation Trust/Institute of Lighting Professionals 'Guidance Note 08/23: Bats and Artificial Lighting at Night' and include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) as well as ISO lux plan(s) showing light spill. It shall be clearly demonstrated that areas to be lit shall not impact protected species or their habitats. All external

lighting shall be installed in accordance with the specifications and locations set out in the plan and be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light in accordance with the NPPF 2024, paragraph 198(c).

#### Habitat Management and Monitoring Plan

14. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan has been submitted to and approved in writing by the local planning authority. This shall include:

- a non-technical summary;
- details of the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- details of 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;
- details of 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
- details of the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.

Reason: To ensure the development delivers the required biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990

#### Biodiversity Enhancement Plan

15. Prior to any works above slab level, a Biodiversity Enhancement Plan (BEP), including a timetable for the installation of all proposed features of that plan, shall be submitted to and approved in writing by the local planning authority. The plan shall include full details of biodiversity enhancements which shall include:

- a) The provision of 9 or more durable and suitably-located nest boxes for wild birds;
- b) The provision of 20 or more durable and suitably-located bat boxes/tubes;
- c) The provision of 2 or more durable and suitably-located insect features;
- d) Details of the provision of gaps in closed board fencing to aid hedgehog movement.

The approved plan shall be implemented as approved and in accordance with the approved timetable and all features of that plan 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.

#### Materials and Details

16. Prior to their use within the development hereby approved, details of any exterior materials to be used within the proposed development (including but not limited to bricks, weatherboarding, hanging tiles, roof tiles, windows, doors, guttering and soffits) shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken using the approved materials.

Reason: In the interests of ensuring that the development is of high quality and reflects the character and appearance of the locality.

#### Boundary Treatments

17. No dwelling shall be occupied until the boundary treatments shown on plan 029-118 Revision P1 to enclose that property, or some other such boundary treatment that shall have been approved in writing by the Local Planning Authority prior to the occupation of that dwelling, has been installed in accordance with the details set out on that plan and the materials approved under the terms of condition 16.

Reason: In the interests of ensuring that private gardens are of suitable usability and in the interests of the character and appearance of the site and the surrounding area.

#### Communal Car Park

18. Prior to the first use of the communal car parking area at the east of the site, located to the rear of 2 to 14 Hasted Road, details of the proposed hardstanding material and any proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the whole communal car parking area (comprising of 23 car parking spaces) shall be laid out and enclosed in accordance with the approved details and made available for use prior to the occupation of any of the dwellings hereby approved.

Reason: In the interests of ensuring that the approved parking is provided and to ensure that the development is of high quality and reflects the character and appearance of the locality.

#### Parking Space Provision and Retention

19. No dwelling hereby approved shall be occupied until the parking shown to serve that dwelling on plan 029-108 Revision P1 (including garages, car ports, undercover parking and surface parking) , or some other such parking provision

that shall have been approved in writing by the Local Planning Authority prior to the occupation of that dwelling, has been provided and made available for use by the occupiers of that dwelling. Moreover, all visitor spaces shall be provided prior to the occupation of the dwelling that is closest to that parking space.

Reason: To ensure the provision of adequate car parking.

#### Cycle Parking Provision and Retention (General)

20. No dwelling hereby approved shall be occupied until the cycle storage facility shown to serve that dwelling on plan 029-108 Revision P1, or some other such cycle storage facility that shall have been approved in writing by the Local Planning Authority prior to the occupation of that dwelling, has been provided and made available for use by the occupiers of that dwelling. Where that cycle storage facility is not within a garage, the cycle storage facility shall be provided in accordance with plans that shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision of adequate cycle parking and to reflect that the height of the proposed cycle store is not clear within the submitted plan, thereby requiring further information to be provided in order to ensure usability.

#### Cycle Parking Provision and Retention (Flats on Plots 4 to 9)

21. Prior to the occupation of any of the flats on plots 4 to 9 (inclusive) cycle parking shall be provided to serve the occupiers of those flats in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.

Reason: To ensure the provision of adequate cycle parking and to reflect that the submitted plans shown no cycle parking for those flats.

#### Provision of Access

22. No dwelling shall be occupied until the access into the site has been completed in accordance with the plans hereby approved.

Reason: To ensure the provision of a safe access to the site and ensure that the proposal is not detrimental to highway safety and the flow of traffic.

#### Off-Site Highway Works (Section 278)

23. No development shall take place above slab level until a s.278 application has been made for off-site highway works as shown on drawing no. 33628 H-01 P2. The development shall be implemented in accordance with the outcome of that

s.278 application and any offsite highway works required by the s.278 application shall be completed before the twentieth dwelling is occupied.

Reason: To ensure the provision of a safe access to the site and ensure that the proposal is not detrimental to highway safety and the flow of traffic.

#### Off-Site Highway Works (Traffic Regulation Order)

24. No development shall take place above slab level until an application for a Traffic Regulation Order (TRO) has been made for the introduction of the double yellow parking restrictions as shown on drawing no.33628 H-01 P2 and drawing no. 33628 H-02 P1. The development shall be implemented in accordance with the outcome of that TRO and any works required by the TRO shall be completed before the twentieth dwelling is occupied.

Reason: To ensure the provision of a safe access to the site and ensure that the proposal is not detrimental to highway safety and the flow of traffic.

#### Access to Dwellings

25. No dwelling shall be occupied until the following works been completed between that dwelling and the adopted highway:

- (a) Footways and/or footpaths, with the exception of the wearing course;
- (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interest of providing adequate access to the approved dwellings.

#### Visibility Splays

26. Prior to the first occupation of any dwelling at the site, all visibility splays shown on plan number 33268-H-03 shall be provided. The visibility splays shall subsequently be kept free from any obstructions over 1.2metres above carriageway level.

Reason: In the interests of highway safety.

#### Emergency Access

27. Prior to the occupation of any of the dwellings hereby approved, details of measures to ensure that the emergency access at the north west corner of the site is only used at times of emergency shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, all approved measures shall be

implemented prior to the occupation of any dwellings and retained at all times (other than in emergency) thereafter.

Reason: To ensure that the site and neighbouring land is accessed in the manner that has been assessed, in the interests of highway safety, without obstructing emergency access.

#### Energy Efficiency

28. All dwellings shall be built to achieve at least the “proposed u-values” detailed within section 8.1 of the Energy and Sustainability Statement that has accompanied the application.

Reason: To reduce the carbon footprint and energy efficiency of the development.

#### Air Source Heat Pump Details

29. Where any dwelling is shown to be served by an air source heat pump on plan 029-120 P1, that dwelling shall not be occupied until details of the air source heat pump proposed to be installed to serve that dwelling have been submitted to and approved in writing by the Local Planning Authority. Subsequently, that dwelling shall not be occupied unless it has been provided with an operational air source heat pump which shall be installed in accordance with the approved details and in the position shown on plan 029-120 P1 unless an alternative position has otherwise been approved in writing by the Local Planning Authority.

Reason: To reduce the carbon footprint of the development and to secure the measures identified as being necessary within the applicant’s Air Quality Assessment to ensure that the proposal is acceptable in relation to its impact on air quality.

#### Travel Information Packs

30. Prior to the occupation of any of the dwellings hereby approved, a sample Travel Information Pack shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To promote sustainable travel and to secure the measures identified as being necessary within the applicant’s Air Quality Assessment to ensure that the proposal is acceptable in relation to its impact on air quality.

#### Travel Plan

31. Prior to the occupation of any of the dwellings hereby approved a Travel Plan and a timetable for its implementation and subsequent monitoring shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented and monitored in accordance with the approved details.

Reason: To promote sustainable travel and to secure the measures identified as being necessary within the applicant's Air Quality Assessment to ensure that the proposal is acceptable in relation to its impact on air quality.

#### Water Consumption

32. 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.

#### Obscured Glazing – Plots 70 and 71

33. Prior to their occupation, the eastern first floor windows of the dwellings on plots 70 and 71 that are shown on the plans hereby approved to serve en-suites, shall be fitted with obscured glazing and fixed shut below a height of 1.7 metres above finished floor level with the obscure glazing being not less than the equivalent of Pilkington Glass Privacy Level 3, unless otherwise agreed in writing by the Local Planning Authority, and shall subsequently be maintained as such.

Reason: In the interests of the privacy of neighbouring residents.

#### Substation Details

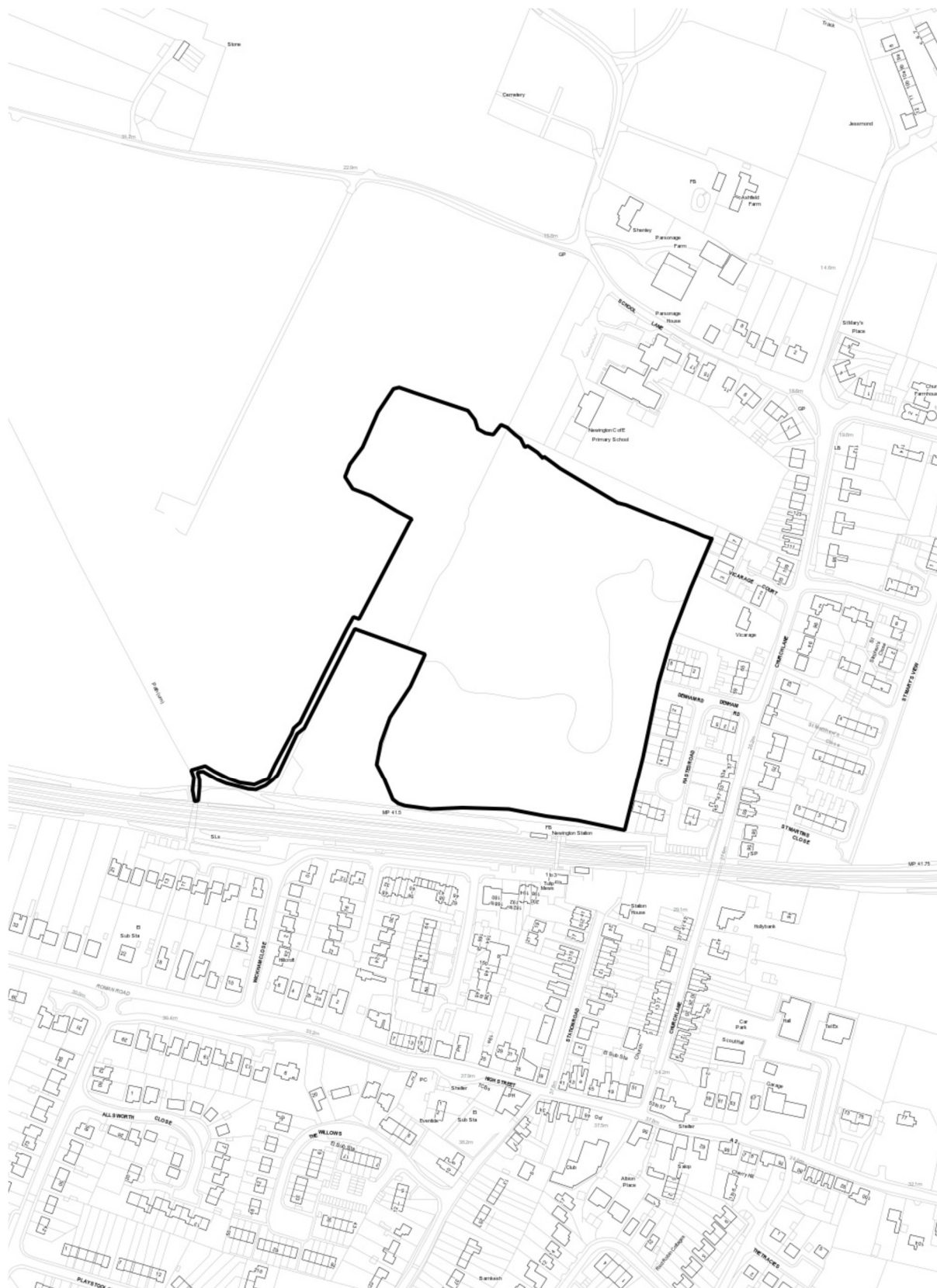
34. Prior to its installation, details of means of enclosing the substation and mitigating any noise impacts arising from the positioning of that substation adjacent to dwellings shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, all means of enclosure and mitigation shall be provided prior to the first use of the substation and retained thereafter

Reason: To protect living conditions and ensure that the substation is of suitable appearance in the context of the development and the surrounding area.

#### Eradication of Variegated Yellow Archangel

35. Prior to any works occurring above slab level, a scheme of eradicating Variegated Yellow Archangel from the site shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development does not have a harmful impact on protected habitats.



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<b>2.3 REFERENCE NO - 25/501620/FULL</b>		
<b>PROPOSAL</b> - Section 73 - Application for variation of Condition 2 (Garage Location and Extension to rear of the Garage) and Condition 5 (Foundation design & Tree Protection Strategy) related to planning permission 24/500695/FULL.		
<b>SITE LOCATION</b> - Rose Cottage The Street Hartlip Kent ME9 7TJ		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary and appropriate.		
<b>APPLICATION TYPE</b> – Householder Section 73 – Application for Variation of Conditions.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> – Councillor R. Palmer has called-in the application to the Planning Committee in order for the impact of the proposal upon the conservation area to be considered.		
<b>Case Officer</b> - Guy Martin		
<b>WARD</b> Hartlip, Newington and Upchurch	<b>PARISH/TOWN COUNCIL</b> Hartlip Parish Council	<b>APPLICANT</b> Mr And Mrs A Nicholls  <b>AGENT</b> Lander Planning
<b>DATE REGISTERED</b> 24/04/2025		<b>TARGET DATE</b> 12/09/25
<b>BACKGROUND PAPERS AND INFORMATION:</b>  The full suite of documents submitted and representations received pursuant to the above application are available via the link below: -  <u><a href="#">25/501620/FULL   Section 73 - Application for variation of Condition 2 (Garage Location and Extension to rear of the Garage) and Condition 5 (Foundation design &amp; Tree Protection Strategy) related to planning permission 24/500695/FULL.   Rose Cottage The Street Hartlip Kent ME9 7TJ</a></u>		

1. SITE LOCATION AND DESCRIPTION

- 1.1. Rose Cottage is a detached property located within the built confines of Hartlip on the eastern side of The Street located within a Conservation Area.

2. PLANNING HISTORY

- 2.1. **24/500695/FULL:** Erection of detached garage, demolition of side wall and extension of drive. Approved Decision Date: 17.05.2024

- 2.2. **22/502448/FULL:** Erection of a single storey detached garage (resubmission-21/503261/FULL). Withdrawn. Decision Date: 07.10.2022
- 2.3. **21/503261/FULL:** Erection of detached garage with office above. Refused. Decision Date: 11.08.2021
- 2.4. **18/504778/FULL:** Conversion of existing Garage to a habitable space, with new first floor accommodation above. Removal of existing ground floor rear workshop with a new G.F structure. Removal of rear garden room with associated terrace with a new larger orangery and new terrace layout. Approved. Decision Date: 19.12.2018

### 3. PROPOSED DEVELOPMENT

- 3.1. This application seeks planning permission for a variation of Condition 2 (Garage Location and Extension to rear of the Garage) and Condition 5 (Foundation design & Tree Protection Strategy) related to planning permission 24/500695/FULL.
- 3.2. That permission approved the erection of a garage building with a rectangular footprint, measuring 6 metres deep and 4.5 metres wide. The building was shown to have an eaves height of 2.2 metres and a ridge height of 4.6 metres. There were two iterations of the plans for the garage building, but the latest (the approved) indicated that the building would be positioned with its front elevation set 9.3 metres rearwards relative to the closest part of the front elevation of the host dwelling. The approved development also involved the removal of a wall and the provision of additional hardstanding to the front of the garage to connect to the existing driveway within the site.
- 3.3. Condition 2 of planning permission 24/500695/FULL states:
- “The development hereby approved shall be carried out in accordance with the following approved drawings: 21.31.PL03 dated 13.02.24, 24.06.\_PL04,*
- Reason: For the avoidance of doubt and in the interests of proper planning.”*
- 3.4. Condition 5 of planning permission 24/500695/FULL states:
- “The development shall be carried out strictly in accordance with the foundation design and tree protection strategy as set out within the Arboricultural Impact Assessment, plan 24.06\_PL03 dated 13.02.24.*
- Reason: To ensure the protection of the adjacent trees”*
- 3.5. As a result of development being undertaken and a case being made with the Council’s Planning Investigations team, the development that occurred and the planning permission that was granted have been compared.
- 3.6. Through this process it has been identified that an incorrect plan reference was included within Condition 2, resulting in an inconsistency between approved plans with respect to the siting of the garage. Plan 24.06.PL04 shows the front of the garage set

back 9.3m from the front elevation of Rose Cottage. However, Plan 21.31.PL03 shows the front of the garage sited 3.5m from the front of the dwelling.

- 3.7. It has also been identified that the building that has been erected does not accord with the approved plans, most notably through including a single storey projection to the rear of the garage that measures 1.6 metres by 2.4 metres. The development also incorporates two windows on the northern elevation and two additional doors, one on the northern elevation and one on the eastern elevation which were not previously shown.
- 3.8. The plan referred to in condition 5 shows tree protection details, but with the building shown in a position where it was not built.
- 3.9. The intention of this application is to amend the approved plans to reflect the development that has occurred. The application was invited by Officers to regularise the situation that has arisen.
- 3.10. During the process of the consideration of the application, it was identified that the submitted plans did not accurately demonstrate the position of the building. This has subsequently been addressed through the submission of amended plans which have been consulted upon.

#### 4. REPRESENTATIONS

- 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. During the first round three letters of representation objecting to the proposal were received. Following receipt of further information, no further letters of representation were received in relation to the second consultation.

First Round Comments	Report Reference
Section 73 applications represent a 'back door route' to achieving amendments to what was approved previously.	The relevant legislation allows for such applications to be made.
The proposal would result in the loss of gaps and space when viewed from The Street.	See paragraphs 7.3.7.
The previously shown set back of the building from the highway was ineffective from a design point of view.	See paragraphs 7.3.6.
The existing front gardens of the Hartlip Conservation Area are, for the most part, free from development.	The works forward of the dwelling are the same as previously approved and the garage is to the side.
The plans approved by the 2024 application did not overcome the reason for refusal of the 2021 application.	Whilst the forward positioning of the garage was similar to this proposal, the garage in the 2021 scheme was set further forward and was two storey

	building, thereby being substantially different to the development that is the subject of this application.
The provision of a two storey garage would be out-of-keeping with the established character and appearance of the Conservation Area and the balcony would cause overlooking.	The garage is single storey and there is no balcony proposed. These comments related to the earlier proposals and are not considered to be applicable to this proposal.
The erosion of green space around the building would harm Rose Cottage (as a non-designated heritage asset) and the Hartlip Conservation Area (a designated heritage asset). As there are no public benefits, this harm should be a reason for the refusal of the application.	See paragraphs 7.3.6, 7.3.8
Trees should not be a material consideration in assessing impacts on living conditions.	See paragraphs 7.4.1 to 7.4.4
The impact on trees has not been adequately assessed within the applicant's submissions.	See paragraphs 7.5.1 to 7.5.2.
The applicant has taken advantage of the inconsistency within the approved plans and should have taken this step of regularising the matter prior to undertaking works.	This is not determinative. Retrospective applications are allowed for by Sections 73 and 73a of the Act.
The applicant's submissions are inadequate and incorrect.	The submissions have been corrected and are now considered to be accurate.
The submitted plans do not reflect what has been built as the position is not correctly shown.	The submissions have been corrected and are now considered to be accurate.
No weight should be given to the fact that the building already exists.	The assessment of planning merits are considered regardless of the fact that the building has been erected. The development having been completed is, however, relevant to a consideration relating to the imposition of conditions.
Civil matters and Building Regulation issues are raised.	The Objector acknowledges that these are not material to the assessment of this application.
Little weight should be given to the Parish Council's comments as they are not fulfilling their function of protecting heritage assets.	Regard is had to all comments received as required by legislation.
<b>Second Round - Additional Comments</b>	<b>Report Reference</b>
No additional representations made	N/A

- 4.3. **Hartlip Parish Council** state that they have no objections to the application. However, as there have been changes to the original application, the Parish Council has asked that any neighbours comments are taken into consideration.

5. **CONSULTATIONS**

- 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 2 rounds of consultation for all consultees.
- 5.2. **SBC Heritage:** No Objection is raised. The comments are discussed further below.
- 5.3. **SBC Trees:** – It has been stated that the amended tree details shown on the submitted arboricultural impact assessment plan (AIA) do not identify any new arboricultural issues. Therefore, provided the AIA is complied with by way of a condition, no arboricultural objections are raised.

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

CP4 Requiring good design

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

CP8 Conserving and enhancing the historic environment

DM7 Vehicle parking

DM14 General development criteria

DM16 Alterations and extensions

DM19 Sustainable design and construction

DM28 Biodiversity and geological conservation

DM29 Woodland, trees and hedges

DM32 Development involving listed buildings

DM33 Development affecting a conservation area

**Supplementary Planning Guidance/Documents -**  
Parking Standard Supplementary Planning Document, 2020.

**National Planning Policy Framework (the NPPF)**

**National Planning Practice Guidance (NPPG)****7. ASSESSMENT**

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

- Principle
- Character and Appearance and Heritage Assets
- Living Conditions
- Trees
- Other Matters

**7.2. Principle**

7.2.1. The application has been submitted under the terms of Section 73 of the Town and Country Planning Act 1990 as amended. Section 73 gives an express power to apply for planning permission for the development without complying conditions attached to an earlier permission. The effect of a successful application under Section 73 is to produce fresh planning permission but there are limitations on the use of the Section 73.

7.2.2. Section 73(2) states that the decision maker shall consider only the question of the conditions subject to which planning permission should be granted. As such the principle of the development on the site has been accepted by virtue of the granting of the planning permission. Consequently, the assessment in this case should be related to the effects of the proposed amendment to condition 2 in respect to the design and location of the garage and condition 5 in respect to the foundation design and tree protection. It is considered that the earlier description of development remains accurate for the amended proposal and, as such and having regard to relevant case law that clarifies how Section 73 applications can be used, it is considered that the amendment can be progressed in this way.

7.2.3. The principle of development was found acceptable before and, subject to the consideration of all matters of detail that are affected by the amendments to conditions, the principle of development should continue to be found acceptable.

7.2.4. In assessing the amendments to conditions, it is relevant that 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.

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

### 7.3. Character and Appearance and Heritage Assets

- 7.3.1. Rose Cottage lies within the Hartlip Conservation Area. The application must, therefore, be assessed in accordance with the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.3.2. 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.
- 7.3.3. Policy DM33 of the Local Plan states that development (including changes of use and the demolition of unlisted buildings or other structures) within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area's special character or appearance.
- 7.3.4. In addition, Policies CP4, DM14 and DM16 of the Local Plan require development proposals to be of high-quality design and to be in keeping with the character of the area. They state that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any proposals. Similarly, the NPPF sets out that good design is a key aspect of sustainable development and requires that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- 7.3.5. Beginning with the effect on the Conservation Area, it is noted that the Hartlip Conservation Area Character Appraisal identifies that the Conservation Area has a strong visual identity centred around The Street.
- 7.3.6. In respect of the earlier application, SBC Heritage found that the building at the site does not constitute a non-designated heritage asset and found that the building and site makes a neutral contribution to the character and appearance of the Conservation Area. It was found that the contribution of the site to the Conservation Area would not be affected by the garage development as a result of its setback and modest scale.

In this case, the Council's Heritage Advisor has commented that the application site is within the Hartlip Conservation Area which has a strong visual identity centred around The Street, with part of the special character as being of dwellings on large plots with a loose knit character and good degrees of landscaping. In relation to the garage being positioned further forward it was identified that, whilst this reduces the visual benefit of a generous setback distance away from the front elevation of the main house which was a feature of the previous design, the proposed position of the garage in a modest scale would still result in a subservient building which would not drastically alter the character of the space. In addition, as the additional projection to the rear of the garage would not be readily viewed given its position, no objection is raised to the alteration on heritage grounds. It is recommended details of materials of the new

windows and doors are submitted for approval by condition. No objection is raised on the grounds of the works to trees. The Officer concluded that the proposed changes would preserve the character and appearance of the conservation area.

- 7.3.7. This advice is considered to be sound. Garage buildings to the side of dwellings, attached and detached, are a common feature of the Conservation Area and, by reflecting this established form of development within the locality, it is considered that the proposal maintains the established character of the Conservation Area.
- 7.3.8. It is noted that the heritage advice received suggests adding conditions relating to the materials and rainwater goods to be used and the requiring further details of the doors and windows. However, the development has occurred and is considered to be acceptable as it has been built. Therefore, it is not considered to be necessary to impose conditions to require these matters to be addressed.
- 7.3.9. In terms of the setting of listed buildings, 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.
- 7.3.10. The closest listed building is Popes Hall which is distant from the site, 150 metres to the south, with other properties in the intervening space. Consequently, the development is not considered to have an impact on the setting of that listed building.
- 7.3.11. In terms of the more generic character and appearance considerations and the application of the abovementioned policies, it is considered that the height and positioning of the garage enables it to appear subservient to the house with a design and materials that reflect features of the host dwelling. Whilst not set back from the road to the same degree as shown on previously approved plans, the set back is sufficient to ensure that the garage is not unduly prominent and has an acceptable impact on the character and appearance of the site and the locality.
- 7.3.12. For these reasons, in terms of its general design, impact on character and appearance of the area and the impact on heritage assets it is considered that the proposal accords with the policies of the development plan and the NPPF. The proposal maintains the character and appearance of the Conservation Area and maintains the setting of nearby listed buildings as is required by the abovementioned statutory duty that is set out within the Planning (Listed Building and Conservation Areas Act) 1990.

#### **7.4. Living Conditions**

- 7.4.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.4.2. The garage is located adjacent to the southern boundary of the property. As a result, the primary dwelling to consider the impact of the development upon is Burwell Grange. The dwelling on that plot is located approximately 25m to the south of the

site. The southern boundary comprises of a close boarded fence with a row of mature conifers set behind which would screen the views from this neighbour of the proposed development.

- 7.4.3. The separation distance between the garage and Burwell Grange and the scale of the development ensures that the development does not have an adverse impact upon this neighbour in terms of light. Moreover, whilst there are rear and side facing windows within the development and it is noted that this represents an uplift compared to before, these being orientated away from the immediately adjacent neighbour, being at ground floor and the intervening separation distance from habitable rooms ensures that the garage does not cause overlooking or an unacceptable loss of privacy within the neighbouring property. Furthermore, as the type of application means that the garage can only be used for purposes that are associated with the host residential dwelling, the impact of such a use cannot be considered to be unneighbourly in terms of noise or odour.
- 7.4.4. No other properties would be materially impacted by the proposal in such a way that the living conditions of their occupiers would be harmed. In consequence it is considered that the proposal would not adversely impact upon local amenities meeting the requirements of national and local planning policies.

#### 7.5. **Trees**

- 7.5.1. Policy DM29 of the Local Plan states that the Council will seek to ensure the protection, enhancement and sustainable management of woodlands, orchards trees and hedges. The NPPF also recognises the importance of trees at paragraph 136 and 187.
- 7.5.2. The Council's Tree Officer has raised no objection to the development. It is noted that the development has occurred without the immediate loss of trees and with no obvious signs that trees will be or have been harmfully impacted upon by the development. The forward position of the garage relative to the previously approved plans enables a magnolia tree to the rear of the garage to be retained. This is considered to be beneficial. For this reason, no objection is raised in relation to the impact on trees and the development is considered to accord with Policy DM29 of the Local Plan and the NPPF.

#### 7.6. **Other matters**

- 7.6.1. The proposed development would provide an uplift in parking and cause no additional impacts on highway safety as no additional points of access are proposed. The proposal is therefore considered to be acceptable in terms of the impact on highway safety, access and parking provision.
- 7.6.2. The list of approved plans can be updated and, in that respect, an updated version of condition 2 is the only condition that is considered to be appropriate to retain having regard to the tests of a condition that are set out within the NPPF. The time limit condition and the condition controlling the hours of construction which were imposed before can be removed as the development has been implemented and completed. As discussed above, no version of former condition 3 (materials and detailing) is considered to be required as the works have been completed in a satisfactory manner.

- 7.6.3. Whilst it was proposed to amend condition 5, as the development has been completed, it is not considered that this would continue to serve a purpose and is, therefore, unnecessary. Moreover, whilst conditions 6 and 7 previously required a landscaping scheme to be submitted, agreed, implemented and retained, as the Magnolia tree is now able to be retained and there is a line of trees have been planted near to the south boundary the site, it is not considered that it is necessary to retain these conditions.

## 7.7. Conclusion

- 7.7.1. The amended development is considered to be acceptable in all respects. No harm arises from the proposal and the development is considered to be in accordance with the development plan. No other material considerations indicate that planning permission should be refused and it is therefore recommended that permission is granted.
- 7.7.2. 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.

## 7.7.3. Conditions

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

Received 07 August 2025

21.31.PL03 revision B - Proposed Block Plan

24.06.PL05 revision B – Proposed Hard and Soft Landscaping

Received 21 May 2025

24.06\_PL03 revision A - Tree Location Plan

Received 15 April 2025

21.06-PL.EL-01 revision A - Proposed Floor, Roof Plans and Elevations

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



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## PLANNING COMMITTEE –

## PART 3

Report of the Head of Planning

### PART 3

Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 23/500931/FULL</b>		
<b>PROPOSAL</b> Partial change of use of ground floor offices to residential, and erection of a two storey rear extension, first floor side extension and a second floor, to create 3no. new residential flats including alterations to existing flat.		
<b>SITE LOCATION</b> 25-25A West Street Sittingbourne Kent ME10 1AL		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to Refuse Planning Permission.		
<b>APPLICATION TYPE</b> Minor		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The application has been called in by Councillor Stephen on the grounds that the applicant has made changes to the application as requested.		
<b>Case Officer</b> Rebecca Corrigan		
<b>WARD</b> Homewood	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mr Sunil Popat <b>AGENT</b> Wyndham Jordan Architects
<b>DATE REGISTERED</b> 29.03.2023		<b>TARGET DATE</b> 20.08.2025
<b>BACKGROUND PAPERS AND INFORMATION:</b>  The full suite of documents submitted and representations received pursuant to the above application are available via the link below: -  <a href="#">23/500931/FULL   Partial change of use of ground floor offices to residential, and erection of a two storey rear extension, first floor side extension and a second floor, to create 3no. new residential flats including alterations to existing flat.   25-25A West Street Sittingbourne Kent ME10 1AL</a>		

## 1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site comprises a mostly two-storey building which has loft storage and a basement area. The building is currently in mixed use, with ground floor offices and an existing residential flat above. The site is located within an established urban area and is surrounded by a mixture of residential properties to the south, south east and south west of varying styles and scales, a supermarket and its car park to the north, a tattoo studio to the west and a vacant, former estate agents to the west. The building is not listed, nor is it located within a conservation area; however, it includes some features that contribute to the character of the street scene, particularly due to its prominent corner position and the traditional architectural detailing of some elements of the building.
- 1.2. The site is accessible via public transport and is within walking distance of services and amenities. Moreover, the site is located within the designated Town Centre of Sittingbourne and the frontage of the site is designated as a Secondary Shopping Frontage.

## 2. PLANNING HISTORY

- 2.1. No relevant planning history

## 3. PROPOSED DEVELOPMENT

- 3.1. The application seeks full planning permission for the partial change of use of the ground floor from office (Use Class E) to residential (Use Class C3) and the substantial extension and alteration of the building to result in the building having three floors of accommodation. The proposed development would result in the creation of three new residential flats, alongside alterations to the existing flat with most of the ground floor commercial use also being retained.
- 3.2. The proposed extensions would amount to the building having a similar footprint as currently exists but its upwards extension at all floors would result in a building that would be a full two storeys with further accommodation in the roof. The roof would be partly flat but with pitched elements, together with dormers to the front and side.
- 3.3. An existing element of the plot is the ground floor of a rear projection that connects the primary building at the site to the first property at the west side of William Street. The ground floor of that element is within the applicant's control and would be altered to be used as a bin and cycle store.

## 4. REPRESENTATIONS

- 4.1. Three rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers. A notice was also displayed at the application site. In response to the consultation 12 letters of support were received. Of these, two letters were from the same household and one letter formed the basis of a query. Full details of representations are available online.
- 4.2. Support was raised for the application for the following reasons (summarised) :-

Comments	Report reference
The proposed design is an improvement compared to the existing structure, contributing positively to the street scene.	7.3
Support for local business investing in the area	7.10.6
Would add to the housing stock where there is a need for affordable housing in Sittingbourne, particularly near the town centre and transport links	7.2.3 and 7.10.6
Support for repurposing underutilised or redundant space rather than developing new land, aligning with sustainable development principles	7.2.3 and 7.10.6
Would bring new residents, support local employment, and contribute to the long-term success of the town centre	7.2.3 and 7.10.6

## 5. CONSULTATIONS

- 5.1. Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee.
- 5.2. **KCC Highways** – Notes that the proposal does not include parking but that it is in a sustainable location, with on street parking restrictions meaning there will be no overspill onto the Highway, as well as public car parks nearby. It is noted that a secure bike storage has been provided at a ratio of 1 per apartment which is based on the number of bedrooms per dwelling. Subject to cycling being secured by condition, no highways objections are raised.
- 5.3. **KCC Archaeology** - No archaeological measures are required in connection with the proposal.
- 5.4. **SBC Heritage and Design** - The proposed extensions would significantly increase the overall bulk and scale of the existing building. When combined, they would substantially change the form, character and appearance of the original to a degree that is inappropriate when considering the relationship with the adjoining neighbour and its prominent location. Whilst the height of the roof would not exceed the existing ridge, its crown roof design (especially the flat element) would not appropriately integrate with the existing pitched roof-form and, given the visibility of roof forms of both 25 and 27 in the street-scene, it is likely the flat roof element would not be wholly hidden from view. As such, the scheme would result in a proposal that would appear incongruous and unsympathetic to the building and pair of dwellings.
- 5.5. **Mid-Kent Environmental Protection** - No objection subject to condition to protect residential amenity during construction

- 5.6. **Natural England (NE)** - No objection, subject to securing appropriate mitigation for recreational pressure impacts on Habitable sites.

## 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
- ST4 Meeting the Local Plan development targets
- CP1 Building a strong, competitive economy
- CP2 Promoting sustainable development
- CP3 Delivering a wide choice of high quality homes
- CP4 Requiring good design
- DM1 Maintaining and enhancing the vitality and viability of town centres and other areas
- DM2 Proposals for main town centre uses
- DM6 Managing transport demand and impact
- DM7 Vehicle parking
- DM14 General development criteria
- DM19 Sustainable design and construction
- DM21 Water, flooding and drainage
- DM28 Biodiversity and geological conservation
- DM32 Development involving listed buildings
- DM33 Development involving Conservation Areas
- DM34 Scheduled Monuments and archaeological sites

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

The conversion of building into flats Supplementary Planning Guidance (SPG)  
Parking Standards Supplementary Planning Document, 2020.

### **National Planning Policy Framework (the NPPF) National Planning Practice Guidance (NPPG)**

## 7. ASSESSMENT

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

- Principle
- Visual Impact
- Archaeology and Heritage Assets
- Ecology
- Transport and Highways
- Living Conditions
- Sustainability

## 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.
- 7.2.3. Policy ST3 of the Swale Local Plan 2017 supports development within the urban confines of towns and local centres across the borough. In this case, the site is located within the built-up area boundary of Sittingbourne, where the principle of residential development is acceptable, subject to compliance with other relevant planning policies. Furthermore, Swale Borough Council is currently unable to demonstrate a five-year supply of deliverable housing sites, as required by the National Planning Policy Framework (NPPF). In this context, the uplift of three residential units would make a modest but positive contribution toward addressing the borough's housing shortfall.
- 7.2.4. The site lies within the designated town centre of Sittingbourne which, in this area, is characterised by a mix of retail, residential, and commercial uses, of which the existing premises form part. The frontage of the site is also designated as part of a Secondary Shopping Frontage. Policy DM1 seeks to maintain and enhance the vitality and viability of town centres and other designated areas, while Policy DM2 supports retail, leisure, office, and other complementary uses within existing town centres.
- 7.2.5. The proposal includes the partial change of use of the ground floor from office (Use Class E) to residential (Use Class C3), alongside extensions and alterations to create additional residential units. However, the operational use of the ground floor is to remain within Class E, thereby retaining an active commercial frontage and contributing to the mixed-use character of the area.
- 7.2.6. As such, the proposal is considered to be consistent with the core principles of Policies ST3 and DM1 of the Swale Local Plan 2017, and the principle of development is therefore acceptable, subject to the detailed design and amenity considerations set out in the following sections. The housing supply benefits and other identified benefits of the proposal will be considered in the planning balance that is to be undertaken below.

## 7.3. Visual Impact

- 7.3.1. Policy CP4 of the Swale Local Plan 2017 requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.

- 7.3.2. Policy DM16 of the Swale Local Plan 2017 supports alterations and extensions to existing buildings provided are of an appropriate design and quality which responds positively to the style and character of the building being extended.
- 7.3.3. The application relates to one half of what appears to have been pair of two-storey semi-detached properties located at a prominent corner of William Street and West Street. The eastern half of the building appears to have been extended historically to the side to form the subservient part of the building that is within the application site. Whilst the original pair has been subject to extensions and alterations which have resulted in the pair becoming unbalanced in some respects, the original symmetry of the pair is still able to be appreciated, with the core features of the original host buildings still being balanced and evenly proportioned, with matching pitched roofs, eaves, ridge heights, and some matching features
- 7.3.4. The proposed development involves substantial extensions that have been described above. These alterations would significantly increase the overall bulk and massing of the building, particularly at the upper levels, resulting in a form that appears overly dominant and visually incongruous within its context.
- 7.3.5. While the proposed roof height would not exceed the existing ridge, the introduction of a crown roof, particularly the flat central element, would cause the resultant eaves height to awkwardly exceed the eaves height of the attached building and cause the side elevation of the roof to have a contrived relationship with the roof of the attached building. This would result in the crown roof becoming an obvious feature and the element of flat roof would not integrate appropriately with the existing pitched roof form. Given the visibility of the roofscape of both Nos. 25 and 27 in the street scene, the flat roof element would be visible and appear discordant. Moreover, by featuring even higher eaves at the side elevation, the building would have a poorly proportioned elevation fronting William Street. This would be visible in views from Dover Street, West Street and William Street and cause the building to be unreflective of the traditional building forms, mostly featuring larger elements of pitched roofs, that are dominant at the south side of the A2. Whilst stepped roofs are a feature of the area and the properties of William Street immediately to the rear of the site feature a mixture of roof forms, they are far less prominent and not as bulky as the roof that would result in this situation. They do not, therefore, mitigate or justify the harm that would be caused by taking that approach in this case.
- 7.3.6. As such, the scheme would result in a development that appears incongruous and unsympathetic to the host building and the original pair of buildings as well as causing substantial harm to the character and appearance of the locality. The proposal would unbalance the architectural harmony of the semi-detached pair and fail to respect the established form, proportions, and design features that contribute positively to the local character.
- 7.3.7. The overall impact of the proposed extensions and alterations would result in a visually intrusive and poorly integrated form of development, contrary to the aims of Policies CP4, DM14 and DM16 of the Swale Local Plan 2017, the design objectives of the National Planning Policy Framework (2024), and the Council's adopted design guidance.

#### 7.4. **Archaeology and Heritage Assets**

- 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. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.3. 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.
- 7.4.4. Policies DM32, DM33 and DM34 of the Local Plan related to heritage assets including listed buildings, conservation areas and archaeological features.
- 7.4.5. Following a review of the proposal and the site's context, the KCC Archaeology Officer has confirmed that no archaeological measures are required in connection with the development and no further archaeological assessment or mitigation is deemed necessary. Moreover, it is considered that the proposals would have no impact on the setting of heritage assets given the distance from the proposed works to the nearest assets, being the listed building of the Holy Trinity Church to the north and the Sittingbourne Conservation Area to the east.
- 7.4.6. As such, the proposal is considered to comply with the requirements of the abovementioned policies and the NPPF.

#### 7.5. **Ecology**

- 7.5.1. 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

- 7.5.2. The application has been the subject of an Appropriate Assessment (AA) under the Habitats Regulations, the conclusion of the AA was that there is a potential risk of harm to the European designated sites at the Swale/Medway SPA and Ramsar Site. The impacts were assessed for this development and this development in combination

with other planned development. The AA, which was prepared in consultation with Natural England concludes that these impacts can be mitigated through financial mitigation (The SAMMS payment).

- 7.5.3. 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.’
- 7.5.4. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £337.49 per dwelling (total £1012.47). Whilst this would be a matter that would be resolvable with procedural ease, as no payment has been received, the inadequate provision of measures to mitigate the impact on the designated habitat sites amounts to a recommended reason for refusal.

#### Biodiversity Net Gains

- 7.5.5. The application was submitted prior to the implementation date of the mandatory Biodiversity Net Gain (BNG) requirements introduced under the Environment Act 2021. As such, the proposal is not subject to the statutory BNG provisions.. However, Policy DM28 of the Local Plan 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.
- 7.5.6. The proposal does not involve the loss of any significant habitat or features of ecological value. Given the urban nature of the site and the scale of development proposed, it is not considered that the scheme would result in any significant adverse impacts on biodiversity. Opportunities for minor ecological enhancements, such as the installation of bird or bat boxes, could be secured by condition if necessary.

#### **7.6. Transport and Highways**

- 7.6.1. 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.
- 7.6.2. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council’s Parking SPD. The SPD advises that a one-bedroom dwelling in an edge-of-centre location should typically provide one car parking space. However, it also includes a footnote allowing for reduced or nil provision in areas with good accessibility to sustainable modes of transport.

- 7.6.3. 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 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.”*

- 7.6.4. The application site is located within Sittingbourne town centre, offering excellent access to a range of sustainable transport options. It is within walking distance of Sittingbourne railway station, which provides regular services to London and the wider region. The site is also well-served by local bus routes and is close to shops, services, and employment opportunities, thereby reducing the need for private car ownership
- 7.6.5. Given the site’s central location and high accessibility, the proposed car-free development is considered appropriate. The absence of on-site parking supports the objectives of reducing car dependency, promoting sustainable travel, and making efficient use of land in urban areas. This approach is consistent with the flexibility allowed under the SPD and aligns with the broader aims of the Local Plan and the NPPF.
- 7.6.6. To support sustainable travel, a safe, secure, and sheltered cycle storage area is proposed to the rear of the site. This provision complies with Policy DM7(3) of the Local Plan, which requires developments to provide appropriate facilities for cycle parking.

## 7.7. **Living Conditions**

- 7.7.1. Policy DM14 of the Swale Local Plan 2017 states that development proposals should not cause significant harm to the amenities of surrounding uses or areas. In particular, consideration must be given to the impact on neighbouring properties in terms of overshadowing, loss of light, and general amenity. The NPPF includes a similar requirement with respect to residential amenity.

### Existing residents

- 7.7.2. *Nos 2, 2A and 2B William Street* – The adjacent building to the south comprises of three addresses. It is known that there is a commercial use at ground floor with a beauty salon currently being in situ and a café having been at the site previously. At first floor, there appears to be a flat with accommodation that projects to within the application site, oversailing the ground floor element of the commercial use that is at the application site.
- 7.7.3. The east facing first floor elevation features a window which is currently enclosed to the south by the side elevation of the existing building at the neighbouring site. From the perspective of that window, the existing building at the application site protrudes 3.8 metres forwards at the north side with that wall being set 2 metres away from the window at its closest point. This would not be changed as a result of the proposal.

However, whereas the rear part of the existing building is single storey with a pitched roof, the proposed elevation would be 7.4 metres tall to the eaves. This would have the effect of narrowing the outlook from within the room served by that window, which is understood to be a habitable room.

- 7.7.4. As the extensions are to the north of that window, the impact on sunlight as a result of the proposal would be negligible. Moreover, due to the suitable arrangement of windows and the ability for the use of obscured glazing to be controlled by condition, there would be no unacceptable impacts in terms of privacy or overlooking.
- 7.7.5. The formation of an enclosed area between the side elevation of the existing building at the neighbouring site and the rear elevation of the proposed extension, with all built form being substantially taller than that window, would cause that window to be served by a reduced outlook and less daylight relative to the existing situation where the pitched roof above the single storey element enables some daylight and outlook to serve residents. However, that room is also served by a window on the west elevation and, as such, between the two windows there would be sufficient outlook and light to ensure that the effect on living conditions is not unacceptable.
- 7.7.6. No other windows exist within that building such that living conditions within any other room would be harmfully affected as a result of light, privacy or outlook.
- 7.7.7. The provision of a cycle and refuse storage on the ground floor, directly beneath the abovementioned window has the potential to generate some noise and odour. However, the impact is expected to be limited due to the modest scale of the development and the small number of residential units proposed. Environmental Health have been consulted and raised no objections in this regard.
- 7.7.8. A representation was received from the occupier of the flying freehold, raising concerns regarding whether appropriate notice had been served in relation to the application. In response, the applicant's agent provided Land Registry documentation confirming that the freehold of 2B William Street is owned by Honeywell Property Investments Limited, which is the applicant's company. As such, notice was not required to be served on 2B. It is noted that the flat is subject to a long leasehold; however, this does not alter the statutory requirements for serving notice under the planning regulations. In any case, 2, 2A and 2B William Street have all been notified of the application on each occasion.
- 7.7.9. *Nos. 27,27A and 27B West Street* - To the rear of Nos. 27 and 25 West Street is a small shared lightwell. The proposal retains this lightwell to the rear of No. 25 and includes the removal of the existing external staircase and toilet block, which would result in a modest improvement to the quality of this space. The development also proposes an increase in the eaves height of the roof at No. 25, which would result in some additional overshadowing to the rear window of No. 27. However, as the most affected floors are in commercial use (basement and first floor), and the degree of overshadowing to the flat that exists at that site appears to be limited, the impact is not considered to result in material harm to amenity.
- 7.7.10. *Other Surrounding Properties* - Due to the corner positioning of the site, it is considered that no other neighbouring residential properties would be unacceptably adversely

affected by the proposal in terms of daylight or sunlight. The orientation and separation distances are such that the development would not result in any unacceptable loss of light or overbearing impact.

- 7.7.11. *Overall* - The proposal is considered to have an acceptable relationship with neighbouring properties and would not result in unacceptable harm to residential amenity, in accordance with Policy DM14 of the Swale Local Plan 2017.

#### Future residents

- 7.7.12. 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.
- 7.7.13. The proposed development seeks to deliver three new residential units through the extension and reconfiguration of the existing building and the alteration of an existing residential unit. The internal layout has been revised during the course of the application to improve the quality of accommodation provided.
- 7.7.14. Whilst showing double beds, the bedrooms are only of adequate size to be used as single bedrooms and should be considered that way accordingly. The two new one-bedroom units each provide a floor area that meets the minimum requirements set out in the Nationally Described Space Standards (NDSS). The existing first-floor unit will be reconfigured and a new studio unit is proposed on the second floor, providing 30 sqm of internal space. While this accommodation falls below the NDSS threshold, as it relates to the extension and conversion of an existing building, complies with the Council's adopted Supplementary Planning Guidance (SPG) for residential conversions and the NDSS is not able to be binding as a result of it not being adopted into the development plan, the proposed accommodation is therefore acceptable.
- 7.7.15. Whilst no outdoor amenity space would be provided, in the context of a town centre development which is served by other amenities, this is not unusual and, whilst not desirable, is not considered to be unacceptably harmful to living conditions.
- 7.7.16. Access to all units will be provided via an existing route to the rear of the building. Provision for refuse storage and secure cycle parking is proposed adjacent to the rear entrance, within the footprint of the existing office area, ensuring convenient and practical access for future residents.
- 7.7.17. Overall, as the proposal accords with the Council's SPG it is considered that the proposal is acceptable and able to provide future occupiers with living conditions that would not conflict with Policy DM14 of the Swale Local Plan 2017 and relevant guidance within the Council's SPG.

#### **7.8. Sustainability / Energy**

- 7.8.1. In accordance with policy DM19, measures should be 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. This could be secured by condition if the development was found to be acceptable.

## 7.9. Other matters

- 7.9.1. Interested parties have referred to the provision of affordable housing. No affordable housing is proposed. The proposed accommodation are smaller units and, inherently, are likely to be cheaper for a resident to buy or rent, but in the context of the definitions that are applicable to the assessment of planning applications, none of the accommodation would be affordable housing.

## 7.10. Planning Balance – Benefits and Harm

- 7.10.1. 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.
- 7.10.2. The development would result in significant harm to the character and appearance of the site and surrounding area due to the scale, form, and appearance of the proposed building. Therefore, it conflicts with policies CP4, DM14 and DM16. Moreover, whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, DM14 and DM28 of the Local Plan. Therefore, while the proposal aligns with certain policies of the Local Plan, including ST3, DM1, and DM2, the development plan as a whole indicates that planning permission should be refused.
- 7.10.3. 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.”*

- 7.10.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development.

- 7.10.5. However, proceeding on the basis that this could easily be resolved if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether 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

- 7.10.6. The proposed development is within the built-up area boundary and is located within an accessible town centre location. However, this is cited above as justification to mitigate other shortcomings of the proposal and, as such, it is considered that this factor only carries a little weight. The proposal would boost housing supply to the extent of three additional residential properties which can carry significant weight as can the fact that the proposal would represent the use of previously developed land. These benefits are, however, moderated by virtue of the small scale of the proposal. Moreover, in conjunction with the construction and subsequent occupation, there would be a small economic benefit arising from the proposal, which can be afforded a little weight.

#### Harm (excluding the impact on protected habitats for the reason set out at 7.10.5)

- 7.10.7. The development would result in significant harm to the character and appearance of the site and surrounding area due to the scale, form, and appearance of the proposed building. This harm carries substantial weight in the planning balance.

#### Balance

- 7.10.8. Excluding the impact on protected habitats for the reason set out at 7.10.5 and applying the 'titled balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the visual impact of the development and the associated conflict with paragraphs 131 and 135 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal.
- 7.10.9. The proposal is, therefore, contrary to the NPPF when taken as a whole.

#### **7.11. Conclusion**

- 7.11.1. For the reasons given above, the development plan indicates that planning permission should be refused and there are no other material considerations, including the NPPF, which indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of poor design and visual impact and due to the lack of a SAMMS contribution.
- 7.11.2. 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.

## 7.12. **Recommendation**

### 7.12.1. Refuse for the following reasons.

1. The proposed development, by virtue of the bulk and scale of the resultant building and the introduction of an incongruous crown roof form, would result in a visually discordant and unsympathetic addition that fails to respect the architectural integrity of the host building and its adjoining neighbour, thereby detracting from the character and appearance of the site and the locality. As such, the proposal is unacceptable and contrary to policies CP4, DM14, and DM16 of the Swale Borough Local Plan 2017, which seek to ensure high-quality design that responds positively to local context and reinforces local distinctiveness, as well as the design objectives of the National Planning Policy Framework (NPPF)
2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, DM14, CP7 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



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**PLANNING COMMITTEE – 11th September 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 – 6 Lawday Avenue, Eastchurch, Sheerness, Kent ME12 4BJ**

**PINS Decision: Appeal Allowed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Planning permission was refused, retrospectively, for the erection of a fence at the front and side of the application site. The main issue was the visual impact of that fence the locality. The Inspector found that the provision of fencing was not unusual in a residential setting and, by virtue of the limited height and extent of the fence, it was considered that the development would not be prominent or incongruous. The removal of permitted development rights for fences, the openness of the existing frontages of the properties with the area and the 'uncharacteristic' visual impact were not found to be reason to find the proposal. The appeal was, therefore, allowed.

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- **Item 5.2 – A299 Thanet Way, Hernhill, Kent, ME13 9EL**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

The application sought advertisement consent for an internally illuminated digital hording sign and the main issue was the effect of the development on visual amenity. The Inspector identified that the area already features numerous signs, illuminated and non-illuminated and other brightly coloured canopies and features. However, it was identified that these all related to uses at the wider site, as opposed to this proposal which was for generic advertising. The size of the signage was identified to be considerably larger than other signs and this would not have been mitigated by the proposed additional soft landscaping. The proposal was found to be an unexpected, overly unduly intrusive feature in its setting. The benefit of transitioning from 'paste and paper' adverts and an example from 400 miles away were not considered to be reason to reach a different view. The visual impact was therefore considered to be harmful and the appeal was dismissed.

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- **Item 5.3 - Ivy Pham House, 123 Marine Parade, Sheerness ME12 2BX**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Planning permission was sought for a three bedroom dwelling. The main issues were the application of flood risk policies, the impact on highway safety and the impact on designated habitat sites. In relation to the last of these issues, whilst the appellant indicated that they would make the SAMMS contribution, it had not been received and had not been secured and, therefore, the impact on habitats was found to be a reason to object.

In terms of flood risk, the failure of the sequential test was found to be in conflict with policy and reason to object to the proposal. The content of the Flood Risk Assessment and undertaking an exception test was not reason to reach a different decision. Moreover, whilst it was noted that an earlier permission had been granted, that had not been the subject of the sequential test and, as that permission had expired, it was not considered to be determinative.

In relation to highway safety, since the previous application, the ownership of a parcel of land had changed hands and was no longer available to provide the visibility splays that are needed to enable the provision of safe access. The Inspector identified that inadequate visibility splays would be likely to be provided and insufficient evidence had been provided to demonstrate that safe access to and from the site could be achieved.

The Inspector undertook a planning balance assessment and concluded that the harms significantly outweighed the benefits arising from housing supply and minor economic benefits. The appeal was, therefore, dismissed.

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- **Item 5.4 – 34 Court Tree Drive, Eastchurch, Kent, ME12 4TR**

**PINS Decision: Appeal Allowed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Planning permission was refused, retrospectively, for the erection of a fence and gate at the front of the application site. The main issue was the visual impact of that fence the locality. The Inspector found that whilst the fencing is not frequently replicated elsewhere in the locality, the modest height of the enclosures and visual permeability of the site meant that the structures “integrate effectively within the streetscene.” It was identified that there was one comparable fence within the locality and, as such, the development respects the established character of front boundary treatments in the area and does not appear visually intrusive or unsympathetic in its context. The appeal was, therefore, allowed.

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- **Item 5.5 – Vanity Farm Camp, Leysdown Road, Leysdown, Kent, ME12 4LN**

**PINS Decision: Appeal Dismissed****Committee or Officer Decision : Delegated Refusal****Observations**

A condition of planning permission SW/11/1608 restricts the timing when accommodation can be occupied at the site, being only from 1<sup>st</sup> March to 2<sup>nd</sup> January the following year. This application sought permission to remove the condition and, therefore, enable year round occupation. A request to consider the proposal on the basis of an 11.5 month restriction was not accepted as it was considered that this would prejudice the assessment of the proposal by others. A temporary permission was, however, considered.

In this case, the impact of the proposed amendment on designated habitat sites was considered to be unacceptable. It was contested that a SAMMS payment was not required given the pre-existing use but the Inspector found that there would be an increase in residential use and, in turn, this needed to be mitigated. In the absence of the contribution being secured, it was considered that the proposal would be likely to have a significant effect on the habitat site.

In terms of character and appearance, the Inspector stated that *“even with quite a low level of occupancy, the appeal scheme would result in some increases in activity, some additional traffic, lighting in chalets, and also potentially some increased use of lighting within the park. This all might have a limited discernibility above those from local residents, the limited sites with year-round occupation, streetlamps, businesses and other buildings. Nevertheless, there would be some adverse effects upon the character of the area during this traditionally quieter and darker time of the year.”* A Written Ministerial Statement that was applicable in the terms of the Covid-19 pandemic and the Council's Interim Park Homes Policy carried little weight in the Inspector's considerations. Similarly, other sites, earlier breaches of planning control and other comparable matters put forward by the appellant did not lead the Inspector to a different view.

The circumstances and requirements of individuals were considered by the Inspector who found that the interference with the rights of affected individuals are proportionate and necessary, and the wider community or public interest having regard to the conflict with development plan policy objectives of preventing adverse effects upon local character, and preventing in LSEs upon habitats sites in breach of the Regulations, is not outweighed by the qualified rights under Articles 1, 8 and 14.

The appeal was therefore dismissed.

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- **Item 5.6 – Units 1 & 2 Parsonage Farm, Seed Road, Newnham, Kent, ME9 0NA**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Appeal Against Non-Determination**

**Observations**

The application was described as a change of use to residential and the demolition of industrial units to enable the construction of four houses. The absence of a SAMMS payment and the failure to mitigate the impact of the development on habitat sites was a ground of objection. Moreover, the Inspector found that insufficient justification had been provided for the loss of the existing employment uses and it was concluded that the site was not well-located for access to services and facilities by non-car modes of transport. The proposal was therefore contrary to Policy ST3 for both of these reasons. Although an outline application, it was found that the development would inevitably harm the character and appearance of the area and fail to conserve or enhance the Kent Downs National Landscape and it was found that it had not been demonstrated that the proposal would be able to accord with the Council's policies that relate to character and appearance and, in particular, the KDNL.

No objection was raised on the grounds of the impact on protected species or the impact on heritage assets and the proposal was found to be acceptable in a number of other respects. However, the identified harms were considered to outweigh the benefits which included the supply of housing, drainage and BNG benefits, a reduction of anti-social behaviour and energy generation. The appeal was, therefore, dismissed.

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- **Item 5.7 – Redcot, Bell Farm Lane, Minster-on-sea, Kent, ME12 4JB**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Outline planning permission was sought for a dwelling. Whilst the location for the proposed development was found to be acceptable in most respects, the unjustified location of the development within a Coastal Change Management Area was considered to conflict with Policy DM23. The proximity of the site to a potential caravan park was considered to make it likely that residents of the proposed dwelling would be subjected to unacceptable disturbance from vehicle movements. In this regard, it was noted that the use had ceased but could be re-instated and so that had to be the basis for the assessment.

No objection was raised on the grounds of the impact on the character and appearance of the area or on the setting of nearby heritage assets. Moreover, the access and parking arrangements were considered to be likely to be found acceptable and as such, noting that the application was submitted in outline, this was not a reason for the Inspector to object to the proposal. It was also considered that the statutory requirement to achieve BNG would ensure compliance with local plan policy DM28.

A planning balance was considered in light of the housing supply benefits of the proposal. Moreover, the personal circumstances of the appellant and the requirements

of the Public Sector Equality Duty were considered. However, the identified harms were considered to outweigh the benefits of the proposal and, as such, it was considered proportionate and necessary to dismiss the appeal.

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- **Item 5.8 – 51 Parsonage Chase, Minster-on-sea, Kent, ME12 3JX**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Planning permission was sought for a detached bungalow. The effect of the development on the living conditions of neighbouring residents at 5 Tysoe Court and 49A, 51 and 53 Parsonage Chase was the main issue. In this regard the Inspector concluded that, *“due to the proposed dwelling’s height and mass and the limited separation between the proposed dwelling and no 5’s rear elevation, the proposal would have a harmful enclosing effect on no 5. The proposed dwelling would appear visually dominant and overbearing from no 5’s garden and rear-facing rooms. Whilst I note the change in ground levels between the site and no 5, I do not consider this would adequately mitigate the adverse effects on outlook.”* Moreover, it was found that *“the proposed dwelling would be very close to the boundary with no 49A. There would be a separation distance of just 5.75m between the proposed dwelling and no 49A’s end elevation, which contains the main kitchen window. In addition, the proposed dwelling would be close to no 49A’s modest garden, including its patio area. Through its height, siting close to the shared boundary, and scale and mass, the dwelling would appear bulky and imposing from no 49 and its garden.”* Moreover, the proposed access was considered to cause noise and disturbance to the detriment of the residents of 51 and 53.

The benefits of housing supply (one dwelling) and small environmental and economic benefits were found to be clearly outweighed by the harms. Therefore, the appeal was dismissed. The impact on habitat sites was not considered given the overall outcome.

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- **Item 5.9 – Land at Honeysuckle Drive, Minster-on-Sea, Sheerness, Kent, ME12 3RE**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Planning permission was sought for a pair of three bedroom detached dwellings with associated developments including garages and the main issues were the impacts on the provision of open space and highway convenience.

The site, which had been a construction compound, was approved and secured as open space under the terms of the Harps Farm, Thistle Hill Way development and, whilst the applicant considered that it should not be considered as open space due to it being enclosed with fencing, the Inspector disagreed and concluded that the protection set out within Policy DP17 is applicable. The Inspector considered that the site would be suitable for use as natural or semi-natural greenspace and that, if provided as had been intended, it would be a useful and desirable open space of benefit to local occupiers and

the area. A quantitative assessment of open space provision was undertaken and it was concluded that there was not sufficient open space within the area to consider that the site was surplus to requirements.

In terms of highway convenience, it was noted that the proposed garages were of inadequate width and therefore, it was likely that cars would be parked within the highway. It was considered that this could reduce the space for turning and cause obstruction and waiting traffic. This was not considered to be unsafe, but inconvenient in way that was contrary to Policy DM7 and the Council's parking standards.

A planning balance exercise was undertaken with limited weight being afforded to the limited housing supply benefit and moderate weight being afforded to landscaping and biodiversity benefits. The proposal being acceptable in other respects weighed neutrally and the harm to highway convenience was only given limited weight. However, significant weight was given to the loss of open space and this was considered to be reason to conclude that the appeal should be dismissed.

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- **Item 5.10 – 22 East Street, Sittingbourne, ME10 4RT**

**PINS Decision: Appeal Allowed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Planning permission was sought, retrospectively, for a rear dormer with the main issue being the effect on the character and appearance of the area and the Sittingbourne Conservation Area.

A dormer had been approved before and, whilst Officers considered that the enlarged dormer would be visually harmful, the Inspector found that the height was comparable to that which was previously approved and the additional width did not prevent parts of the primary roof from visible at either side. Moreover, rows of tiles above the eaves would remain. Therefore, it was concluded that the dormer, which would be 'broadly set within the body of the rear roof slope' would integrate with the character and appearance of the surrounds, including the Conservation Area. The proposal was therefore considered to accord with the development plan.

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- **Item 5.11 – Moat View, Church Lane, Newington, ME9 7JU**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Planning permission was sought for 'a new build disability accommodation annexe and minor landscaping works.' The effect on the character and appearance of the area, the setting of the Grade I listed St Mary's Church and Newington Church Conservation Area were the main considerations.

The two storey dwelling was considered to represent development where none currently exists and it was noted that it would be highly visible from Iwade Road and also visible

from other private vantage points and the grounds of the church. The proposal was considered to have an urbanising effect, thereby causing harm to the transition from Newington to the countryside. This harm was considered to be contrary to the NPPF and policies ST1, ST3 and DM24 of the local plan. The mitigation afforded by existing landscaping was not considered to be able to be relied upon to overcome this harm.

Having assessed the special interest and significance of the abovementioned heritage assets, the Inspector found that the proposal would fail to preserve the setting of the church and harmfully urbanise the conservation area. The proposal was therefore considered to be contrary to the statutory requirements and it was considered that public benefits did not outweigh the identified harm. The impact on other heritage assets was considered to be acceptable. However the harm identified to heritage assets was considered to represent a strong reason for refusal and, as such, the ‘tilted balance’ was disengaged.

The personal circumstances of the applicant were considered with due regard being had to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. However, it was considered that it has not been demonstrated that the accommodation could not have been proposed in a manner that did not cause the identified harm and the PSED was not, therefore, considered to be a factor of sufficient weight to outweigh the identified harm.

Overall, the proposal was considered to be contrary to the development plan and planning permission was, therefore, refused.

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- **Item 5.12 – 24 Athelstan Road, Faversham, Kent, ME13 8QL**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision : Delegated Refusal**

**Observations**

Permission was sought for a replacement single storey rear extension, a side extension, a rear dormer with a Juliet balcony, rooflights, the removal of a chimney and a replacement pedestrian access gate. The impact on the character and appearance of the host dwelling and the Faversham Conservation Area (CA) were the main issues.

The extension, by virtue of its scale, roof design and side window facing onto the footpath, was considered to represent a bulky and dominant addition that would appear incongruous and discordant. The Inspector state that *“Collectively, the proposal would harm the building’s architectural integrity, disrupt the terrace’s rhythm, and harm the character and appearance of the CA.”*

The proposed dormer was said to be a *“dominating feature and overwhelming [of] the original form and proportions of the roof. Its scale, bulk, and the incorporation of a Juliet balcony would introduce an intrusive and uncharacteristic high-level feature, harmful to the host building’s architectural balance.”*

Whilst of limited visibility from Athelstan Road and it was noted that matching materials would be used, the extensions were identified to be visible from a public footpath and, from there, they would appear overbearing and visually dominant, thereby harming the character and appearance of the Conservation Area.

Other examples of development from the surrounding area were not considered to be grounds to find this proposal acceptable and the public benefit of improved accommodation was not considered to outweigh the harm to the heritage asset. Moreover, criticism of the Council relating to the use of external consultants, the publicity of the extension of the Conservation Area and the time taken to determine the application were not considered to be determinative.

Therefore, the proposal was found to be contrary to neighbourhood plan and local plan policies and the Council's SPG and the appeal was dismissed.

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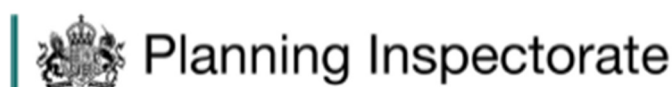
## PLANNING COMMITTEE – 11th September 2025

## 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 Decision

Site visit made on 18 June 2025

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2025

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**Appeal Ref: APP/V2255/D/25/3364221****6 Lawday Avenue, Eastchurch, Sheerness, Kent ME12 4BJ**

- 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 Darren Drinkall against the decision of Swale Borough Council.
  - The application Ref is 25/500365/FULL.
  - The development proposed is installation of timber fence to part front and side boundaries.
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### Decision

1. The appeal is allowed and planning permission is granted for installation of timber fence to part front and side boundaries (retrospective) at 6 Lawday Avenue, Eastchurch, Sheerness, Kent ME12 4BJ. The permission is granted in accordance with the terms of the application Ref 25/500365/FULL, dated 26 January 2025.

### Preliminary Matters

2. As the development has been undertaken, I have dealt with the appeal on the basis that it involves an application for retrospective permission.

### Main Issue

3. The main issue is the effect of the fence that has been erected on the character and appearance of the street scene.

### Reasons

4. The appeal property is a modern detached two storey dwelling within a residential estate of similar property types of individual design and appearance.
5. Policy CP4 of *Bearing Fruits 2031 – The Swale Borough Local Plan (2017)* requires high quality design that is appropriate to its surroundings. Policy DM14 of the Local Plan sets out a number of development criteria, including that proposals should be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.
6. Properties in Lawday Avenue and surrounding streets have either open front boundaries or frontages that are enclosed by hedges. More generally, front gardens are well-planted, which together with the hedge boundaries gives the residential setting a pleasant, verdant character and appearance.
7. I note that a condition imposed on the original permission for residential development of the estate effectively removes permitted development rights for the

Appeal Decision APP/V2255/D/25/3384221

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erection of means of enclosure to the front of properties, in the interests of the character and appearance of the area.

8. The front boundary to No 6 is largely open and while it is not planted but block-paved, this openness reflects the general character and appearance of the street scene and wider area. The fence that is visible within the street scene runs along the shared boundary with the neighbouring property's front garden and a short section runs along a limited part of the overall front boundary. The fence is of close-boarded timber construction and, therefore, the type of enclosure that is typically found in residential settings such as this. The limited extent and height of the fence, together with its design and materials, result in it not being a prominent or incongruous feature within the street scene.
9. I acknowledge the concern that the fence is uncharacteristic by contrast with the majority of properties with natural front boundaries in the form of hedges. However, the overall openness of No 6's frontage combined with the limited extent of the fence means that the contrast with the prevailing character and appearance is not significant and, therefore, not sufficient to result in material harm to the street scene.
10. I have had regard to the representations both in support of and objecting to the proposal. These do not, however, raise any additional matters in relation to the main issue in this appeal that would lead me to reach a different overall conclusion.
11. Therefore, for the reasons given, I conclude that the fence that has been erected does not have a materially harmful effect on the character and appearance of the street scene. Consequently, there is no conflict with Policies CP4 and DM14 of *Bearing Fruits 2031 – The Swale Borough Local Plan*, as described.

### Conclusion

12. For the reasons given above, the appeal should succeed. As the development has been undertaken, the standard conditions concerning commencement and adherence to plans are unnecessary.

*J Bell-Williamson*

INSPECTOR



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## Appeal Decision

Site visit made on 25 June 2025

**by David Reed BSc DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State for Housing, Communities & Local Government

Decision date: 3<sup>rd</sup> of July 2025

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**Appeal Ref: APP/V2255/Z/25/3363570**

**A299 Thanet Way, Hernhill, Kent ME13 9EL**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Wildstone Estates Limited against the decision of Swale Borough Council.
  - The application Ref [24/505056/ADV](#), dated 26 November 2024, was refused by notice dated 14 March 2025.
  - The advertisement proposed is the erection of 1 x internally illuminated digital hoarding sign.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the visual amenity of the area.

### Reasons

3. The proposal is for a large 48-sheet size internally illuminated digital hoarding sign facing the northeast bound carriageway of the A299 between Brenley Corner and Whitstable. The A299 is a fast dual carriageway running through an essentially rural area but the appeal site lies adjacent to a service area which comprises a petrol filling station with convenience store, jet wash/electric vehicle charging area, roadside hotel and coffee shop building. On the opposite side of the dual carriageway lies another petrol filling station and coffee shop building together with a large industrial type building. The hoarding would show a series of static displays on rotation with its illumination set to standard industry levels both during the day and at night.
4. The digital hoarding sign would be sited on the grass verge immediately ahead of the northeast bound service area adjacent to the junction with Highstreet Road where currently a wide, low level, non-illuminated display is erected. In addition to this there are numerous illuminated and non-illuminated displays related to the various commercial premises on both sides of the road including corporate logos and brightly coloured canopies and pole signs relating to the two petrol stations which are open and thus lit 24 hours a day.
5. However, these advertisements essentially relate to the roadside businesses concerned. There are no 48-sheet size displays of general advertising of the nature proposed which would be unique along this section of the A299. Whilst the digital hoarding would not exceed the height of nearby buildings, it would be considerably larger than the other advertisement displays nearby and

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

Appeal Decision APP/V2255/Z/25/3363570

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improved landscaping, whilst welcome, would not mitigate its visual impact. As an essentially rural road with only occasional roadside facilities along its length, the proposal would be seen as an unexpected, overly prominent and unduly intrusive feature in its setting. The site is not suburban in character as claimed by the appellant.

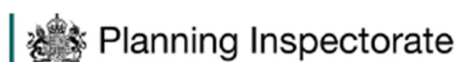
6. The gradual transition nationwide of 48-sheet billboards from paste and paper to digital displays and the overall reduction in the number of displays as part of this is appreciated but the example sites shown in the appellant's statement are exclusively in urban settings. Although the appellant claims there are a number of similar sites nationally that have gained consent, the only example provided is that at Main Street, Newmains, North Lanarkshire, over 400 miles away. Furthermore, that consent involved the reduction of four 48-sheet displays to two.

### **Conclusion**

7. For these reasons the proposal would cause significant harm to the visual amenity of the area, the relevant test under the advertisement regulations. It would conflict with Policies CP4, DM14 and DM15 of the Swale Borough Local Plan 2017 which require proposals to be appropriate to their surroundings, of a scale sympathetic to the location and for advertisements to minimise harm to amenity. It would also conflict with Paragraph 141 of the National Planning Policy Framework which opposes poorly sited advertisements.
8. Having regard to the above the appeal should be dismissed.

*David Reed*

INSPECTOR



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## Appeal Decision

Site visit made on 2 July 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> July 2025

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Appeal Ref: APP/V2255/W/24/3356302

Ivy Pham House, 123 Marine Parade, Sheerness ME12 2BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Miss Ivy Van against the decision of Swale Borough Council.
  - The application Ref is 22/505772/FULL.
  - The development proposed is Erection of three-bedroom detached dwelling and associated amenities.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Miss Ivy Van against Swale Borough Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are:
  - whether or not the proposal is compliant with policies in respect of flood risk;
  - the effect of the proposal upon highway operation and safety; and,
  - the effect of the proposal upon designated habitats sites.

### Reasons

#### *Flood risk*

4. Policy DM21 of the Swale Borough Local Plan (2017) (the SBLP) requires that proposals accord with national planning policy and practice guidance and avoid inappropriate development in areas at risk of flooding. Paragraph 170 of the National Planning Policy Framework (2024) (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
5. Framework paragraphs 172 and 173 require the application of a sequential approach to locating development to avoid, where possible, flood risk to people and property. Framework paragraphs 174 and 175 explain the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source, now and in the future, and that development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding.

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Appeal Decision APP/V2255/W/24/3356302

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6. The Planning Practice Guidance explains that avoiding flood risk through the sequential test is the most effective way of addressing risk, as it places the least reliance on measures like flood defences, warnings and property resilience. Even where a Flood Risk Assessment (FRA) shows a scheme can be made safe for its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied<sup>1</sup>.
7. While the appeal site is currently protected by tidal defences, it is within Flood Zone 3, so is deemed at high flood risk now or in the future. The previous permission<sup>2</sup> on the site expired in March 2024<sup>3</sup>, and there is no indication it was commenced, and I could see nothing at my visit to lead me to an alternative view. Therefore, this appeal scheme would result in a new dwelling and occupiers in Flood Zone 3, increasing the risk of flooding to people and property.
8. As no sequential test is provided and there is insufficient evidence to demonstrate there are no other appropriate sites reasonably available in areas with a lower flood risk, the sequential test is not satisfied. The appellant's FRA sets out the Framework policy that development should only be allowed in areas at risk of flooding where, in the light of an FRA, and the sequential and exception tests as applicable, demonstration of certain scheme specific criteria are addressed (paragraph 181). Therefore, the use of resistance, resilience, and other measures do not overcome the need to first, correctly address the sequential test.
9. The Council has explained its change in approach to the lapsed scheme and there is no evidence demonstrating that its subsequent approach and justification, is in principle, incorrect. The Environment Agency's absence of objection appears to be in respect of the residual risk in the FRA only. The FRA seeks demonstrate the new house (but not the whole appeal site and development) would be safe for its lifetime, which does not address the sequential test.
10. The previous permission, community, social and economic and other benefits outlined, compliance with some Framework objectives and policies such as ST1 and ST3 of the SBLP, flood resistance and resilience measures are material considerations, and have relevance in applying the exception test. However, Framework paragraphs 177 and 179 explain that the exception test is applied, after having applied the sequential test. The matters advanced by the appellant do not obviate, or outweigh, the need to address the sequential test, which is a fundamental tenet of national and development plan flood risk policies.
11. Therefore, for the reasons set out, the proposal is not compliant with policies for flood risk. It conflicts with Policy DM21 of the SBLP as a whole, and Framework paragraphs 170 and 172, the relevant provisions of which are set out above.

#### *Highway safety*

12. The previously permitted scheme showed the visibility splays across the front gardens and driveways of the neighbouring Nos 123 and 125 Marine Parade, either side of the appeal site. At that time, my understanding is the appeal site owner also had control of No 123, so the owner had control of the western splay not within the highway, and so could secure compliance with splay standards.

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<sup>1</sup> Ref. Paragraph: 023 Reference ID: 7-023-20220825.

<sup>2</sup> Ref. 19/503267/FULL.

<sup>3</sup> Para 5.13 of the Appellant's Appeal Statement.

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Those plans showed a significant incursion over No 123, but there was a much more limited incursion over the front of No 125 to the east.

13. This scheme alters the point of access and alignment of the splays. I see no reason to conclude pedestrian visibility splays could not be achieved. However, to the east the 2.4m x 43m vehicular splay line shows a greater incursion over the front garden of No 125 than the previous scheme. As the appeal site is now under separate ownership to No 123, the appellant does not have control over the land necessary for the westerly splay. If it was not possible to see over the privately owned land within the drawn splays either side, the actual splays would be markedly narrowed, and visibility of oncoming traffic would be at much-reduced sight stopping distances.
14. At my visit the closest fence panel to the highway at both neighbouring properties was quite low fencing, but that they are no higher than 0.9m is unclear. Even if they were, the eastern splay included a wide, open driveway, with a van parked, illustrating that an absence of development does not mean a splay is guaranteed. The western splay included fencing, a driveway, a wall, and vegetation of a height well above 0.9m, obstructing visibility to the nearby bend. The plans illustrate 2.4m x 43m above 0.9m splays expected by the Highway Authority (HA), but all indications are that the splays that could be secured would be very short of that.
15. This new access with the potential for rather narrow splays, has clear potential to result in user conflicts, inhibit the flow of traffic, and be prejudicial to highway operation and safety. Though my visit can only represent a brief snapshot in time, I observed quite a frequent traffic flow. Given the highway alignment, extent of double yellow lines and absence of parked cars on them, vehicles appeared to be travelling close to the 30mph speed limit. This adds to my concern.
16. There is no substantive flow and speed survey, or analysis of technical guidance, to demonstrate standards should be relaxed, and if so, to what specification, and that the splays would meet this. I accept that there appeared to be a few driveways relying upon neighbouring land for visibility (e.g. No 125) and/or may have been obstructed (e.g. No 123) and no data is provided demonstrating previous accidents. However, the below standard splays did not appear reflective of prevailing arrangements along this part of Marine Parade, and from what I observed, does not of itself justify adding this below standard access point.
17. While being a scheme for only a single dwelling, given the splays that can be assured, it is not demonstrated this scheme implications would not be severe or unacceptable. Though the Council imposed a pre-occupation Grampian-style condition upon the previous permission, I have no substantive assurance any such similar condition has any prospect of securing safe and satisfactory splays.
18. Therefore, for the reasons set out, it is not demonstrated the proposal would not be prejudicial to the operation of the highway and highway safety. This conflicts with SBLP Policy DM14 which requires development achieves safe vehicular access. It also conflicts with paragraph 115b) of the Framework, which states it should be ensured that safe and suitable site access can be achieved for all users.

#### *Habitats sites*

19. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require that where a plan or project is likely to result in a likely

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- significant effect (LSE) on a designated habitats site, a competent authority is required to make an appropriate assessment of its implications on the integrity of the designated site, in view of its conservation objectives. Any LSEs from a scheme need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
20. The appeal site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site. These sites provide important habitats for wintering, migratory and breeding waders, seabirds, and waterfowl (the qualifying features). Their conservation objectives are to maintain or restore their integrity, by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of the qualifying features, and the distribution of the qualifying features within the site.
  21. New homes within this proximity of the SPAs are likely to lead to increased visits and recreational use by occupiers, with activities such as walking, dog walking, cycling and jogging that can disturb the qualifying features<sup>4</sup>, constituting LSEs upon them. This scheme would result in an additional dwelling and occupiers in a proximity to the habitats sites where it has been identified there would be likely to be resultant visits, disturbance and LSEs upon the qualifying features of the habitats sites, which is a matter the appellant does not dispute.
  22. A strategic package of measures to mitigate LSEs are outlined by the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. It requires a costed per dwelling contribution to fund the mitigation package for each dwelling, which must be secured before permission can be granted. The appellant is willing to enter a financial agreement, but no such agreement is before me.
  23. The Council holds a payment for the lapsed consent, but it is well below the current mitigation cost. I have no evidence to demonstrate it was index linked to reflect the current mitigation cost and would do so at the time of delivery. I also have no guarantees it would be legally secured against this appeal scheme, such that as the competent authority, I have certainty it would be used only to deliver mitigation for this specific scheme, and at the time it needs to be delivered.
  24. In consequence, applying the precautionary principle, as the competent authority I do not have sufficient certainty the mitigation is secured, will be delivered in full, and would adequately mitigate LSEs upon designated habitats sites. The appeal scheme makes no other provision to mitigate the LSEs. In consequence, I cannot be satisfied the development makes adequate provision to mitigate the LSEs, and so maintain or restore the integrity of the habitats sites, so would fail to adhere to their conservation objectives.
  25. Imperative reasons of overriding public interest do not exist and it is not demonstrated there are no alternative solutions, or that other adequate measures are secured and will be provided. Section 63(5) of the Regulations states the competent authority may agree to a plan or project, only after having first ascertained that it will not adversely affect the integrity of habitats sites, so this precludes the proposal from proceeding. Therefore, it would not be appropriate or acceptable to address this matter by conditions.

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<sup>4</sup> Section 2 of the Phase I Bird Disturbance Report by Footprint Ecology (July 2012).

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26. For the reasons set out above, I cannot be certain the appeal scheme would not have LSEs upon designated Habitats sites, which is in conflict with the aims of Policies ST1, DM14 and DM28 of the SBLP. These require proposals conserve the natural environment and apply international, national and local policies, and regulations for areas designated for their biodiversity importance. It would also conflict with Framework paragraph 193a) which states that if significant harm to biodiversity cannot be avoided, then planning permission should be refused.

#### Planning Balance

27. The appeal scheme would result in a small temporary economic benefit during construction, and once complete a small on-going spend in the local economy. It would be consistent with policies to make a more effective use of land and deliver homes. Even if the Council had an acute shortage of housing supply and delivery, the contribution of this single dwelling would be a modest benefit. This scheme might be regarded as resulting in an overall limited positive benefit to character and appearance, and there might be some limited scope for overall gains in biodiversity, landscaping and drainage provision. On the above basis, overall, the benefits of the proposal attract moderate weight in favour of the scheme.
28. Were I to agree the scheme would, or subject to imposing planning conditions could, be compliant with policies and standards in respect of matters such as the location of development, the living conditions of future and neighbouring occupiers, flood resilience, renewables, resource and energy efficiency measures, parking provision and refuse storage and collection, these would all be neutral matters.
29. The proposal conflicts with a fundamental aspect of development plan and Framework policies in respect of flood risk, which attracts significant weight against the scheme, so is matter that alone, outweighs all the benefits of the appeal scheme. However, I also cannot be certain the appeal scheme would not be prejudicial to the operation of the highway and highway safety, which is an important matter. That I cannot be certain the scheme would not result in LSEs upon designated habitats sites, attracts substantial weight against it. Overall, the benefits of the development are significantly outweighed by the policy conflicts and harm that would result. Moreover, section 63(5) of the Regulations precludes the scheme from proceeding. Therefore, the appeal should not succeed.

#### Conclusion

30. The proposed development would be contrary to the development plan read as a whole, the Framework read as a whole, and the Regulations. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Mr D Szymanski*

INSPECTOR

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## Costs Decision

Site visit made on 2 July 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> July 2025

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**Costs application in relation to Appeal Ref: APP/V2255/W/24/3356302**

**Ivy Pham House, 123 Marine Parade, Sheerness ME12 2BX**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Miss Ivy Van for an award of costs against Swale Borough Council.
  - The appeal was against the refusal of planning permission for Erection of three-bedroom detached dwelling and associated amenities.
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. Parties in planning appeals normally meet their own expenses. However, Paragraphs 16-028-20140306 and 16-030-20140306 of the Planning Practice Guidance (the PPG) advise that, irrespective of the outcome of an appeal, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Paragraph 16-049-20140306 of the PPG states that authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. This includes preventing development which should clearly be permitted, and not determining similar cases in a consistent manner.
4. The appellant considers the Council has behaved unreasonably because of the length of time it took to determine the application which was clearly similar to the dwelling approved on the appeal site, and based upon that permitted scheme, the appellant had no reason to believe the appeal application would be refused. During the determination period the permission lapsed. However, the Council refused the application based upon the same policies for flood risk and highway matters under which the previous scheme was found acceptable, effectively introducing new reasons for refusal.
5. From what is before me, the application was not determined until around 18 months after its submission. The full timeline of events during the determination period and content of correspondence is unclear. However, I have noted the amended plans and various consultation responses from the Highway Authority (HA), suggesting discussions took place on highway matters to resolve some of the reasons for HA objections. Though this was not ultimately possible in respect of vehicle visibility.
6. If a Local Planning Authority does not determine similar cases in a consistent manner, then it should have clear reasons for doing so. In respect of the access,

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the change in its location and land forming part of a splay no longer being in the same ownership as the appeal site, are material changes to the situation from when the previous application was assessed. For reasons set out in my decision letter, I cannot be satisfied this proposal would not be prejudicial to highway operation and safety. Therefore, the Council has not behaved unreasonably in respect of highway matters.

7. In respect of flood risk, there have been no material changes in circumstance to the appeal site situation. The Council cites an appeal decision letter<sup>1</sup> as a material consideration that post-dates the previous permission, justifying a departure from that decision in respect of the approach to flood risk policies. Though that decision is over 3 years old, key aspects of the policies cited and referred to by the Council are carried into the latest iteration of the National Planning Policy Framework.
8. The reason the Council refused the application are fundamental matters of national and development plan policy that need to be appropriately addressed and/or balanced in the determination of any application. As set out in my decision letter the matter of the sequential approach has not been satisfactorily addressed, and there are not matters advanced that outweigh it, so the Council has not behaved unreasonably in respect of its overall decision on this matter.
9. The appellant implies they were not aware of the Council's flood risk concerns for some time, and the appellant has provided a copy of an email sent by the Council in May 2024 expressing concerns in respect of flood risk. Were this to have been the first time the appellant was made aware of the Council's concerns, it might be well arguable that this constitutes unreasonable behaviour.
10. I have sympathy that the appellant's permission has lapsed during the Council's determination of the appeal application. However, it was within the appellant's gift to appeal against the non-determination of the appeal application after the statutory period expired. Moreover, even were an appeal to have lodged then it would seem highly likely the matter of flood risk would need to have been addressed, as well as highways matters and the Conservation of Habitats and Species Regulations 2017. Therefore, as these matters would have needed to have been appropriately addressed, I cannot conclude there has been unnecessary or wasted expense incurred by the appellant in the appeal process.

#### Conclusion

11. Therefore, for the reasons set out above, unreasonable behaviour that has resulted in unnecessary or wasted expense in the appeal process, has not been demonstrated, so an award of costs is not warranted.

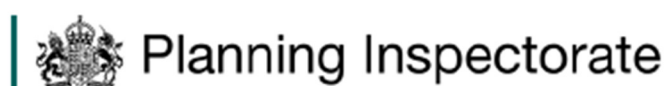
*Mr D Szymanski*

INSPECTOR

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<sup>1</sup> Ref. APP/V2255/W/21/3277228.

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## Appeal Decision

Site visit made on 11 June 2025

by P H Wallace BSc (Hons) DipMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2025

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Appeal Ref: APP/V2255/D/25/3362937

34 Court Tree Drive, Eastchurch, Kent ME12 4TR

- 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 Tony Bridger against the decision of Swale Borough Council.
  - The application Ref is 25/500299/FULL.
  - The development proposed is a new front fence and gate on front boundary.
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### Decision

1. The appeal is allowed and planning permission is granted for a new front fence and gate on front boundary at 34 Court Tree Drive, Eastchurch, Kent ME12 4TR in accordance with the terms of the application, Ref 25/500299/FULL, and the plans submitted with it.

### Preliminary Matter

2. The planning application, which is the subject of this appeal, has been submitted retrospectively and at the time of my site visit, I was able to see the fence and gate in situ. While the fence and pedestrian gate have been implemented in accordance with the submitted plans, the main gate is a single 5-bar type rather than the double-leaf design proposed. In these circumstances, I am required to deal with the appeal on the basis of the submitted plans.

### Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

4. The appeal site comprises a detached dwelling situated along an access road within a residential estate characterised by similarly designed dwellings occupying generous plots with large front gardens and private driveways. The overall character is one of openness. This is partly due to the prevalence of open front boundaries, although some frontages also incorporate soft landscaping, hedging, and occasional boundary treatments such as walls and fences. These elements, while altering the established pattern in places, have generally been implemented in a manner that remains sympathetic to the streetscape and do not detract from the overall appearance or character of the area. This applies within the immediate vicinity of the site where a more enclosed character exists due to planted boundaries and some physical screening.

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5. The development has introduced a dark-painted, close-boarded timber fence along the property's frontage, with a horizontal timber barred gate and matching pedestrian gate. The submitted plans indicate a fence height of 1.25m.
6. While the specific design of the frontage treatment is not replicated elsewhere locally, the use of timber and a dark colour lends the fence and gates a natural and recessive appearance. Its modest height and visual permeability allow the structure to integrate effectively within the streetscene. Observations during my site visit confirmed the fence height aligns with the adjacent hedge frontage and remains lower than a solid timber fence on the other neighbouring front boundary. On this basis, it is considered the proposal respects the established character of front boundary treatments in the area and does not appear visually intrusive or unsympathetic in its context.
7. Accordingly, the proposed development does not harm the character and appearance of the area and therefore accords with Policies CP4 and DM14 of the Swale Borough Local Plan (2017). These policies seek to ensure, amongst other things, that development has a high quality design which is sympathetic and appropriate to the location.

#### **Other Matters**

8. The Council is satisfied the development will not cause harm to the living conditions of neighbours and will not adversely impact on-site parking provision or highway safety. I find no substantive evidence which leads me to a different conclusion.

#### **Conditions**

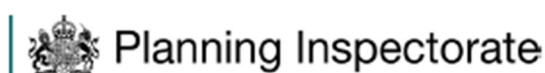
9. The Council has suggested imposing a condition which requires the proposal to be carried out in accordance with the submitted drawings. As the development has already been constructed, I consider there is no need to impose this or any other conditions.

#### **Conclusion**

10. For the reasons given above I conclude the appeal should be allowed.

*P H Wallace*

INSPECTOR



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## Appeal Decision

Site visit made on 2 July 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16<sup>th</sup> July 2025

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**Appeal Ref: APP/V2255/W/24/3356382**

**Vanity Farm Camp, Leysdown Road, Leysdown, Kent ME12 4LN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mrs Sharon Noble against the decision of Swale Borough Council.
  - The application Ref is 22/505752/FULL.
  - The application sought planning permission for Caravan Camp without complying with a condition attached to planning permission Ref SW/11/1608, dated 7 March 2012.
  - The condition in dispute is No 2 which states that: No chalets shall be occupied except between 1<sup>st</sup> March and 2<sup>nd</sup> January in the following calendar year, and no chalets shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet owners within the application site, stating that:
    - (a) The chalets are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
    - (b) No chalet shall be used as a postal address; and
    - (c) No chalet shall be used as an address for registering, claiming or receipt of any state benefit; and
    - (d) No chalet shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rents Acts 1968 and 1974; and,
    - (e) If any chalet owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the expiry of their current lease or licence.
- On request, copies of the signed agreement(s) shall be made available to the Local Planning Authority.
- The reason given for the condition is: In order to prevent the chalets from being used as a permanent place of residence, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal application seeks the variation of condition 2, by deleting the part that states 'except between 1<sup>st</sup> March and 2<sup>nd</sup> January in the following calendar year', which would allow year-round occupation subject to the other restrictions set out in conditions 2, 3 and 4 and the accompanying schedule. The application does not seek a material change of use or permanent residential accommodation.
3. The appellant has suggested a temporary permission to allow the effects of the proposal to be fully considered. Based upon the advice in paragraph 21a-014-20140306 in the Planning Practice Guidance, I see no reason why I could not grant a temporary permission were I minded. I have had regard to this in determining this appeal.

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4. The appellant has proposed the appeal proposal is amended to propose occupation for 11½ months of the year. The Procedural Guide<sup>1</sup> states the appeal process should not be used to evolve a scheme, and it is important that what is considered by an Inspector is essentially the same scheme considered by the LPA and by interested parties at the application stage. The amendment would conflict with the wording of the proposed change on the application form, and a number of persons consulted upon the scheme have expressed strongly held views for and against the proposal, based on a year-round occupancy as per the application.
5. In consequence, were I to determine the appeal upon the amendment I have concerns that it would deprive interested parties who were entitled to be consulted on the amended application, of the opportunity to make any representations that, given the nature of the changes, they may have wanted to make on the amended scheme. Therefore, I have determined appeal based on the scheme determined by the Council and which I can be assured that interested parties are fully aware of, and have had the opportunity to comment upon.

#### **Main Issues**

6. The main issues are:
  - the effect of the proposed variation of condition 2 upon designated habitats sites;
  - the effect of the proposed variation of condition 2 upon the character of the area, and securing and monitoring an appropriate standard of accommodation; and,
  - in the event of any harm or policy conflicts being identified in respect of the above issues, whether or not there are any other considerations that justify the proposed variation.

#### **Reasons**

##### *Designated habitats sites*

7. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require where a plan or project is likely to result in a likely significant effect (LSE) on a designated habitats site, a competent authority is required to make an appropriate assessment of its implications on the integrity of the designated site, in view of its conservation objectives. Any LSEs need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
8. The appeal site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.

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<sup>1</sup> Paragraph 16.1 of the Procedural Guide: Planning appeals – England (2025).

9. Studies have found that increased visits and recreational use by occupiers within proximity to the habitats sites, with activities including walking, dog walking, cycling, and jogging are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting<sup>2</sup>, constituting LSEs upon them. Though the magnitude of LSEs would be dependent upon occupancy rates, this appeal proposal would result greater occupation of up to 151 chalets, for either a temporary or permanent period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with LSEs, upon the qualifying features.
10. A strategic package of measures to mitigate LSEs from recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy<sup>3</sup>. It is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate LSEs, the contributions must be secured, and mitigation undertaken prior to occupation. The Council's view is this proposal should contribute one third of the total per unit cost, because it seeks occupation for an additional third of the wintering bird season.
11. The appellant contests the appeal proposal conflicts with development plan policies cited, because it is not an act of development, and also that it does not conflict with the NE advice<sup>4</sup> and the Council's website<sup>5</sup>, which refer to development and/or housing. Plan policies refer to 'development proposals', and the criteria refer to 'projects'. This proposal is to alter a development, and is an independent project, so the policies are applicable to this appeal proposal. The NE advice is clear that the underlying research is that all activities likely to result in additional recreational pressure, should be addressed with mitigation<sup>6</sup>, and it refers to relevant Regulations<sup>7</sup> which any project needs to comply with.
12. In response to this appeal NE has confirmed its view this proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. I attribute the views of NE, as the Statutory Nature Conservation Body significant weight. In-light of the research and evidence, increased occupation from this proposal would be likely to result in increased visitors and LSEs. There is not evidence demonstrating LSEs can be ruled out, beyond all reasonable scientific doubt. Any increase in the occupation period and a temporary consent would still mean there are some LSEs, and so proportionate mitigation needs to be secured.
13. There is no planning obligation, or other means of securing mitigation before me, to prevent LSEs. The scheme makes no other provision to mitigate the LSEs and maintain the integrity of the habitats sites. In consequence, this proposal does not make adequate provision to mitigate the LSEs, and maintain or restore the integrity of the habitats sites, so would fail to adhere to their conservation objectives.
14. Imperative reasons of overriding public interest do not exist, and it is not demonstrated there are no alternative solutions, or that other adequate measures are secured. Section 63(5) of the Regulations states the competent authority may agree to a plan or project, only after having first ascertained that it will not adversely affect the integrity of habitats sites. Therefore, it would not be appropriate or

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<sup>2</sup> Phase I Bird Disturbance Report by Footprint Ecology (July 2012).

<sup>3</sup> The Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy (22 July 2014).

<sup>4</sup> Letter from Natural England dated 6 January 2015.

<sup>5</sup> Appendix H of the Appellant's Appeal Statement – Strategic Access Management and Monitoring Strategy extract.

<sup>6</sup> Ibid, Page 2, 4<sup>th</sup> bullet point.

<sup>7</sup> Ibid Footnote 3, Page 1.

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acceptable to address this matter by conditions, and, in-light of the legislative duties this matter precludes the proposal from proceeding.

15. For the reasons set out above, the appeal scheme would have LSEs upon designated habitats sites. This is in conflict with Policies CP7 and DM28 of the Swale Borough Local Plan (2017) (the SBLP), which seek that it is ensured that there are no LSEs upon designated habitats sites and where there is any adverse effects, permission will only be granted where there are no less ecologically damaging alternatives, there are imperative reasons of overriding public interest and damage can be fully compensated.

*Character and accommodation*

16. Policy DM5 of the SBLP sets out criteria for permitting a 10-month occupancy, which the appeal site, like many others on Sheppey currently benefits from. It also states that in order to ensure a sustainable pattern of development and to protect the character of the countryside, permission will not be granted for the permanent occupancy of chalets. The supporting policy text explains that limited occupation also affords the opportunity to retain a period of tranquillity in rural and other areas, and the Council refers to a nearby dismissed appeal<sup>8</sup> citing respite to an area and residents. Reading the policy in-light of the supporting text, I take this part of the policy to be applicable to proposals seeking permanent availability for occupancy.
17. Policy DM5 is consistent with National Planning Policy Framework (2024) (the Framework) objectives in respect of protecting local character, and seeks to strike a balance with other competing policy objectives such as in respect of economic development and tourism. Though DM5 is now of some age, I cannot conclude that updates to the Framework, and the other wider societal and economic changes referred to, result in this policy being out of date.
18. The site is outside designated development plan settlement boundaries in the open countryside, accessed via the main road to the Rural Local Service Centre of Leysdown. It is adjacent and close to other park and caravan sites in east, north and north westerly directions, as well as what appeared to be a residential institution, and a few dwellings, with largely open fields to the south and west.
19. I have noted the appellant's views that the settlement boundaries are out of date with reference to changes to the Framework, and buildings and uses just outside the designated built-up area. However, having considered these, it does not lead me to the view the site should be deemed to be within the settlement boundary. The appeal site is a verdant site with many single storey buildings and sizeable greenspace areas, being of established holiday park character. It is located close to other parks and buildings, but is also close to open fields on two sides. In my judgement its character relates more closely to the local rural area, and not the established built-up area.
20. While the occupation may be limited during the additional period, weather conditions may limit outdoor site activity, and the site appears well-managed, it is unclear how the appellant can ensure negligible activity. Notwithstanding nearby facilities, it would seem inevitable that some vehicular travel to larger centres would be needed. Moreover, whether by walking, cycling, public or private vehicles, travelling to local services and facilities would still create some additional activity.

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<sup>8</sup> Ref. 3165477.

21. Considering what has been put to me, even with quite a low level of occupancy, the appeal scheme would result in some increases in activity, some additional traffic, lighting in chalets, and also potentially some increased use of lighting within the park. This all might have a limited discernibility above those from local residents, the limited sites with year-round occupation, streetlamps, businesses and other buildings. Nevertheless, there would be some adverse effects upon the character of the area during this traditionally quieter and darker time of the year.
22. While the effects these would be limited, these would be likely to be perceptible from a limited part of Leysdown Road, and land, rights of way and properties that can gain some visibility of the site where its boundaries are not fully screened by vegetation or closed boundary treatments. Though the Council has referred to effects upon the settlement of Leysdown, given the distance and intervening development, the effects of this appeal alone would be likely to be very minor.
23. The two previous temporary year-round consents<sup>9</sup> were considered against the need to support the operation of parks in-light of the pandemic and a Written Ministerial Statement (WMS) as material considerations that outweighed policy conflicts. The WMS placed a very high importance upon initially ensuring the movement of people was limited, then economic recovery. Given the WMS is no longer in force, and occupiers may have exercised more caution with certain movements and activities due to restrictions and the virus, I cannot regard those decisions as demonstrative there would be no adverse effects from this scheme.
24. The Interim Park Homes Policy has not been through a full public consultation or an examination, and it is primarily aimed at proposals for residential park homes. This proposal is not for such a use, and it is unclear how chalets comply with criteria 3, 4 and 6<sup>10</sup>. As a material consideration, its existence attracts limited weight.
25. Of the appeal cases in the Council's appeal statement<sup>11</sup>, most were related to the removal of conditions to allow permanent residential occupation, involved caravan sites, and some differing issues to those in this appeal. Though there is some discussion of Policy DM5 and the effects upon the character of the area, the cases are of limited relevance.
26. Though the appellant refers to some approvals<sup>12</sup> and some sites operating without restriction, very little of the details and circumstances to allow a direct and fully reasoned comparison are provided. It appears all but one approval was for small schemes and lawful development certificates. The scheme granted planning permission was for temporary construction workers dwellings. So none seem directly comparable this proposal, which must be considered on its own merits.
27. The appellant informs me the Council has been knowingly allowing a site to be occupied year-round for 7 years, indicating a lack of appetite to enforce against its own policies. Similar is advanced in respect of a retrospective application<sup>13</sup>. Whether or not the Council has ascertained breaches, is gathering evidence, or contemplating action is unclear. Therefore, this matter attracts limited weight.

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<sup>9</sup> Refs. 20/505526/FULL and 21/505773/FULL.

<sup>10</sup> Latest version of Policy dated 17 June 2020.

<sup>11</sup> Refs. APP/V2255/W/21/3287086, APP/V2255/W/21/3274740, PP/V2255/W/21/3279116, APP/V2255/W/21/3279125, APP/V2255/W/21/3277288.

<sup>12</sup> Refs. 21/502544/LAWPRO, 15/509233/LDCEX, 18/503870/LAWPRO, 19/502979/LAWPRO, 17/505693/LDCEX, 18/505980/FULL.

<sup>13</sup> Ref. 22/505778/FULL.

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28. Presently, when the site is closed to occupants, gaining a reasonable idea of compliance with closure requirements might be through a simple visual inspection, which would not be possible were this appeal allowed. However, the conditions would still require copies of agreements upon request. Requesting and checking would be more onerous, but I am not satisfied the Council has demonstrated the amended condition would be either unenforceable, or unreasonably onerous such that monitoring compliance would be practically impossible.
29. While each appeal proposal must be treated on its individual merits, I can appreciate the Council's concern that approval of this proposal could be used in support of such similar schemes. I consider this is not a generalised fear of precedent, but a realistic and specific concern because of the number of parks and units of occupation upon them, and from previous applications and appeal decisions, there appears to be a clear desire to pursue extended opening.
30. On its own the effect of this appeal scheme would be limited. However, allowing it would make it more difficult to resist further planning applications for similar proposals, and their cumulative effects could be greater and widespread. The potential for further harm to the character of the area described above attracts some increased weight. However, imposing a greater burden upon the Council to regulate and monitor compliance with consents, attracts limited weight.
31. Nevertheless, for the reasons set out above, were condition 2 to be varied as sought by the appellant, the amendments would result in adverse effects upon the character of the area. This would conflict with Policy DM5 of the SBLP, the relevant provisions of which I have set out above. It would also conflict with Policies ST3 and ST6 of the SBLP insofar as they seek to protect the tranquillity of the countryside and quality of the landscape.
32. Though the Council's first reason for refusal refers to National Planning Policy Guidance, their evidence does not refer me to a specific paragraph or section. Therefore, I have not concluded against the guidance.

*Other considerations*

33. Schengen arrangements following exit of the EU require non-EU visitors to leave a Schengen country after 90 days in any 180-day period, which the appellant states causes difficulties for a small number of chalet owners. The appellant refers to the occupiers of one chalet as including someone with severe disabilities, for whom disruption should be minimised, and familiarity is important, and the combination of Schengen with the two-month closure, has caused hardship. There are other occupiers who have difficulty with travel due to health and age-related problems, or are classed as vulnerable, and the 12-month occupation would give more flexibility, including for family arrangements and saving costs.
34. Articles 1, 8 and 14 of the European Convention on Human Rights as transposed into the Human Rights Act 1998 (the HRA), set out rights in respect of the protection of property, respect for private and family life, and prohibition of discrimination. Articles 1 and 8 are qualified rights rather than absolute rights. In respect of Article 14, there is some overlap with the Public Sector Equality Duty (PSED) under s149 of the Equality Act 2010 (the EA). There are occupiers of the appeal site that have protected characteristics under the EA.

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35. Under the PSED, I must have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; and advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. I must also have regard to the need to minimise the disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
36. Though there have been opportunities to provide substantive evidence during this written appeal process and the appellant has also made additional submissions, which I have accepted, the details set out and justifications are limited. The appellant has described the current situation as resulting in an excessive burden for a handful of owners. However, it has not been demonstrated that they are prevented from family or private life or would lose property or homes.
37. In respect of Article 14 and the PSED, allowing the appeal would result in some benefits and convenience for those with protected characteristics over the existing established arrangements. This includes individuals and their relatives who have lifestyles that involve travel and residency change from Schengen countries to the UK but do have difficulties with environmental change and for whom disruption should be minimised.
38. However, the appeal site units are not permitted to be a sole or main residence. Occupiers are allowed to Schengen countries for 90-days, but the appeal site closure period is only around two months, giving chalet occupiers sufficient scope to legally reside in a Schengen country over the site closed season, by some margin of time. It is not demonstrated how dismissing this appeal would in practice exacerbate adverse effects in-light of Schengen restrictions and the conditions that would remain in place at the appeal site in respect of residence, or that the effects of dismissing this appeal cannot be managed.
39. Allowing this appeal would advance equality for those with protected characteristics meeting the aims of the PSED, and contribute to protecting those with protected characteristics from discrimination and reduce disadvantage. However, its benefits in this regard are quite limited at best. It is also not demonstrated they the circumstances justify removing the condition for 151 chalets, which would appear a disproportionate response to address matters raised.

#### **Planning Balance**

40. The Council has not substantiated its case that the scenario would result in harmful effects upon local infrastructure or services. Indeed, it would appear the on-going spend and use of various services and facilities by chalet occupiers would be likely to result in potential economic and social benefits. It may improve the vitality and viability of local services and facilities, including some important ones, all of which gain support from some Framework and development plan policy objectives. The potential of up to 151 units being occupied for the additional proportion of the year, attracts moderate weight in favour of the appeal scheme.
41. I have legislative duties under the PSED to which I give due regard which are important principles, and rights under Article 14. The effects of maintaining the current situation would appear quite limited, and the benefits would appear to be quite limited, which do not appear to justify changing the restrictions upon 151 chalets. However, I attribute the need advance equality for those with protected characteristics, meeting the aims of the PSED, and the contribution to protection

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from discrimination and disadvantage, moderate weight. Overall, the benefits of the appeal proposal attract moderate weight in its favour.

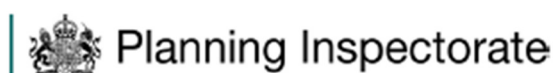
42. The proposal conflicts with development plan policies to protect the tranquillity and character of the area, which attracts limited weight overall against the appeal scheme. That the appeal scheme would result in LSEs upon the SPAs is a very important matter that attracts substantial weight against it. It means the tilted balance in Framework paragraph 11d) does not apply, but more fundamentally, section 63(5) of the Regulations precludes the scheme from proceeding.
43. In balancing the qualified rights of the occupiers against the legitimate interests of other individuals and the wider community or public interest, the closure of the site for 2 months constitutes an established, and limited disruption, where occupiers lose the use of their property so would have to reside at their main home or elsewhere. Its effect upon protection of property and respect for private and family life appear to be limited.
44. I conclude on balance, the interference with the rights of affected individuals are proportionate and necessary, and the wider community or public interest having regard to the conflict with development plan policy objectives of preventing adverse effects upon local character, and preventing in LSEs upon habitats sites in breach of the Regulations, is not outweighed by the qualified rights under Articles 1, 8 and 14. I therefore conclude it is proportionate and necessary to dismiss the appeal.
45. Overall, the benefits of the development are significantly outweighed by the policy conflicts and harm that would result. Moreover, section 63(5) of the Regulations precludes the scheme from proceeding. Therefore, the appeal should not succeed.

### **Conclusion**

46. The proposal conflicts with the development plan read as a whole and the Regulations. There are no material considerations, including the policies of the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

*Mr D Szymanski*

INSPECTOR



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## Appeal Decision

Site visit made on 2 July 2025

**by Mr D Szymanski BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18<sup>th</sup> July 2025

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**Appeal Ref: APP/V2255/W/24/3356329**

**Units 1 & 2 Parsonage Farm, Seed Road, Newnham, Kent ME9 0NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Mr Tom Allsworth of MediChem Properties Ltd against the decision of Swale Borough Council.
  - The application Ref is 23/501832/OUT.
  - The development proposed is described as Change of use to C3 residential, demolition of existing industrial units and construction of four houses.
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### Decision

1. The appeal is dismissed, and planning permission is refused.

### Preliminary Matters

2. The application is made in outline with all matters reserved for future consideration save for access. Plans indicating the layout, scale, appearance and potential for landscaping are marked as being indicative only. Therefore, layout, scale, appearance and landscaping are matters for future consideration in the event of permission being granted, so I have regarded them as indicative only.
3. The appeal is submitted due to the failure of the Council to give notice of its decision within the prescribed time-period. The Council subsequently advised it would have refused the application because it would have found the proposal outside a settlement and in conflict with policies, reliant upon car-borne journeys, resulted in the dilution of employment opportunities, harmful to the character and appearance of the area, harmful to designated habitats sites and that there was insufficient evidence it would not result in harm to protected species.
4. The above matters, in combination with the substantive reasoning in the Council's statement of case, including comments in respect of the setting of a listed building, having regard to my statutory duties, have informed the main issues below.

### Main Issues

5. The main issues are:
  - the effect of the proposal upon designated habitats sites;
  - whether or not the proposal is compliant with development plan policy for the loss of rural employment sites;

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- whether or not the proposal would be well-located for access by non-car modes of transport;
- the effect of the proposal upon the character and appearance of the area including the Kent Downs National Landscape;
- the effect of the proposal upon the setting and significance of the Grade II\* Listed Church of St. Peter and St. Paul;
- whether or not the proposal is consistent with policies for the location of new residential development; and,
- the effect of the proposal upon protected species.

## Reasons

### *Habitats sites*

6. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require where a plan or project is likely to result in a likely significant effect (LSE) on a designated habitats site, a competent authority is required to make an appropriate assessment of its implications on the integrity of the designated site, in view of its conservation objectives. Any LSEs need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
7. The appeal site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, and waterfowl (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
8. Studies have found that visits and recreational use by occupiers within proximity to the habitats sites, including activities such as walking, dog walking, cycling, and jogging, can disturb the qualifying features<sup>1</sup> constituting LSEs upon them. This scheme would result in new dwellings within a distance of the habitats sites where it is identified there would be likely to be increased visits by occupiers, with LSEs upon the qualifying features from recreational disturbance.
9. Strategic measures to mitigate LSEs from recreational disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy, based upon a costed per dwelling tariff to fund mitigation measures. To mitigate LSEs and be compliant with duties under the Regulations the contributions must be secured before permission can be granted.
10. The appellant does not dispute there would be LSEs and states a full willingness to enter a financial agreement. The Procedural Guide states an appellant must ensure that an Inspector receives an executed and certified copy of a planning

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<sup>1</sup> Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy by Footprint Ecology (July 2014).

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obligation at the time of making an appeal<sup>2</sup>. However, even at the time of determining the appeal, no planning obligation or other agreement is before me.

11. Section 63(5) of the Regulations states the competent authority may agree to a plan or project, only after having ascertained that it will not adversely affect the integrity of Habitats sites. Therefore, this matter cannot be addressed by planning conditions. As the competent authority were I to allow this appeal currently, there would be no mitigation secured. In consequence the appeal scheme does not make adequate provision to mitigate the LSEs, and so maintain or restore the integrity upon designated habitats sites.
12. The scheme makes no other provision to mitigate the LSEs and maintain the integrity of the sites. So, in the absence of appropriate mitigation being secured the appeal scheme would have LSEs upon the habitats sites and fail to adhere to their conservation objectives. Imperative reasons of overriding public interest do not exist and it is not demonstrated there are no alternative solutions, or that other adequate measures will be provided. Given the requirements of Section 63(5) of the Regulations as outlined, this precludes the proposal from proceeding.
13. For the reasons set out, the proposal would have LSEs upon designated habitats sites, in conflict with Policies ST1, DM14 and DM28 of the Swale Borough Local Plan (2017) (the SBLP). These require proposals shall conserve the natural environment and apply international, national and local planning policy, and regulations for areas designated for their biodiversity importance. It would also conflict with paragraph 188 of the National Planning Policy Framework (2024) (the Framework), which has similar objectives.

#### *Rural employment*

14. Policy DM3 of the SBLP explains that permission will not be granted for the conversion of rural employment sites to residential use where it would reduce the potential for rural employment and/or community facilities, unless it can be demonstrated the site has no demand for continued employment use or as a community facility, or that such uses would be unsuitable or undesirable. The supporting text explains that to demonstrate a lack of demand, evidence should include the results of marketing efforts for employment use<sup>3</sup>.
15. The site includes a main building with hardstanding areas, once serving as a fermentation and bottling facility. From the evidence, it appears that at some point in the last few years it had a micro-brewery tenant, who moved out due to the presence of asbestos. I could see the building is of corrugated fibrous cladding over a concrete plinth, currently being in some degree of disrepair.
16. Marketing evidence includes a letter from an estate agent, stating the site was marketed on the company website, major UK portals and to potential matches since November 2020, but no suitable tenants were found. Enquiries have been made by a few types of business, however, due to condition and location, no offers were presented. Evidence refers to issues such as asbestos, lack of washrooms, WC's, insulation and heating, meaning significant investment is required to bring the site to an acceptable standard, as well as a general lack of demand for this type of building in such a rural location surrounded by dwellings.

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<sup>2</sup> Paragraph 18.2.2 of the Procedural Guide: Planning appeals – England (2025).

<sup>3</sup> Paragraph 7.1.13.

17. In principle, some findings seem rational and have no reason to doubt the experience of the estate agent. However, the level of investment to address some of the issues is unclear. Moreover, to have a reasonable level of assurance of appropriate marketing so policy is met, details such as copies of the adverts, marketing periods, terms, and asking rent, are necessary. In their absence, it is not possible to definitively conclude the site has been marketed at a reasonable value for a reasonable period, for market conditions at the time. Though I am referred to evidence for previous 2016 and 2018 applications nearby, these were for different premises and uses, some years ago. So, that the Council permitted the applications, does not give adequate assurance the policy is met for this scheme.
18. Therefore, for the reasons set out above, it has not been demonstrated the proposal is compliant with development plan policy for the loss and conversion of rural employment premises. This conflicts with Policy DM3 of the SBLP, the relevant provisions of which I have set out above.

*Non-car modes*

19. The supporting text to Policy ST3 of the SBLP sets out a settlement hierarchy, having regard to their role, services, facilities and sustainability for hosting development, including the need to travel. Policy ST3 sets out the acceptability of development based upon the hierarchy. The appeal site is in the countryside defined as generally having limited or non-existent services but is close to Newham which is an 'other village' with built-up area boundaries in the hierarchy.
20. Other villages can have varying degrees of sustainability depending upon their services, facilities and public transport connections. Services and facilities in Newham appear to be very limited, comprising a church, public house, village hall, and outdoor exercise area. Though the bus to main settlements might not be a long journey, the Council and interested parties inform me it is of very limited frequency. Therefore, Newham could be defined as 'currently less sustainable' and it would seem accurate that the population typically would need to travel to meet many day-to-day needs.
21. The nearest settlements I visited of Eastling and Doddington had few facilities. Teynham, Lenham and Harrietsham appeared to have railway links but still quite limited overall services and facilities. Faversham and Sittingbourne were large settlements with more full public transport options and a good range of services and facilities, including for retail and leisure, and employment opportunities. However, the highway routes I travelled were quite narrow, with generally no streetlighting, footways and limited verges for refuge from traffic. Based upon what I saw and the evidence before me, walking, cycling and taking the bus to many facilities would not be regarded as particularly attractive or convenient.
22. Framework paragraph 110 recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. Nevertheless, and despite a greater tendency for home working and use of the internet, this scheme would be likely to result in occupiers being dependent upon private vehicle movements to meet most needs for day to day living, resulting in a significant number of private vehicle journeys and additional vehicular miles, which does weigh against the scheme.
23. Therefore, for the reasons set out, the proposal would not be well-located for access to services and facilities by non-car modes of transport. This conflicts with

the aims of Policy ST3 insofar it seeks to locate development in sustainable locations, as set out above. It would also conflict with the aims of Framework paragraph 8c) which seeks that proposals protect and enhance the environment through using natural resources prudently and minimising pollution.

*Character and appearance*

24. The site surrounds include the historic village area with historic and period buildings to the north and west, a converted taproom to the south, with planned more modern development to the east. Though primarily residential, the age, vernacular, and scale of buildings varies significantly within the visual context of the site. However, the generally spacious plot sizes, communal areas, and prevalence of trees and hedgerows result in a definable verdant and sylvan character, appearance and backdrop to the area.
25. This characterisation is to some degree referred to in the wider Doddington and Newnham Dry Valleys Character Area in the Kent Downs AONB (now National Landscape – KDNL) Landscape Character Assessment (2023) (LCA). It is described as including extensive mature oak and ash woodlands, a mixed land use of small to medium-scale orchards, widespread, and small-scale settlements with traditional vernacular building styles.
26. The site includes the concrete and corrugated building, a hardstanding apron and some vegetated features. Were the appeal site used for a commercial use again there may well be some parked vehicles, activity and vehicular movements. Though the site is reflective of that of a rural agricultural or commercial building, taking into consideration factors such as its scale, appearance, the surrounding character, landscaping, and its visibility, on-balance it makes a minor negative contribution to the character and appearance of the area and the KDNL.
27. The indicative plans indicate very generously proportioned dwellings, little building separation, strident plot ratios, buildings spanning most of the site width, a large car dominated and cluttered frontage, with little opportunity for landscaping. This would appear a formally set out car dominated, dense, dominant, and cramped development poorly related to its surrounds. It would be significantly and harmfully at odds with the character and appearance of the area and the KDNL.
28. I am mindful the submitted plans are indicative only and design related matters are reserved for future consideration, so there is scope for much reduced dwellings, some room for consequential layout changes and additional landscaping provision. Given the site as it exists, it may be designed so that four dwellings could be likely to, overall, constitute a limited intensification of development within the countryside and the use would not be at odds with the character of surrounding uses.
29. However, from the evidence before me, it is not explained or substantiated how four dwellings could be accommodated in a manner that could ensure a satisfactory layout, suitable plot ratios, pattern of development, or sufficient landscaping that would reflect the character and appearance of the surrounding area. Despite the site being quite well contained from the wider area, as a matter of planning judgement, while high quality schemes could reduce the adverse effects, the evidence leads me to the view the appeal scheme would still have some adverse effect upon the character and appearance of the area and the KDNL.

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30. Given the elevated nature of the site relative to Seed Road, the effects of the appeal scheme would be visible from a limited length of Seed Road in the vicinity of the appeal site and from some neighbouring properties to the north, east and southwest of the site.
31. For the reasons set out above, the proposal would be harmful to the character and appearance of the area and the KDNL. This would conflict with Policies ST3, CP4, DM14, DM24 of the SBLP. In combination and amongst other things these require development is of a high-quality design that is appropriate and responds to its surroundings, that it protects, conserves and enhances the character of the area, the countryside and distinctive qualities of the KDNL.
32. The proposal conflicts with paragraphs 139 and 189 of the Framework insofar it states that development that is not well designed should be refused where it fails to reflect local design policies, and great weight should be given to conserving and enhancing landscape and scenic beauty in national landscapes. I cannot conclude it could be suitably designed to comply with Policies SD3, SD8, LLC1 and LLC5 of the KDNL Management Plan, which require proposals protect, conserve, enhance, and do not detract from the special character and qualities, natural beauty and landscape of the KDNL and reflects the guidelines for the Doddington and Newnham Dry Valleys Character Area in the LCA.

*Church of St. Peter and St. Paul*

33. The appeal site is within the setting of the Grade II\* listed Church of St. Peter and St. Paul, a short distance to the north. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA) requires that special regard is had to the desirability of preserving the setting of a listed building or any features of special architectural or historic interest it possesses. I note contrasting views of the Council's planning officer and conservation adviser in this regard, and that the effect upon the church did not form a putative reason for refusal. Though I sought further views from the Council in this regard, none were provided.
34. The church dates from circa 1200, extended in the 14th century and extensively restored in 1868. Its special architectural and historic interest and significance is in its long multistage construction, evolution, exhibition of techniques and craftsmanship from various periods, its architectural composition integrating a variety of historic and ornate features, and its appearance and visual prominence as a high-status building. It includes a two-stage tower, spire, 15th and 19th century windows, a 14th century arcade, north and south chapels, monuments, other decorative and ornate internal and external features, flint elevations and wall.
35. The church is a high value heritage asset and prominent local landmark, with the spire designed to be seen in the local landscape and glimpsed above and between settlement buildings. Its setting contributes to its significance because it incorporates a variety of historic, period and more recent buildings that reflect the historic settlement the church served, the community it has been at the centre over history and its evolution. Its setting contributes positively to its significance.
36. The appeal site building is quite a sizeable simple building of limited visual and architectural merit. However, the site and building is reflective of historic rural land uses that have grown and evolved with the settlement over time. Boundary landscaping, the building set-back from the frontage and away from the church, and open hardstanding, means the layout does not unduly encroach upon or inhibit

important views of the church. Therefore, the appeal site contributes in a limited and largely neutral way to the significance and setting of the church.

37. The indicative scheme would increase the amount of buildings across the site. They would be closer to the church, enclose the setting to a degree, incorporate a quite formal densely developed, strident, car dominated and intense development, reflective of suburban development patterns. This would adversely affect the setting and significance of the church, particularly visible from Seed Road.
38. At the reserved matters stage there is the scope for reduced dwellings, layout alterations, moving the bulk and massing of buildings away from the church, incorporating high quality local materials, and a significantly improved landscaping scheme. Were it designed appropriately, it may be possible for four dwellings to ensure an overall neutral effect upon the setting and significance of the church.
39. On the above basis of suitably high-quality reserved matters submissions, I consider the appeal scheme could preserve the setting and significance of the church and therefore, not conflict with the aims of section 66 (the LBCAA), which I have set out above.

#### *Location*

40. Though quite close to the settlement boundary, the site is part of more loosely knit development outside the boundary in the countryside. Policy ST3 states proposals will not be permitted in the countryside unless supported by national planning policy, and they are able to demonstrate they 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. Given my findings in respect of the character and appearance of the area and the KDNL, it fails against the policy as a whole.
41. In respect of support by the Framework, the ST3 supporting text explains that proposals at such villages is not required to meet the SBLP housing target. It goes on to explain however, that windfall development could help meet local needs, improve the viability of services, but opportunities are likely to be limited both within and, exceptionally, when required, at the edges of built-up area boundaries. Paragraph 4.3.17 of the SBLP explains that development intended to support the vitality of existing communities should be accompanied by evidence to show how it will support the viability of existing services and/or demonstrate how its scale will bring new services to the community.
42. I note Framework paragraph 83 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The appellant refers to Framework paragraph 73 which recognises small and medium sized sites can make an important contribution to meeting requirements and be built out relatively quickly, and some use of local facilities and reduction of out commuting is inferred.
43. While there is very limited other evidence advanced in respect of paragraph 4.3.17, to demonstrate the scheme will maintain or enhance the vitality of local rural communities, were to accept there would be some inherent use of local facilities by future occupiers, such as the pub and community hall, then it is possible the scheme could be regarded as meeting this aspect of the policy.

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44. However, given my findings in respect of the character and appearance of the area and the KDNL, the proposal would conflict with policies for the location of new residential development taken as a whole, because it conflicts with Policy ST3 of the SBLP, the relevant provisions of which I have set out above.

#### *Protected species*

45. The Council's putative reason for refusal is specifically in respect of protected species, based upon an assertion of insufficient evidence to demonstrate the site does not provide a valuable habitat for them. In this regard SBLP Policy DM28 sets out an overarching objective that proposals conserve biodiversity and (Part B5) are accompanied by appropriate surveys to clarify constraints or requirements that may apply to development, especially where it is known or likely sites are used by species and/or contain habitats, that are subject to UK or European law.
46. The Council's objection also refers to the Framework, although no specific paragraph is mentioned. Paragraph 192, and footnote 68, refers to Circular 06/2005 in respect of statutory obligations for biodiversity. Paragraph 99 of the Circular explains that it is essential the presence or otherwise of protected species, and the extent that they may be affected is established before permission is granted, otherwise all relevant material considerations may not be addressed.
47. The site included a main building covered by some creeping flora, hardstandings, cypress and mixed hedgerows, some modest areas of ruderal vegetation, and generally younger trees and shrubs. I note the Council states the type of building is not known to be typically viable for habitat for bats and birds. The Council advances little to describe habitats of potential concern and the protected species it considers could be affected. I can see no reference to the Council having sought professional ecological advice to inform its view. Interested party representations refer in particular, Barn Owls, but I see no substantiating evidence the appeal site can provide a suitable nesting habitat for them.
48. In this context, from what is before me, there is very little evidence advanced by the Council to provide a clear understanding for the Council's objection, and it is not for me to speculate which ecological surveys may be appropriate. In consequence, I can only come to the view the Council has not made its case in this specific regard.
49. I conclude it has not substantiated that surveys are necessary, or that protected species are likely to be adversely affected by the development. Therefore, I find the proposal would not conflict with Policy DM28 of the SBLP, the relevant provisions of which I have set out above. In the absence of a specific policy reference, and my findings above, I do not find a conflict with the Framework.

#### **Other Matters**

50. The appeal site is within the setting of the Doddington and Newnham Conservation Area (DNCA). It is a large conservation area with a character, appearance and significance derived from the historic buildings and morphology of the settlements, the rural lane between the two, some large rural properties, parklands areas, mature trees, and the agricultural, well-vegetated rolling landscape.
51. The setting of the DNCA in the vicinity of the appeal site, contributes to its significance by virtue of providing a backdrop of generally quite low-key buildings on often generous plots with mature trees and hedgerows in the wider undulating

landscape, which is generally sympathetic to the DNCA. The appeal site is a small and quite enclosed part of the setting of the DNCA. Taking into consideration the scale and appearance of the site building, yard areas, vegetation, its rural appearance, and noting that it allows some limited visibility and appreciation of the DNCA, the appeal site contributes in a limited way to its setting and significance.

52. The extent of built development, its intensity, and layout shown on the indicative scheme, would be harmful to the setting and significance of the DNCA. However, with suitably high-quality schemes at the reserved matters stage, it appears to be possible the appeal scheme could, at best, ensure a neutral effect upon the setting and significance of the DNCA.
53. I have noted strongly held views in respect of issues such as, in particular, highway and access matters, parking, foul drainage, and the living conditions of neighbouring occupiers. However, as I am dismissing this appeal for other substantive reasons, I have not assessed these matters in further detail. Though some interested parties consider the appeal was made out of time, as an appeal against non-determination, I see no reason why this could be the case.
54. I note the appellant's frustration at some aspects of the application process including the length of time in which the Council did not ultimately determine the application. However, my consideration of this appeal scheme is upon its planning merits based upon the evidence before me.

#### **Planning Balance**

55. The appeal scheme would result in some moderate temporary economic benefits during construction. Upon completion there could potentially be some limited on-going spend in the local economy and support to services and facilities. The Council cannot demonstrate a 5-year housing land supply so the policies most important for determining the application are considered out of date, although the magnitude of the housing supply shortfall is unclear. Were it to be regarded as acute, the appeal scheme could be regarded as a significant benefit to supply.
56. It appears there is scope for an overall net gain in biodiversity, further landscaping provision, and some potential overall drainage benefits. However, there is no substantive evidence to suggest these would be anything other than limited benefits at best. There could be some benefits in terms of preventing anti-social behaviour. It is implied the dwellings would be carbon neutral and renewable energy generated, although were there to be a net benefit, it would appear likely to be a limited overall benefit. Overall, the benefits of the proposal are attributed significant weight in its favour.
57. The appeal scheme could result in an overall neutral effect upon setting and significance of a Grade II\* listed building and the setting of the DNCA. These would be neutral matters in the balance. Were I to agree the proposal would, or subject to suitably worded planning conditions could, be made compliant with policies and standards in respect of matters such as, the living conditions of future and neighbouring occupiers, archaeological matters, asbestos removal, highway access and parking standards, refuse and recycling storage and collection, sustainable design and construction, remediation of contamination were it present, these would be neutral matters. An absence of harm to protected species is also a neutral matter in the balance.

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58. I have found the appeal scheme would result in harm to the character and appearance of the area, and the KDNL. In particular great weight should be given to conserving and enhancing landscape and scenic beauty in national landscapes. The appeal scheme conflicts with development plan policy for the location of new development and has not demonstrated compliance with plan policies for the loss of rural employment sites. These attract significant weight against the scheme.
59. The appeal scheme would result a development that is dependent upon the use of private motor vehicles, which on-balance attracts moderate weight against the scheme. That the scheme would result in LSEs upon designated habitats sites attracts very substantial weight against it. In-light of the foregoing, in accordance with paragraph 11d) of the Framework, the application of policies that protect areas or assets of particular importance provide a strong reason for refusing the development, for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply.
60. Overall, the benefits of the development are significantly and demonstrably outweighed by the policy conflicts and harm that would result, and ultimately, section 63(5) of the Regulations precludes the scheme from proceeding.

#### **Conclusion**

61. The proposal would be contrary to the development plan read as a whole, the Framework read as a whole, and the Regulations. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Mr D Szymanski*

INSPECTOR



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## Appeal Decision

Site visit made on 15 July 2025

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2025

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**Appeal Ref: APP/V2255/W/25/3359815**

**Redcot, Bell Farm Lane, Minster-on-sea, 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 outline planning permission.
  - The appeal is made by Mrs Tracey Basanese against the decision of Swale Borough Council.
  - The application Ref is 24/503813/OUT.
  - The development proposed is outline application (with all matters reserved) for construction of 1no. three-bedroom four-person bungalow with off road parking for 2no. cars and a garden to the rear.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are:
  - Whether the proposed development would be in a suitable location, having regard to the local development strategy, including policies for coastal change;
  - Whether the proposed development would provide suitable living conditions for future occupants, with particular regard to noise and disturbance;
  - The effect of the proposed development on the character and appearance of the area, including the setting of Bell Farm Park House and Club;
  - The effect of the proposed development on highway safety, with particular regard to the provision of parking; and
  - Whether the biodiversity gain condition, as set out at Schedule 7A of the Town and Country Planning Act 1990 (TCPA) (as inserted by Schedule 14 of the Environment Act 2021) is capable of being successfully discharged.

### Reasons

#### *Whether in a suitable location*

3. The appeal site comprises an area of hardstanding and outbuildings situated at the front of a parcel of land known as Redcot Caravan Park, between Bell Farm Lane and the existing dwelling of Redcot.
4. The surrounding area includes a mix of permanent dwellings and tourist accommodation, including holiday parks. The wider landscape contains agricultural land and paddocks, and the coast lies beyond Redcot Caravan Park to the north. The site is therefore within a rural, coastal location.

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5. Policy ST1 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' (SBLP) requires development accord with the SBLP's settlement strategy. For the purposes of meeting the area's development needs, town centre regeneration, supporting services, and maintaining the hierarchy of centres, the settlement strategy at SBLP Policy ST3 directs growth to the main urban centre of Sittingbourne; secondary urban centres of Faversham and Sheerness and other urban local centres within the West Sheppey Triangle; and rural local service centres and other villages with built-up area boundaries.
6. The nearest settlement to the appeal site is Minster, an 'other urban local centre' within the West Sheppey Triangle. However, the site is physically separate from Minster's built area and therefore the proposed location would not be well-related to Minster's urban framework or strategic transport network, as required by Policy ST3. Therefore, the site would not be located to support the role and function of the Borough's urban centres.
7. The appeal site is outside the built-up area boundary of any settlement and is therefore in the countryside where Policy ST3 generally restricts development, unless supported by national planning policy and where it is demonstrated 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.
8. The site is surrounded by existing development and is not isolated. To promote sustainable development in rural areas, paragraph 83 of the National Planning Policy Framework (the Framework), states that housing should be located where it will enhance or maintain the vitality of rural communities. The Framework recognises that where there are groups of smaller settlements, development in one village may support services in a village nearby. However, the appellant suggests occupants would look to the urban local centre of Minster to access services and facilities, and it is not demonstrated the proposal would contribute toward the vitality of rural communities or support village services.
9. The site is within Erosion Zone 1 of the Coastal Change Management Area (CCMA), which is defined as land between the low water mark and the 50-year indicative erosion line. The site is therefore in an area identified as likely to be affected by physical changes to the coast.
10. Within Erosion Zone 1, SBLP Policy DM23 supports development that is directly related to the coast and less permanent in nature, construction and value. In addition, Policy DM23 requires proposals within the CCMA submit a Coastal Erosion Vulnerability Assessment (CEVA) showing the development will be safe throughout its planned lifetime and will not increase risk to life or property elsewhere without the need for new or improved coastal defences.
11. The proposed development is not of a type requiring a coastal location, and therefore the proposed use is not supported by Policy DM23. The appellant asserts the proposed dwelling would be sited further inland than the host property and thus would be at lower risk. However, the proposed development would increase the number of dwellings within the CCMA and therefore would increase the population and property at risk of coastal change.
12. The proposal seeks outline planning permission with all matters reserved, and I have been provided no evidence to suggest the proposed development would be

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anything other than permanent in both use and construction. No CEVA has been submitted and therefore the proposal fails to demonstrate the development would be safe over its lifetime and not increase risk to life or property.

13. The appellant suggests they would engage with coastal agencies and implement coastal erosion prevention to safeguard the proposed dwelling, such as sustainable drainage and landscaping. However, since I have not been provided full details of such measures, I cannot be certain of their efficacy in mitigating risk and ensuring the safety of the development and its surroundings.
14. As set out above the proposed development would not be located to support the role and function of the Borough's settlements or vitality of rural communities, and therefore SBLP Policy ST3 does not positively favour a development of this type in this location. However, Policy ST3 does not preclude development in the countryside where it demonstrates that it would contribute to protecting and enhancing its intrinsic value and beauty. I have assessed the proposal's effects on character and appearance below and conclude the proposed development would not harm the rural character of the area. Assessed against SBLP Policies ST1 and ST3, the proposal's effects would therefore be neutral.
15. Nevertheless, the proposed development would be located in the CCMA and would not be of a type requiring a coastal location. The proposal fails to demonstrate the development would be safe for its lifetime and would not increase risk to life or property elsewhere. Therefore, having particular regard to the local development strategy including its policies for coastal change, the proposed development would not be in a suitable location.
16. The proposal would conflict with SBLP Policy DM23 which limits development within the CCMA to reduce risk to people and development from coastal erosion.

#### *Living conditions*

17. The site comprises land within Redcot Caravan Park which has planning permission for the siting of 12 caravans. In addition, there is an existing dwelling within the caravan park site, known as Redcot.
18. The appellant indicates that the caravan park is no longer used for commercial purposes and serves only as a private residence, with the holiday park operations having ceased and caravans removed or repurposed for private storage. At time of my site visit, Redcot was occupied as a dwelling and the wider site did not appear to be in active commercial use as a caravan park.
19. The appellant suggests they intend to submit a planning application to change the use of the caravan park from commercial to residential use. However, I have been provided no details of any such application having been submitted or determined, nor any confirmation as to whether a change of use would be permitted.
20. Therefore, I cannot be certain that commercial activity has ceased permanently and that use of the site as a caravan park would not resume. I have therefore determined the appeal on the basis of its existing lawful use as a caravan park.
21. Redcot and the wider caravan park site are served by a single driveway access of concrete hardstanding with gates to Bell Farm Lane. The appeal site abuts the driveway and would be close to the gated access.

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22. The access would be used by occupants of Redcot and could be used by guests of up to 12 caravans for holiday accommodation which could lawfully be sited within the wider caravan park. Therefore, there is uncertainty regarding the intensity of the use of the driveway access through the caravan park site over the lifetime of the development.
23. The appellant indicates the proposed dwelling would incorporate soundproofing measures and be strategically sited to minimise noise exposure. However, insufficient information has been provided regarding the intensity of the use of the access and the noise that would be generated, or the insulating standards of such mitigation measures.
24. Consequently, the proposal fails to demonstrate that the occupants of the proposed dwelling would not be exposed to unacceptable noise from vehicles travelling along the caravan park's access. Therefore, having particular regard to noise and disturbance, I am not satisfied the proposal would provide suitable living conditions for future occupants.
25. The proposal would therefore conflict with SBLP Policy DM14 which requires development cause no significant harm to amenity.

*Character and appearance*

26. The surrounding area comprises a mix of development, including permanently sited static caravans, holiday park buildings, and traditional brick-and-mortar dwellings. There are a mix of plot sizes and types and heights of boundary treatments. The area is rural in character with an informal layout and comprises buildings and structures which are mainly single-storey height and modest scale.
27. The appeal site is within the existing boundaries of the wider caravan park and would utilise its gated access. The caravan park is enclosed by tall boundary treatments including fences and mature hedges. Therefore, the proposed dwelling would not encroach into the countryside, would not be sited in a visually prominent location, and would be generally well screened from public vantage points. Moreover, any views of the proposed dwelling would be experienced within the context of other built development, including dwellings.
28. Since details of the appearance, layout, landscaping, and scale of the proposed development comprise reserved matters, I have treated the layout shown on the proposed block plan as indicative. The site is of broadly rectangular shape and has an area of 327sqm. The parking area shown on the proposed block plan would be insufficient to accommodate three or more parking spaces, as required by the Council's parking standards. However, the submitted plans suggest the proposed three-bedroom dwelling would have a modest internal floor area of 75sqm, and I have been provided no details of any minimum standard for outdoor space.
29. Once parking spaces are accounted for, the remaining garden area would be relatively small. Nonetheless, the Council consider a garden area commensurate with the size of the dwelling could be accommodated within the site. Therefore, I am satisfied that a suitable layout could be achieved to accommodate the proposed dwelling and necessary infrastructure without appearing cramped and without harm to the area's rural character.

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30. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires I have special regard to the desirability of preserving listed buildings, their setting, or features of special architectural or historic interest which they possess.
31. Bell Farm Park House and Club is a grade II listed building. The building is a two storey, timber-framed weatherboarded hall house dating to the late-15<sup>th</sup> or early-16<sup>th</sup> century. It has hung sash windows with glazing bars, dormers in its tile roof, and a 17<sup>th</sup> century chimney stack with round-headed arcading. The north range dates to the 18<sup>th</sup> century and has red brick on the ground floor and tile hung above. There is a large, modern club extension to the ground floor. The building's significance is therefore derived from its historic and architectural interest.
32. The listed building is set back in its plot, behind established boundary treatments. A large, modern side projection with a long elevation and pitched roof obscures views of the building's historic features from Bell Farm Lane, with only the chimneys and part of the tiled roof visible above the height of the modern built form. Therefore, there are limited views of the listed building from the street.
33. The proposed dwelling would be wholly within the boundaries of the caravan park, enclosed by its existing boundary treatments and there is intervening modern built form between the appeal site and listed building. The physical and visual separation between the appeal site and listed building would prevent the proposed development from eroding the listed building's rural, isolated setting, and views of the listed building from public vantage points would not be materially affected.
34. There is uncertainty regarding the appearance, landscaping, layout, and scale of the proposed development since these comprise reserved matters. However, for the reasons set out above, I am satisfied the proposal would be capable of achieving a development that would not harm the character and appearance of the area and would preserve the listed building's significance.
35. Therefore, insofar as it can be determined within the parameters of the outline proposal, I am satisfied the proposal would comply with SBLP Policies ST1 and CP4 which together require proposals achieve good design through reflecting the best of an area's defining characteristics, retain and enhance features which contribute to local character and distinctiveness, and be well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.
36. In addition, the proposal would satisfy SBLP Policies DM14 and DM32 which require proposals conserve and enhance the natural and built environments taking in to account the desirability of sustaining and enhancing the significance of heritage assets, including the setting, and special interest of listed buildings.

#### *Highway safety - parking*

37. Bell Farm Lane has a narrow carriageway, a poor-quality road surface, no pedestrian facilities, and limited opportunity for on-street parking.
38. As discussed above, the parking area shown on the proposed block plan would be insufficient to accommodate three or more parking spaces, as required by the Council's parking standards. However, I have treated the layout shown on the proposed block plan as indicative at this outline stage. There would be opportunity to accommodate additional parking through revising the indicative layout.

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39. Therefore, I have no reason to consider the proposal would lead to shortfall in on-site parking or affect the efficient functioning of highway, and I am satisfied the proposal would not harm highway safety.
40. Subject to the submission of details of reserved matters, the proposal would be capable of complying with SBLP Policy DM7 which requires residential development provide appropriate provision of integrated vehicle parking, taking into account the type, size and mix of dwellings.

#### *Biodiversity Net Gain*

41. Biodiversity Net Gain (BNG) is a mandatory requirement of Schedule 7A of the TCPA. However, the proposal does not contain the minimum information required by Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 for the purposes of the statutory BNG condition. Therefore, the proposal does not demonstrate it would achieve at least a 10% increase in biodiversity value relative to the pre-development onsite habitat.
42. The statutory framework for biodiversity net gain involves the discharge of the biodiversity gain condition following the grant of planning permission. The determination of the Biodiversity Gain Plan (BGP) under this condition is the mechanism to confirm whether the development meets the biodiversity gain objective. Therefore, development cannot commence until the BGP is approved.
43. On this basis, the PPG indicates it would generally be inappropriate to refuse an application on grounds the biodiversity gain objective will not be met. Rather, decision makers must consider more broadly whether the biodiversity gain condition is capable of being successfully discharged<sup>1</sup>.
44. The site is surfaced with hardstanding, gravel and small outbuildings, and therefore is likely to be of limited existing habitat value. The appellant asserts that native plant landscaping would be provided to enhance biodiversity. However full details have not been provided so as to quantify any biodiversity enhancement.
45. Taking into account the site's low existing habitat value, I consider the biodiversity gain condition would be capable of being discharged. Consequently, whilst the proposal contains insufficient information for the purposes of the statutory BNG condition, this is not a reason to refuse planning permission.
46. Since the statutory BNG condition must be discharged prior to commencing development, I am satisfied the proposal would comply with SBLP Policy DM28 which requires development provide an overall net gain in biodiversity.

#### **Other Matters**

##### Presumption in favour of sustainable development

47. Whilst the written statements indicate the Council has 4.21 years supply of housing land, it is understood the Council's latest available data shows a supply of 3.98 years. The Council cannot demonstrate a five-year supply of specific, deliverable housing sites as required by paragraph 78 of the Framework.
48. In this circumstance, the provisions of paragraph 11(d) of the Framework are engaged. However, at 11(d)(i) the Framework indicates that permission should not

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<sup>1</sup> Planning Practice Guidance, Paragraph: 019 Reference ID: 74-019-20240214

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be granted where its policies that protect areas or assets of particular importance provide a strong reason for refusing the development. As set out at footnote 7 of the Framework, this includes policies relating to areas at risk of coastal change.

49. The proposed development would be in the CCMA and the requisite information to demonstrate the development would be safe over its planned lifetime and not increase risk to life or property elsewhere has not been provided. Consequently, the proposal would not accord with Framework paragraph 185, thereby conflicting with the Framework's policies that protect areas or assets of particular importance. Therefore, the presumption in favour of sustainable development would not apply.

#### Personal circumstances and Public Sector Equality Duty

50. As set out above, the proposal would not be in a suitable location and would not provide suitable living conditions for future occupants. The proposal would conflict with the development plan as a whole, and I attach substantial weight to these findings against the appeal.
51. The appellant is a disabled person with poor health and limited mobility and requires an accessible dwelling that would allow them to live safely and independently. The appellant indicates their current home offers poor accessibility and cannot be adapted to meet their needs.
52. It is therefore a positive consideration that the proposed dwelling would be constructed to an accessible standard to meet the needs of a disabled person. However, it is unclear why the appellant's accommodation needs could not be met by a suitable dwelling within the existing housing stock, either within the social sector or private housing market. It has not been demonstrated the construction of an additional dwelling at a plot adjacent to the existing dwelling is the only option available to the appellant, and the weight to be afforded to the construction of an accessible dwelling carries moderate weight.
53. However, in the absence of evidence to the contrary, through its location in the CCMA the proposed development would place future occupants, including a disabled person, at risk of the effects of coastal erosion and would increase risk to nearby properties and their occupants.
54. The risk to life which would be caused by this development arising from its location in the CCMA must be the decisive consideration. I have had due regard to the Public Sector Equality Duty (PSED) set out under s149 of the Equality Act 2010, but the risks caused by the proposed location outweigh its benefits in terms of eliminating discrimination against persons with the protected characteristics of disability, advancing equality of opportunity for those persons and fostering good relations between them and others. I conclude that it is proportionate and necessary to dismiss the appeal.

#### Appropriate Assessment

55. Natural England indicates that increases in residential accommodation in the proposed location may adversely impact the integrity of the Medway, Thames and Swale Estuary Special Protection Area and Ramsar sites through increased recreational disturbance.
56. Where a proposal is likely to have a significant effect on European sites, Regulation 63 of the Conservation of Habitats and Species Regulations 2017

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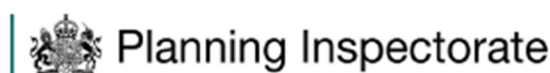
requires the competent authority to carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to give consent for the proposal. Since I am dismissing the appeal for other substantive grounds which result in conflict with the development plan, it is not necessary to address the proposed development's effects on European sites in further detail.

#### **Conclusion**

57. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

*E Dade*

INSPECTOR



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## Appeal Decision

Site visit made on 15 July 2025

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 July 2025

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**Appeal Ref: APP/V2255/W/25/3359007**

**51 Parsonage Chase, Minster-on-sea, Kent ME12 3JX**

- 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 Greg Sullivan on behalf of South Leas Developments against the decision of Swale Borough Council.
  - The application Ref is 24/501388/FULL.
  - The development proposed is erection of detached bungalow with associated parking.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. In addition to viewing the site from no 51 and public vantage points, during my site visit I viewed the site from the garden area of no 49A at the request of the occupant who had provided written comments in response to the application.

### Main Issue

3. The main issue in this appeal is the effect of the proposed development on the living conditions of occupants of dwellings, no 5 Tysoe Court and nos 49A, 51, and 53 Parsonage Chase, with particular regard to outlook and noise and disturbance.

### Reasons

4. The appeal site comprises garden land associated with no 51 Parsonage Chase. The host property is a detached bungalow in a long plot, within a row of four bungalows of similar form and scale.
5. The proposed dwelling would be sited behind no 51 at the end of its back garden. Beyond the site's rear boundary is no 5 Tysoe Court, a two-storey dwelling. The side boundaries adjoin dwelling plots for bungalows, no 53 to the south, and no 49A to the north. The appeal site is therefore enclosed by dwelling plots and the wider area comprises a mix of bungalows and two-storey houses and has a modern, suburban character.
6. The proposed dwelling would be single storey with a hipped roof. The eaves height would be 2.5m and the roof ridge height would be 5m. The proposed dwelling would therefore significantly exceed the height of the proposed 2m tall, close-boarded fence boundary treatments.
7. No 5's rear elevation faces the appeal site, and its small garden provides limited separation from the boundary. The proposed dwelling would be close to the

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- shared boundary, and at its shortest distance would be around 8.2m from no 5. Therefore, there would be limited separation between the dwellings.
8. The proposed dwelling would have sections of hipped roof, and its rear elevation would have a stepped form to provide sightlines from no 5 ranging from 11m at its closest point, to 19m at the highest point of the roof. However, the proposed dwelling would span most the width of no 5's plot. Therefore, the proposal would result in extensive built form close to the shared boundary.
  9. Views from no 5 would comprise blank sections of wall and hipped roofs at the east elevation above the boundary treatment. The proposed landscaping scheme shows hedgerow planting along the boundary with no 5. However, the proposed dwelling would be visible above or through gaps in vegetation and therefore the proposed planting would not wholly mitigate the adverse impacts on outlook.
  10. Due to the proposed dwelling's height and mass and the limited separation between the proposed dwelling and no 5's rear elevation, the proposal would have a harmful enclosing effect on no 5. The proposed dwelling would appear visually dominant and overbearing from no 5's garden and rear-facing rooms. Whilst I note the change in ground levels between the site and no 5, I do not consider this would adequately mitigate the adverse effects on outlook.
  11. The proposed dwelling's long, north elevation would extend along a significant portion of the shared boundary with no 49A. The proposal would therefore introduce substantial built form close to this shared boundary which would significantly exceed the height of the fence. In addition, two trees near the shared boundary would be removed to accommodate the development, thereby reducing the vegetation screening between the plots.
  12. The proposed dwelling would be very close to the boundary with no 49A. There would be a separation distance of just 5.75m between the proposed dwelling and no 49A's end elevation, which contains the main kitchen window. In addition, the proposed dwelling would be close to no 49A's modest garden, including its patio area. Through its height, siting close to the shared boundary, and scale and mass, the dwelling would appear bulky and imposing from no 49 and its garden.
  13. The roof angle of the hipped roofs has been designed to avoid a harmful loss of daylight to surrounding dwellings. Nonetheless, as set out above, the bulk and mass of the built form close to nos 5 and 49A would result in a harmful loss of outlook for occupants of those neighbouring properties.
  14. The dwelling would be accessed from the highway via a driveway situated between nos 51 and 53. The driveway would occupy most of the width of the modest gap between the dwellings. Vehicles travelling along the driveway would pass close to nos 51 and 53's rear gardens and fenestration at the side elevations.
  15. Whilst the volume of traffic using the access would be relatively low, due to its close proximity to nos 51 and 53, I consider the proposal would expose occupants to harmful noise and disturbance from vehicle movements.
  16. The appellant contends the proposal would be similar to other nearby development. No 49A is served by an access which runs between nos 49 and 47. However, the gap between nos 47 and 49 appears wider and with a more

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spacious relationship between dwellings and the side boundaries. Therefore, the access arrangement is materially different from the appeal proposal.

17. Dwelling no 49A is situated behind the row of dwellings at Parsonage Chase. However, whilst close to a row of terraced houses behind, it does not experience the extent of enclosure as the appeal site. In addition, the two bungalows to the rear of nos 144 and 146 Minster Road appear to have greater separation from surrounding dwellings. Therefore, I do not consider the proposed development would be justified by other backland development in the area.
18. As set out above, having particular regard to outlook and noise and disturbance, the proposed development would significantly harm the living conditions of occupants of nos 5 Tysoe Court and nos 49A, 51, and 53 Parsonage Chase.
19. The proposal would therefore conflict with Policies CP4 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 which require development proposals be of high-quality design that is appropriate to its surroundings, including in respect of scale, height and massing, and cause no significant harm to amenity and other sensitive uses or areas.

#### **Other Considerations**

20. The proposal would provide a net increase of one dwelling and therefore would make a small contribution to the area's housing supply.
21. The proposal would make efficient use of land through utilising garden land within a built-up area, and planting of native species hedgerow and trees would support biodiversity. The proposal would therefore provide a small environmental benefit. In addition, there would be small economic benefits during construction of the development, and future occupants would contribute local spending.
22. The Council indicate it has a housing land supply equivalent to 3.98 years, and therefore cannot demonstrate a five-year supply of specific, deliverable housing sites as required by paragraph 78 of the National Planning Policy Framework (the Framework).
23. In this circumstance, the provisions of paragraph 11(d) of the Framework are engaged, including 11(d)(ii) which requires permission 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 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.
24. Whilst the key policy at Framework paragraph 129 supports development that makes efficient use of land, it requires decisions take into account the importance of securing well-designed, attractive and healthy places. As set out above, I have found the proposal would harm the living conditions of occupants of no 5 Tysoe Court and nos 49A, 51, and 53 Parsonage Chase. Therefore, the proposal would not satisfy the key policy at paragraph 135 of the Framework which requires proposals function well and provide a high standard of amenity for existing users. The key policy at Framework paragraph 139 requires development that is not well designed be refused. Therefore, I afford significant weight to the conflict between

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the proposal and SBLP Policies CP4 and DM14 and consider the proposal would conflict with the development plan as a whole.

25. As described above, the benefits associated with the proposal would be small, even taking account the Framework's objective of boosting significantly the supply of housing and the Council's housing land supply position. Such benefits therefore carry modest weight in the scheme's favour
26. Consequently, the adverse impacts of the proposed development on living conditions would significantly and demonstrably outweigh the scheme's benefits. Therefore, the presumption in favour of sustainable development would not apply.

#### **Other Matters**

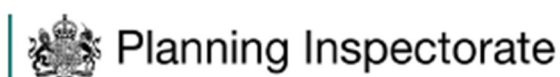
27. Natural England indicates that increases in residential accommodation in the proposed location may adversely impact the integrity of the Medway, Thames and Swale Estuary Special Protection Area SPA and Ramsar sites through increased recreational disturbance.
28. Where a proposal is likely to have a significant effect on European sites, Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires the competent authority to carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to give consent for the proposal. Since I am dismissing the appeal for other substantive grounds which result in conflict with the development plan, it is not necessary to address the proposed development's effects on European sites in further detail.

#### **Conclusion**

29. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

*E Dade*

INSPECTOR



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## Appeal Decision

Site visit made on 2 July 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29<sup>th</sup> of July 2025

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**Appeal Ref: APP/V2255/W/24/3357228**

**Land at Honeysuckle Drive, Minster-on-Sea, Sheerness, Kent ME12 3RE**

- 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 Harps Farm Developments against the decision of Swale Borough Council.
  - The application Ref is 23/502126/FULL.
  - The development proposed is Erection of 2no. 3-bedroom detached dwellings with associated garaging and parking accessed from existing private driveway.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. With the appeal, the Appellant submitted a signed Unilateral Undertaking (UU) to secure a payment in accordance with the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (the SAMMS), which the Council state addresses its third reason for refusal. I have had regard to this in setting out the main issues below and return to this matter later.

### Main Issues

3. The main issues are the effect of the proposed development upon:
  - open space provision; and,
  - highway convenience.

### Reasons

#### *Open space provision*

4. Paragraph 96 of the National Planning Policy Framework (2024) (the Framework) states that decisions should aim to achieve healthy, inclusive places that promote interaction, enable and support healthy lives, especially where this would address identified local health and well-being needs, such as through the provision of safe and accessible green infrastructure. Paragraph 103 explains that access to a network of high-quality open spaces and opportunities for physical activity is important for community health and well-being and can deliver wider benefits for nature, and help address climate change. Similar is recognised in the supporting text to Policy DM17 of the Swale Borough Local Plan (2017) (the SBLP).
5. Policy DM17 requires that proposals safeguard existing open space in accordance with national policy, having regard to the Council's open space assessment and

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strategy and facilities planning model. Framework paragraph 104(a) states existing open space should not be built upon unless an assessment clearly shows the space or land to be surplus to requirements. Criterion (b) is not subsequently advanced in the appeal submission, and (c) is not relevant to the proposal.

6. Part of the appeal site and some adjacent land was designated as open space in an original outline permission for the wider area, a subsequent reserved matters application<sup>1</sup>, and I understand its provision is secured by a planning obligation. It was previously used as a construction compound, but at my visit was cleared, appeared largely flat, and under a mix of flowers and grasses. It was surrounded by fixed metal bow-top fencing with a gate, but there was also an internal line of temporary fencing which appeared to prevent general public use.
7. The appellant suggests the open space should not be considered as being provided as it has not been used as open space. Though I note the limitation of use by temporary fencing, the land currently exists as an open space and there is nothing of substance before me to suggest it is not secured by extant permissions and an obligation. Therefore, its circumstances mean it should be regarded as open space sought to be protected by Policy DM17 and the Framework.
8. The appeal site alone might not be of a sufficient size for formal sports provision, or a park or garden. However, I do not agree it could not be used for a natural or semi-natural greenspace. Moreover, it is part of a continuous wider adjacent space, which as a whole, is of a good shape, area, utility, benefits from some surveillance, and would be easily accessible to local occupiers. Its position close to the roundabout does little to detract from its suitability and it would appear fencing would be an appropriate solution to ensure the safety of children from the nearby highway and watercourse.
9. Therefore, if provided as intended in extant permissions and the obligation, the space would provide both a useful and desirable open space of benefit to local occupiers and the area, consistent with development plan policy and Framework objectives. The appeal scheme would result in the loss of a significant proportion of the space, thereby markedly reducing the quantum of open space and its utility, with the remaining space having much less overall value.
10. The Council states the original proposal for Thistle Hill was for 1,000 houses, but 1,934 have been permitted or provided, so open space is now deficient for the population. Applying a standard per dwelling occupancy ratio for the development the Council calculates almost all open space typologies are deficient against the standards in Policy DM17 within Thistle Hill. They state around 33.31 hectares are necessary, but only around 18.98 hectares are provided. Deficiencies for some types of space are proportionally very large.
11. The appellant considered space existing or secured through permissions within 400m of the site, based upon mid-year population estimates of Output Areas. The appellant also took the approach of identifying spaces within Thistle Hill as a whole and categorised them in line with Policy DM17 categories to assess provision. Its initial view was that 44.72 hectares was secured for all of Thistle Hill, but at the final comments stage states that it is 19.79 hectares, and with some named other spaces, including outside the community, provision is around 24.43 hectares.

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<sup>1</sup> Ref. SW/06/0750.

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12. It is unclear how this re-calculation affects its previous views of adequate provision for certain categories of open space existing within 400m of the appeal site. I am also mindful that by considering sites and populations within 400m of the site, this does not encompass all of the Thistle Hill area and population. Therefore, this initial approach has some limitations, so the approach of considering Thistle Hill as a whole would appear the most appropriate means of assessing provision.
13. Having visited some of the areas<sup>2</sup>, the initial estimation of around 44.72 hectares appeared a significant over-estimation of provision. This is based upon spaces such as the natural or semi-natural greenspace (NSNG), the park and garden area due northwest of the appeal site and football pitch at the Academy. Therefore, it appears the appellant's revised figures are more reflective of provision. I do have some concerns that given the land at Sheppey Rugby Football Club is outside the recommended 800m radius and a 20-minute walk from the site, it may not reasonably provide for many residents seeking formal outdoor sport provision.
14. However, even if I did consider it and that suitable provision was around 24.43 hectares, this would still represent a very significant deficiency against the 33.31 hectares the Council considers is required to be consistent with local standards. It would seem therefore, that the current situation could well be adversely affecting health and well-being objectives for the local community. Though total open space may be over double that envisaged for the original development, it would still be significantly below more modern adopted development plan standards, so this, of itself, does not justify losing part of the appeal site for use as valuable open space.
15. The evidence provides little to substantiate the value and utility of space as part of 22/503935/REM. I have also considered the Lapwing Close Park and area on the opposite side of Aspen Drive which are part of existing provision. However, I am not persuaded they adequately mitigate the harm from the appeal scheme or mitigate existing deficiencies. There is various other provision for public open space within a 20-minute walk or cycle distance of the appeal site. However, the evidence in this regard gives limited information upon the nature of many facilities and given their significant distance from the site, they do not fully or adequately mitigate the need for close-by convenient open space as sought by Policy DM17.
16. Therefore, for the reasons set out above, the proposed development would result in the loss of open space, for which it is not demonstrated there is sufficient provision in the area, or that the appeal site is surplus to requirements. This conflicts with Policy DM17 of the SBLP and paragraph 103 of the Framework, the relevant provisions of which I have set out above.

#### *Highway convenience*

17. Policy DM7 of the SBLP explains that until such time as the SBC Vehicular Parking Standards Supplementary Planning Document (2020) (the SPD) is adopted, the Council will apply Kent County Council vehicle parking standards. The now adopted SPD is a material consideration, setting out standards having regard to matters such as local travel modes, car ownership, providing appropriate parking provision, safe operation of the highway and encouraging sustainable travel modes. The appeal site is in an area where the SPD recommends that 2 – 3 parking spaces, and 0.2 visitor spaces are provided per three-bedroom dwelling.

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<sup>2</sup> Based on the plan in Appendix E of the Appellant's Appeal Statement.

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18. The plans show two parking spaces per dwelling, of which the external spaces meet the SPD required size, but the garage spaces fall short in width and depth<sup>3</sup>. Of note is that the internal widths, proportionally, would appear to be significantly below the standard. Their internal sizes would be likely to make parking and opening doors of many medium and larger cars awkward, so could result their use being unappealing for vehicle parking, so vehicles may park on the highway.
19. The effects of the scheme would be dependent upon the number and size of vehicles of future occupiers and parking preferences, which are by no means certain. It is possible that for dwelling A, that if occupiers have a second car, they might park in a tandem arrangement if cars were sufficiently small. However, any such arrangement would not appear possible for dwelling B. Even were I to be persuaded amending the scheme to incorporate carports does not conflict with the description of development, the plans indicate this may still be unable to secure a sufficient width space for dwelling B.
20. The scheme could result in a few future occupier cars parked on the highway near the dwellings access, which includes a cul-de-sac end, turning head and two-way unrestricted route. Though I observed some on-street spaces available, and it is not a through route, cars parked could reduce the turning room, and/or mean cars have to wait to pass a parked car even were cars parked mounted on the pavement or verge. Though it can only represent a brief snapshot in time on a weekday morning, this had occurred and there is no substantive evidence by either main party to suggest what I observed was untypical at that time.
21. It is noted the Council does not assert that such conditions would be prejudicial to highway safety, and though noting effects upon convenience might be quite limited, the scheme nevertheless, would be likely to result in some adverse effects upon highway convenience. This would conflict with the aims of Policy DM7 of the SBLP, and the SPD, the relevant provisions of which I have set out above.

#### **Other Matters**

22. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require where a plan or project is likely to result in a likely significant effect (LSE) on a designated habitats site, a competent authority is required to make an appropriate assessment of its implications on the integrity of the site, in view of its conservation objectives. Any LSEs need to be considered alone and in combination with other development, adopting the precautionary principle.
23. The appeal site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
24. Studies have found that visits and recreational use by occupiers in proximity to the habitats sites, including activities including walking, dog walking, cycling, and

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<sup>3</sup> Page 32 of the SBC Vehicular Parking Standards Supplementary Planning Document (2020).

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jogging, can disturb the qualifying features<sup>4</sup> constituting LSEs upon them. This scheme would result in new dwellings within a distance of the habitats sites where it is identified there would be likely to be increased visits by occupiers, with potential for recreational disturbance and LSEs upon the qualifying features.

25. Strategic measures to mitigate LSEs from recreational disturbance are set out in the SAMMS, based upon a costed per dwelling tariff to fund mitigation. In its consultation response to this proposal NE states it is satisfied the SAMMS contribution is satisfactorily secured by the UU and sufficient to avoid an adverse impact to the integrity of the habitats sites and relevant features. The Council is also satisfied the UU secures an appropriate payment to address its reason for refusal and therefore avoid adverse effects upon the integrity of the habitats sites.
26. I see no reason why the sum would not be directed by the Council and partner organisations in the manner intended towards the mitigation. The UU binds the delivery of mitigation and based upon the evidence before me I see no reason why it would not be delivered in the time and form needed to mitigate LSEs. Overall, I am satisfied the UU is a sufficient mechanism to enable the delivery of adequate mitigation in accordance with the SAMMS. Therefore, following an appropriate assessment, I am satisfied the mitigation is appropriately secured and would be delivered in a timely manner to mitigate the LSEs, and the appeal scheme would maintain and restore the integrity of the habitats sites and its qualifying features.
27. For the reasons set out, the proposal would not adversely affect the integrity of the habitats sites in view of their conservation objectives, so is compliant with Policies ST1, DM14 and DM28 of the SBLP. These require proposals conserve the natural environment and apply international, national and local planning policy, and law to protect areas designated for their biodiversity importance.

### Planning Balance

28. The appeal scheme would result in a modest temporary economic benefit during construction and once constructed a limited on-going benefit to the local economy, and support to local services and facilities. The Council has performed below housing delivery test targets and cannot demonstrate a 5-year housing land supply (HLS). Both parties referred me to a figure of approximately 4.1 years from an appeal decision for up to 290 dwellings<sup>5</sup>, which is subsequently reduced to being of the order of 3.98 years. Smaller sites can make an important contribution to supply and be built out relatively quickly. However, in the context of local needs of the order I am referred to, the provision of two additional dwellings to supply would be a limited benefit attracting limited weight in favour of the appeal scheme.
29. Subject to the imposition of suitably worded planning conditions, it is possible the appeal scheme could result in additional landscaping and a net biodiversity gain. From what I saw and the evidence before me, it possible the level of benefit could be one that attracts moderate weight in favour of the appeal scheme. Though the appellant advocates the appeal scheme would make a better use of under-utilised land, the land seems under-utilised due to fencing, which could be remedied. In the context of its secured use and the shortfall of open space provision, I cannot agree that appeal scheme represents an optimal use of the land.

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<sup>4</sup> Phase I – Bird Disturbance Report by Footprint Ecology (July 2012).  
<sup>5</sup> APP/V2255/W/23/3333811

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30. The scheme incorporates an appropriate design, is in a sustainable location, and is consistent with nearby patterns of development close to roundabouts. However, in the context of its surrounds, open space next to a roundabout is neither inconsistent nor harmful. I am also not convinced it is necessary to contain a small corner of the roundabout, to create a node, that two additional houses add to a sense of place, or would be an overall benefit to character and appearance. The effect of the appeal scheme in these regards would be neutral overall.
31. Were I to agree the scheme would be compliant with policies and standards in respect of matters such as the living conditions of future and neighbouring occupiers, rights of way, access to services and facilities, electric vehicle charging, sustainable construction and building methods, access specifications, wider highway capacity, construction management, and archaeological matters, these would be neutral matters in the planning balance.
32. The policies most important for determining the application are considered out of date, so in accordance with Framework paragraph 11d) 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 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.
33. The overall benefits of the appeal scheme attract moderate weight in its favour. Having regard to the harm and policy conflict I have found in respect of parking and highway convenience, the matter attracts limited weight against the appeal scheme. However, the appeal scheme would result in the loss of a proportion of open space, where based upon the evidence before me, a significant shortfall exists and it is not demonstrated the space is surplus to requirements, in conflict with fundamental aspects of development plan and Framework policies. Given the nature of the existing deficiency, and the nature of the appeal site, this is a matter that attracts significant weight against the appeal scheme.
34. Overall, the policy conflicts and resulting harm are such that the adverse impacts significantly and demonstrably outweigh the benefits of the development, when assessed against the policies of the Framework taken as a whole. Therefore, the appeal should not succeed.

#### **Conclusion**

35. The proposed development is contrary to the development plan read as a whole, and the Framework taken as a whole. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Mr D Szymanski*

INSPECTOR



The Planning Inspectorate

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## Appeal Decision

Site visit made on 24 July 2025

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2025

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Appeal Ref: APP/V2255/W/25/3365171

22 East Street, Sittingbourne ME10 4RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Trevor Ranger against the decision of Swale Borough Council.
  - The application ref. is 25/500049/FULL.
  - The development proposed is for a rear dormer with cladding to match existing adjacent development.
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### Decision

1. The appeal is allowed and planning permission is granted for a rear dormer with cladding to match existing adjacent development at 22 East Street, Sittingbourne ME10 4RT in accordance with the terms of the application ref. 25/500049/FULL and the plans submitted with it (site location plan, as built elevations, as built first floor plan, as built ground floor plan, as built second floor and roof plans, as built section plan).

### Preliminary Matter

2. At my site visit, I saw that the development has been completed, and I note that the application has been submitted retrospectively.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounds, including the Sittingbourne Conservation Area (CA).

### Reasons

4. The appeal site consists of a two-storey building on East Street in urban environs comprising a mix of residential and commercial uses. The street scene is characterised by properties of varying scale, age, design, external materials and detailing.
5. The special architectural and historic interest of the CA derives from the linear High Street that follows the alignment of an early important Medieval route, and which later became known as Watling Street from the Roman period. It was an important 18th century coaching stop en route between London and Canterbury and the coast; there are distinctive long and narrow burgage plots and historic alleyways from coaching inn days on both sides of the High Street. Being situated in the CA, I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of

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preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability.

6. My attention is drawn to the property history; I understand that development incorporating a rear dormer was previously approved in 2015, albeit for a smaller element. The submitted plans include the permitted scheme, which is a useful visual tool in comparing the dormer as it was granted against what has now been constructed.
7. Being almost flush with the ridge line, the appeal proposal would be similar to the approved rear dormer in this respect. Whilst somewhat wider, an acceptable amount of the original roof slope remains visible to either side, and similarly at eaves level several rows of tiles are evident between the wall plate and the base of the dormer.
8. Consequently, the dormer is broadly set within the body of the rear roof slope. Taken in the round, I consider that the appeal scheme would visually connect with the general appearance of the building and local environs, without resulting in a dominant or discordant design solution. I am satisfied that views of the development within the vicinity of the site would not be adversely affected, having accounted for the multi-faceted character of the street scene.
9. I therefore conclude that the scheme would integrate with the character and appearance of the surrounds, including the CA. It would comply with Policies CP4, CP8, DM14, DM16 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan July 2017, which cumulatively require new development to be designed to a high quality and respond to the distinctive local character of the area in which it is situated.

### Conditions

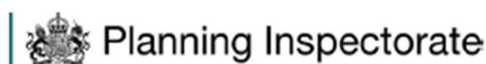
10. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. The development is complete and therefore the standard time limit and plans condition are no longer necessary. I am satisfied that no conditions are required.

### Conclusion

11. With respect to the above and all associated factors, the appeal succeeds.

*C Hall*

INSPECTOR



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## Appeal Decision

Site visit made on 17 July 2025

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

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Appeal Ref: APP/V2255/W/24/3337218

Moat View, Church Lane, Newington ME9 7JU

- 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 Damon Ralph against the decision of Swale Borough Council.
  - The application Ref is 23/503792/FULL.
  - The development proposed is described on the application form as 'the erection of a new build disability accommodation annexe, and minor landscaping works.'
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposed development relates to the setting of a listed building and lies within a conservation area. Accordingly, I have had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it may possess, as required under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area under Section 72(1) of the Act.

### Main Issues

3. The main issues are:
  - the effect of the proposed development on the character and appearance of the surrounding area; and
  - whether the proposed development would preserve the setting of the Grade I listed building, St Mary's Church, and the extent to which the development would preserve or enhance the character and appearance of the Newington Church Conservation Area.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a large parcel of land, positioned between Iwade Road and St Mary's Church. It contains the residential property of Moat View together with garden space and an expanse of open fields used for grazing. The area to the north and east of the site has a distinct rural character, whilst that to the immediate west contains established residential development. Although part of the site forms

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garden space, it undoubtedly has a more rural than urban character and positively contributes to the verdant, open countryside beyond.

5. The proposed development seeks the erection of a two-storey dwelling within an open area associated with Moat View. It would introduce built form where this is currently not the case and would be highly visible from Iwade Road, in both directions, but particularly upon approaching the site from the west. In addition, the proposed development would be visible from some private vantage points, and from the grounds of the nearby St Mary's Church. This would have an urbanising effect on the site, harming the transition between Newington and the open countryside beyond.
6. I acknowledge that the proposed development would be of a similar scale to properties that exist to the immediate west, and that some effort has been made to reflect the local vernacular. However, its presence would nevertheless have a detrimental impact on the rural character of this part of Newington and surrounding area. I note paragraph 187 of the National Planning Policy Framework (Framework) speaks of recognising the intrinsic character and beauty of the countryside. I also note the existence of mature landscaping along the site boundary. However, such landscaping, whether current or proposed, cannot be relied on in perpetuity to provide the same level of screening at any given time.
7. Overall, I conclude that the proposed development would harm the character and appearance of the surrounding area, contrary to the relevant provisions of policies ST1, ST3 and DM24 of the Bearing Fruits 2031 – The Swale Borough Local Plan (2017). These policies, in summary, seek to ensure high quality design in development and the preservation and enhancement of the natural environment.

*Heritage assets – special interest and significance*

Listed building

8. The Church of St Mary is a Grade I listed building. It is a parish church that dates back to around 1190, having evolved over time, with additions and restoration. The church is set within an historic graveyard, enclosed by walls and fences, with mature trees throughout. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interest. Important contributors in these regards are its age, its dominant presence within its grounds, its surviving historic fabric and its historic and continued use as a place of religious congregation.
9. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The grounds and graveyard of the church have an historic, visual and functional connection with the heritage asset. These grounds are clearly defined by boundary treatments. These grounds provide a tranquil space which form the asset's immediate setting. It is from here that the asset is best appreciated, surrounded by verdant and rural surroundings. This immediate setting contributes considerably to the asset's special interest and significance.
10. Beyond this, the surrounding area is made up of modest residential development to the west, with verdant and open fields to the north and east. By reason of the elevated position of the church, there is a level of intervisibility between it and the surrounding area. The prominent tower, in particular, is readily visible from several surrounding locations. Whilst the surrounding built form has altered how the asset

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is experienced to a degree, the wider undeveloped rural setting nevertheless allows an appreciation of the historic interrelationship between the church and surrounding rural community. This wider setting contributes positively to the asset's special interest and significance.

#### Conservation Area

11. This site lies within the Newington Church Conservation Area (CA).
12. The special interest and significance of the CA is largely derived from the preservation of its rural character, focussed on the historic church and grounds. Consistent building materials of brick and tile dominate the CA, together with flint and ragstone insofar as the church is concerned. The appeal property, although relatively contemporary, is set within verdant grounds. These open grounds contribute positively to the rural character and appearance of the CA and thereby to its significance as a designated heritage asset.

#### *Heritage assets – appeal proposal and effects*

##### Listed building

13. The church currently retains a visual and historic interrelationship with the appeal site, as part of a largely undeveloped plot. This would be markedly compromised as a result of the proposed development.
14. The proposed development would introduce built form of two storeys where this does not currently exist, harmfully eroding the historic and rural setting of the church. Although part of the appeal site is used for domestic purposes at present, the introduction of an additional dwelling would likely come with the associated paraphernalia of a domestic setting, including parked cars, bin stores, boundary treatments and other garden structures. This would all harmfully diminish the ability to appreciate the significance of the asset and weaken the contribution that the wider setting of the church makes to that asset's significance.
15. Overall, I conclude that the proposed development would fail to preserve the setting of Grade I listed building, the Church of St Mary. Consequently, the development would harm the significance of this designated heritage asset. In doing so, it would be contrary to the requirements of Section 66(1) of the Act.

##### Conservation Area

16. Whilst I note that several established buildings exist along Iwade Road, including to the west of the appeal site, the majority of the site remains unadulterated. The proposed development would encroach into an undeveloped part of the site, which currently makes a positive contribution to the character and appearance of the CA. This would result in a harmful, urbanising change to the rural character and appearance of the site, and CA as a whole.
17. Overall, I conclude that the proposed development would fail to preserve the character or appearance of the CA, contrary to the requirements of Section 72(1) of the Act.

#### *Heritage assets – public benefits and balance*

18. With reference to paragraphs 213 and 214 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should

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be assessed. Given the extent of the works relative to the listed building and CA, I find the harm to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 215 advises that this harm should be weighed against the public benefits of the development, which includes securing the asset's optimum viable use.

19. Economic benefits would be brought about through the construction phase. However, the scale of those benefits is short-term and very limited by the extent and nature of the proposal. The primary outcomes of the proposed works, namely the provision of living accommodation, would be a private benefit to the appellant and their family that does not provide clear and convincing justification for allowing the appeal. I deal with personal circumstances below.
20. Overall, the weight that I ascribe to the public benefits that accrue from the development is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Accordingly, the proposed development would fail to preserve the setting of the Grade I listed building, Church of St Mary, and would fail to preserve or enhance the character or appearance of the CA.
21. Consequently, the proposed development would be contrary to the requirements of sections 66(1) and 72(1) of the Act, and the relevant provisions of the Framework which seek to conserve and enhance the historic environment. The proposed development would also conflict with the relevant provisions of policies CP8, ST6, DM32 and DM33 of the Bearing Fruits 2031 – The Swale Borough Local Plan 2017, which in summary seeks to protect heritage assets.

#### **Other Matters**

##### *Heritage*

22. The appeal site is located within the wider surroundings of Grade II listed building, Oast House (Adjacent to Church Farmhouse). Mindful of the statutory duty set out in section 66(1) of the Act, I have had special regard to the desirability of preserving its setting. The historic built backdrop and surrounding countryside contributes to its significance. Given the location and extent of the proposed development, together with the considerable separation distance and limited intervisibility between the sites, I consider that the proposed development would preserve the setting of this listed building and the contribution it makes to its significance. I note the Council had no concerns in this regard either.

##### *Special Protection Areas*

23. The site lies within the zone of influence of The Swale Special Protection Area, a European designated site. Habitats Regulation 63(1) states that a competent authority, before deciding to give any consent or permission must make an appropriate assessment of the implications of the plan or project for that site. However, given my reasoning in respect of the main issues and that the appeal is dismissed, there is no requirement upon me in that regard, and even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.

##### *Personal circumstances*

24. The appellant has identified personal circumstances in that the proposed development would provide accommodation for family members who have

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disabilities. Accordingly, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. From the evidence, my decision has the potential to affect a person with a protected characteristic for the purposes of the PSED. However, it does not follow that the appeal should necessarily succeed.

25. I appreciate that in dismissing the appeal, individuals would be unable to derive the benefits of the dwelling, having the potential to disproportionately affect them. Nevertheless, I have no substantive evidence before me to indicate that the accommodation proposed could not be provided either within the main house on the site, in a smaller or less harmful location within the site, or that no other form of accommodation would be obtainable. For these reasons, I find that this factor is not sufficient to outweigh the harm that I have found.

#### *Housing supply*

26. The evidence before me demonstrates that there is a lack of a five-year housing supply in the district, therefore policies which are most important for determining the proposal are deemed out-of-date. However, bullet (i) of Framework paragraph 11.d clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including heritage assets, provide a strong reason for refusing the development. As I have explained, there would be harm to heritage assets which would not be clearly outweighed. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.

#### **Conclusion**

27. For the reasons above, having had regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

#### *A Price*

INSPECTOR

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## Planning Inspectorate

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### Appeal Decision

Site visit made on 11 August 2025

By **SJ Desai BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

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Appeal Ref: APP/V2255/D/25/3365785

24 Athelstan Road, Faversham, Kent ME13 8QL

- 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 Sam Roberts against the decision of Swale Borough Council.
  - The application Ref is 24/505003/FULL.
  - The development proposed is described as "Demolition of existing rear extension, erection of a single storey rear and side extension, insertion of new window to side elevation, loft conversion with rear dormer including Juliet Balcony and rooflights to front elevation. Creation of new pedestrian access gate from adjacent public footpath following removal of existing pedestrian access gate. Removal of existing chimney".
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#### Decision

1. The appeal is dismissed.

#### Preliminary Matters

2. I have changed the description of the proposed development in the banner heading above to that used on the Decision Notice and Appeal Form, which provide greater clarity and accuracy.
3. The appellant argues that the Council's 'Designing an Extension: A Guide for Householders' Supplementary Planning Guidance (the SPG) is outdated, having been prepared under a previous Local Plan. However, I am satisfied that the SPG's underlying design principles remain relevant and supported by the policies within the current Bearing Fruits 2031: The Swale Borough Local Plan (2017) (SBLP). As such, the SPG has been a material consideration in my assessment.

#### Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area, including whether it would preserve or enhance the character or appearance of the Faversham Conservation Area (CA).

#### Reasons

5. The appeal property is a two-storey end-of-terrace Victorian dwelling, occupying a prominent position immediately adjacent to a public footpath. The building retains the characteristic L-shaped footprint typical of this terrace, incorporating a two-storey rear wing and an attached single-storey element to the rear. Although there are examples of roof extensions within the wider locality, the prevailing roofscape is defined by traditional, largely unaltered roof forms.

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6. The appeal site is also located in the CA. The terms of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
7. The CA's significance derives from its historic street pattern, traditional architecture and detailing, which together create strong collective interest. The host dwelling and terrace contribute positively through their generally consistent plan form, proportions and detailing, reinforcing the established character and appearance of the area.
8. Policies CP4, DM14, DM16 and DM33 of SBLP and Policies FAV10 and FAV11 of the Faversham Neighbourhood Plan 2023-2038 (2024) (NP) place significant emphasis on maintaining local distinctiveness, ensuring extensions are appropriately scaled and the retention of original architectural details and features, particularly in conservation areas.
9. The proposed full-width rear extension, with its dual-pitched roof, would obscure the characteristic L-shaped plan form central to both the host dwelling and the terrace. Its scale and roof design would create a bulky and dominant addition rather than a subordinate one. The side-facing window onto the footpath would also appear incongruous and discordant. Collectively, the proposal would harm the building's architectural integrity, disrupt the terrace's rhythm, and harm the character and appearance of the CA.
10. My attention has been drawn to paragraphs 5.4 and 5.5 of the SPG which outline that dormers should be in proportion with the roof and only as large as necessary to allow light into the roof space. They should also be no deeper than half the depth of the roof slope and should normally have pitched roofs with tiles to match the main roof.
11. The proposed rear dormer would have a large flat roof expanse rather than a pitched roof and be significantly deeper than half the depth of the roof slope, resulting in a dominating feature and overwhelming the original form and proportions of the roof. Its scale, bulk, and the incorporation of a Juliet balcony would introduce an intrusive and uncharacteristic high-level feature, harmful to the host building's architectural balance.
12. Although views from Athelstan Road would be limited, the extensions would be prominent from the public footpath, appearing overbearing and visually dominant, thereby harming the CA's character and appearance. Matching materials would not mitigate this impact. The proposed front rooflights, as a result of their modest scale, would have a limited impact upon the roof slope and street scene. However, the removal of the existing chimney stack, an established feature repeated across the terrace and wider townscape, would further diminish the building's contribution to the CA. Accordingly, the proposal would fail to preserve or enhance the CA.
13. Several examples of similar developments have been cited by the appellant, including at the adjacent 26 Athelstan Road, which the Council suggest was introduced prior to the extension of the CA boundary, and development at 2 and 104 Athelstan Road. I do not have comprehensive details of the planning context or justification for those developments. Notably, they differ in both their relationship to, and visibility within, the public realm. On the evidence presented I therefore cannot be certain that they represent a direct parallel to the development. I have therefore

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determined this appeal on its own merits and find that the presence of other such developments does not justify further harm at this site.

14. The proposal would cause harm to the significance of the CA for the reasons set out above. Given the scale and location of the proposed development, the harm would be less than substantial in terms of the National Planning Policy Framework (2024) (the Framework). In these circumstances Paragraph 215 of the Framework requires me to weigh the harm against the public benefits of the proposal. I have had regard to the public benefit associated with improvement to the quality of accommodation. However, I am not persuaded that this benefit which is modest in scale is sufficient to outweigh the harm identified and the great weight that should be given to the heritage asset's conservation.
15. Overall, I conclude that the proposal would harm the character and appearance of the host dwelling and the surrounding area and would not preserve or enhance the character or appearance of the CA. As such, the proposal would conflict with Policies CP4, DM14, DM16 and DM33 of the SBLP and Policies FAV10 and FAV11 of the NP which amongst other things, seek to conserve and enhance the historic environment, and deliver high quality design that is respectful, appropriately scaled and responds positively to local context. The proposal would also be contrary to the guidance within the SPG, which aims to safeguard the appearance of the area.

#### Other Matters

16. Although the appellant highlights a willingness to make amendments to the proposal, the appeal process should not be used to evolve a scheme, and it is important that what is considered by me at appeal is essentially the same scheme considered by the Council at the application stage. I have determined the appeal based on the plans before me and upon which the Council determined the application.
17. The appellant has referred to delays in the determination of the application by the Council, the Council's use of an external consultant and the CA extension being inadequately publicised. Such procedural matters do not carry determinative weight in the context of this appeal and do not alter the planning merits or policy compliance of the proposal.
18. The Council have raised no concern in respect of the relocation of the side access and based upon the evidence before me, and my observations on site, I agree.

#### Conclusion

19. The proposal does not accord with the development plan when considered as a whole and there are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it.
20. For the reasons given above, I conclude the appeal should be dismissed.

*SJ Desai*

INSPECTOR

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