

Agenda

Planning Committee Meeting

Date: Thursday, 6 November 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

Pages

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

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the Meeting held on 11 September 2025 (Minute Nos. 302 – 311) 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 5 November 2025.

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|----|--|----------|
| 5. | 2.1 - 25/501437/REM - Land at Wises Lane, Borden, Kent, ME10 1GD | 9 - 46 |
| 6. | 2.2 - 25/500935/FULL - Land Rear of The White House, Eastling Road, Eastling, Kent, ME13 0AN | 47 - 66 |
| 7. | 3.1 - 25500821/FULL - Ten Acres, Breach Lane, Lower Halstow, Kent, ME9 7DD | 67 - 90 |
| 8. | Part 5 applications | 91 - 152 |

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

Issued on Monday, 27 October 2025

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk.

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

6th November 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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 6th November 2025

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

PART 2

2.1	25/501147/REM	BORDEN	Phase 2F, Land at Wises Lane
2.2	25/500935/FULL	EASTLING	Land Rear Of The White House

PART 3

3.1	25/500821/FULL	LOWER HALSTOW	Ten Acres, Breach Lane
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PART 5

5.1	23/502210/FULL	BORDEN	Land on either side of Vigo Lane
5.2	23/500143/ENF	OSPRINGE	Land at Hill Top Farm
5.3	23/504597/FULL & 23/500500/CHANGE	SITTINGBOURNE	Land at The Yard, Beckenham Park Industrial Estate
5.4	24/505224/FULL	UPCHURCH	91 Chaffes Lane, ME9 7BG
5.5	25/501760/FULL	BREDGAR	The Lodge, Hawks Hill Lane
5.6	23/505819/FULL	EASTCHURCH	6 Coastguard Cottages
5.7	24/501360/FULL	MINSTER-ON-SEA	2 Parsonage Chase, ME12 3JL
5.8	24/503019/FULL	UPCHURCH	Pear Tree House, Otterham Quay Lane

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PLANNING COMMITTEE – 6th November 2025

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO 25/501437/REM		
PROPOSAL Approval of reserved matters (access, appearance, landscaping, layout and scale sought) for Phases 3 and 4 for the development of 160no. dwellings including affordable housing, together with associated access, parking, landscaping, open space, equipped play and infrastructure, pursuant to 17/505711/HYBRID.		
SITE LOCATION Land at Wises Lane, Borden, Kent, ME10 1GD		
RECOMMENDATION Delegate to the Head of Planning to approve the application for reserved matters subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary and appropriate.		
APPLICATION TYPE Reserved Matters		
REASON FOR REFERRAL TO COMMITTEE Call in by Borden Parish Council due to the number and impact on sensitive areas raised and significant variance with the initial outline permission.		
Case Officer Carly Stoddart		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Amy Tamplin AGENT DHA Planning
DATE REGISTERED 07/04/2025		TARGET DATE 18.09.2025
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - 25/501437/REM Approval of reserved matters (access, appearance, landscaping, layout and scale sought) for Phases 3 and 4 for the development of 160no. dwellings including affordable housing, together with associated access, parking, landscaping, open space, equipped play and infrastructure, pursuant to 17/505711/HYBRID. Land At Wises Lane Borden Kent ME10 1GD		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is generally oblong in shape with a smaller area protruding further to the east. The site extends from an almost midway point of a large field eastwards towards Cryalls Lane. The site forms Phases 3 & 4 of a wider development which was granted planning permission following an Appeal against refusal of the hybrid proposal submitted under reference 17/505711/HYBRID, as listed in the history section below.
- 1.2. The application site is currently formed of open agricultural land and located close to the Borden Nature Reserve which is to the south of Cryalls Lane. The Nature Reserve is within close proximity to the application site where the southeastern corner of Phase 3 is directly opposite on the northern side of Cryalls Lane.
- 1.3. Borden – Harmans Corner Conservation Area and Borden – The Street Conservation Area are located to the south and south-west of the site. There are listed buildings within the vicinity of the application site, located at Wises Lane, Cryalls Lane and Borden Lane.

2. PLANNING HISTORY

- 2.1. Following the grant of the hybrid planning permission, a number of reserved matters applications and applications to discharge conditions have been submitted. Only those relevant to this application are included in the list below.
- 2.2. **17/505711/HYBRID - PINS ref. APP/V2255/W/19/3233606:** Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works.

Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.

For clarity - the total number of dwellings proposed across the site is up to 675.

Granted at appeal 29.04.2021

Non-material Amendment and Conditions Applications associated with the Hybrid

- 2.3. **25/501148/NMAMD** – Non-material amendment to planning permission 17/505711/HYBRID (appeal decision V2255/W/19/3233606) to amend condition 7 to relocate the NEAP from Phase 1A to Phase 2F.
Granted 25.04.2025.
- 2.4. **24/504576/NMAMD** - Application for a non-material amendment to planning permission 17/505711/HYBRID (appeal decision V2255/W/19/3233606) to amend condition 7 to allow for an additional substation.
Granted 10.01.2025.
- 2.5. **23/505421/NMAMD** - Approval of a non-material amendment relating to the re-siting of primary school land.
Granted 15.04.2024.
- 2.6. **22/503698/NMAMD**: Non-material amendment in relation to planning permission 17/505711/HYBRID and appeal reference V2255/W/19/3233606: To change the wording of condition 66 to 'Before the approval of reserved matters for any phase (excluding Phase 1A), the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works for that phase, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority'.
Granted 06.09.2022.

Conditions Applications associated with the Hybrid

- 2.7. **25/500875/SUB**: Updated Phasing Plan (Condition 2)
Under consideration.
- 2.8. **25/501550/SUB**: Update to Construction Management Plan (CMP) (condition 20)
Granted 14.05.2025.
- 2.9. **24/504725/SUB**: Updated Phasing Plan (Condition 2)
Granted 28.11.2024.
- 2.10. **22/502221/SUB**: Air Quality (condition 70).
Granted 06.02.2023.
- 2.11. **22/500784/SUB**: Construction Management Plan (CMP) (condition 20)
Granted 01.11.2022.
- 2.12. **22/500132/SUB**: Contaminated Land Assessment (condition 53).
Granted 23.05.2022.
- 2.13. **22/500639/SUB**: Construction Ecological Management Plan (CEMP) (condition 61).

Granted 06.05.2022.

- 2.14. **22/500640/SUB:** Phasing Plan (condition 2).

Granted 06.05.2022.

- 2.15. **21/506820/SUB:** Revised Skylark Mitigation Strategy (condition 60).

Granted 11.04.2022 and legal agreement in place 15/09/2022.

- 2.16. **22/500133/SUB:** Updated Baseline Ecological Report: Surveys for Breeding Birds, Bats, Reptiles and Dormouse (condition 58).

Granted 06.04.2022.

Reserved Matters

- 2.17. **25/501147/REM:** Approval of reserved matters for Phase 2F (access, appearance, landscaping, layout and scale sought) for creation of open space together with associated access, landscaping, and infrastructure pursuant to 17/505711/HYBRID. Currently under consideration.

- 2.18. **24/500856/REM:** Approval of reserved matters (Access, Appearance, Landscaping, Layout, and Scale sought) for levels and earthworks changes for Phase 2F and the Primary School Land pursuant to 17/505711/HYBRID.
Granted 11.10.2024.

- 2.19. **23/505420/REM:** Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale sought) for creation of the eastern spine road (Phase 2D), pursuant to 17/505711/HYBRID.

Granted 14.08.2024.

- 2.20. **23/500263/REM:** Approval of Reserved Matters for Scale, Appearance, Landscaping, Layout being sought for the Sittingbourne Rugby Club and Community Hub including, 2x RFU compliant rugby pitches and associated parking (Phase 2E), pursuant to application 17/505711/HYBRID.

Granted 13.11.2023.

- 2.21. **22/504937/REM:** Approval of Reserved Matters (appearance, landscaping, layout and scale) for Phase 1B, 2A, 2B and 2C for the erection of 209no. dwellings including affordable, together with associated access, landscaping, equipped play, drainage, infrastructure and earthworks, pursuant to 17/505711/HYBRID - Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between

Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.

Granted 06.11.2023.

- 2.22. **22/504823/REM:** Approval of Reserved Matters (Layout, Scale, Appearance and Landscaping being sought) for the western spine road (Phases 2B & 2C) pursuant to 17/505711/HYBRID - Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.

Granted 16.08.2023.

Conditions Applications Associated with this Phases 3 & 4

- 2.23. **24/504081/SUB:** Written Scheme of Investigation for an Archaeological Evaluation for Phases 2F, 3, 4, 5 (residential) and 6.
Granted 20.01.2025.

3. PROPOSED DEVELOPMENT

- 3.1. This application is seeking approval of reserved matters of access, appearance, landscaping, layout and scale for Phases 3 and 4 of the wider development approved under reference 17/505711/HYBRID. The proposed development comprises 160 dwellings including affordable housing, together with associated access, parking, landscaping, open space, equipped play and infrastructure.
- 3.2. Access into Phases 3 and 4 is from the eastern part of the link road that runs east-west across the wider site. The eastern link road was granted permission on 14 August 2024. Access roads from the northern and southern side of the link road then provide access into the southern and northern residential areas (Phases 3 and 4 respectively).
- 3.3. All dwellings are proposed as 2 or 2.5 storeys in height and the mix of dwelling sizes proposed across both phases is set out in the table below:

Tenure	1 Bed	2 Bed	3 Bed	4+ Bed	5-Bed
Market Proposed	0	0	59	72	10
Affordable Proposed	0	13	6	0	0

- 3.4. Open space is provided in the form of a north-south linear park, a central green space within Phase 4 and green space to the southeastern corner opposite Borden Nature Reserve and along the eastern boundary with Cryalls Lane.

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 13 letters of representation objecting to the proposal were received. Following receipt of further information, 8 letters of representation objecting to the proposal were received in relation to the second consultation. Concerns/ comments were raised in relation to the following matters:

First Round Comments	Report reference
Proximity to nature reserve – noise and lighting	7.7.2 - 7.7.3, 7.7.9, 7.9.7, 7.10.18, 7.11.2
12% affordable is awful.	7.4.1
Parking	7.10.11 – 7.10.16, 7.10.19
No access for emergency vehicles	7.10.6, 7.10.17
Impact on wildlife and their habitats	7.9.2 - 7.9.11
Flood risk	7.12
Excessive noise	7.15.6
Additional air, water and soil pollution	7.12, 7.15.4 - 7.15.7
Impact on infrastructure – drainage, schools, GPs and hospitals.	7.12, 7.15.4 – 7.15.6
Impact on local amenities and well-being of existing residents – parks, green spaces or community facilities	7.8.2 – 7.8.3, 7.11.2 - 7.11.3
No buffer zone between the site and nature reserve	7.11.2
Impact on natural beauty and landscape	7.2.3
Large number and density of buildings	7.7.9
Impact on climate change	7.14
Lack of environmental impact assessment	7.15.4 - 7.15.6

No exploration of alternative sites	7.15.3
Loss of community resource – exacerbating social inequality	7.15.4 – 7.15.6
Increase traffic congestion	7.10.3 – 7.10.5
Impact on pedestrian routes	7.7.4, 7.10.8
Loss of trees	7.8.7 – 7.8.8
The development should include green space landscaping.	7.8
Road alignment – impact from headlights on nature reserve	7.11.2
Parking arrangements poorly designed	7.10.11 – 7.10.16, 7.10.19
Cryalls Lane to be partially inaccessible by car – bollards should be required	7.10.9
Second Round - Additional Comments	Report reference
Failure to deliver Biodiversity Net Gain (BNG)	7.9.12
Potential for on-street parking creating an obstruction	7.10.19

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

First Round Comments	Report reference
Changes to width of Cryalls Lane – erosion of rural lane and green verges and impact on habitat, root zones of trees, biodiversity and drainage.	7.10.9
Too close to Cryalls Lane and the nature reserve. Noise and light impact on mature trees supporting bats.	7.7.2 - 7.7.3, 7.7.9, 7.9.7, 7.9.9, 7.10.18, 7.11.2
Turning area at end of Cryalls Lane – encourage fly tipping and other illegal and anti-social behaviour.	7.15.1
No security arrangements for blocked end of Cryalls Lane.	7.10.9
Design prevents access to nature reserve without going into new estate and part of Cryalls Lane appears to be proposed as an estate road.	7.10.9
Traffic, light and noise pollution – exacerbate damage to landscape and wildlife especially along Cryalls Lane and the nature reserve.	7.7.9, 7.9.7 – 7.9.10, 7.10.18, 7.11.2
Second Round - Additional Comments	Report reference
Parking – 3 serial parking spaces is against Swale's SPD	7.10.11 – 7.10.16, 7.10.19

4.4. **Borden Wildlife Group** object to the application on the following grounds:

First Round Comments	Report reference
Phases 3 and 4 must include the green space landscaping required for the development that we believe is currently intended for the sensitive site adjoining the nature reserve.	7.7.2 - 7.7.3, 7.7.9, 7.8, 7.11.2
Impact on nature reserve from vehicle headlights.	7.7.2 - 7.7.3, 7.7.9, 7.10.18, 7.11.2
Light and noise pollution from houses facing nature reserve. Would need to pull them back and provide adequate screening.	7.7.2 - 7.7.3, 7.7.9, 7.9.7, 7.10.18, 7.11.2
Impact on mental health from negative impact on nature	7.8.2 – 7.8.3, 7.11.2 - 7.11.3
Impact on nocturnal species from light and noise	7.7.2 - 7.7.3, 7.7.9, 7.9.7, 7.10.18, 7.11.2
Second Round - Additional Comments	Report reference
Oppose badger proof fencing	7.9
Wildlife should be able to establish a territory and corridor around the development	7.9

4.5. **West Kent Badger Group (WKBG)** were consulted at the request of Borden Wildlife Group and therefore responded following receipt of further information. West Kent Badger Group object to the application on the following grounds:

Second Round Comments	Report reference
Would like assurance that measures set out in the Ecological Technical Report, TR31 will be implemented.	7.9.6 - 7.9.7
Concern regarding the cumulative impact on badgers and the natural environment in general. Each phase will lead to increasing pressure on the local badger population, the impact should be assessed as a whole.	7.9.6 - 7.9.7
Consideration should be given to how wildlife corridors will be protected and how the development promotes the conservation, restoration and enhancement of ecological networks.	7.9.6 - 7.9.7
Seek assurance that adequate protection will be given to the adjacent nature reserve, particularly, but not limited to, from light pollution	7.9.6 - 7.9.7, 7.10.18, 7.11.2

- 4.6. **Swale Footpaths Group** - Nothing to add to comment made on Hybrid application.

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 most consultees. For those individual consultees that have been consulted more than twice, it is stated under their heading below.

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

Initially expressed concern and requested revised information regarding the number of houses fronting the link road and having driveways, the number and distribution of visitor spaces and the type and arrangement of off-road parking provision. Also requested details regarding the street lighting and visibility splays and the submission of a Section 38 highway adoption plan.

Following the submission of Technical Note with its appendices and a revised parking plan, no objection is raised.

- 5.3. **KCC Flood and Water Management** – Three rounds of consultation have been carried out.

No objection to the proposal to manage surface water through 3 separate networks discharging to deep borehole soakaways but raised some point for the applicant to consider. Following the submission of further information in response to these point, KCC Flood and Water Management continue to raise no objection.

- 5.4. **KCC Minerals and Waste** - No land-won minerals or waste management capacity safeguarding objections.

- 5.5. **KCC Ecological Advice Service (KCC EAS)** – Compared submitted landscaping plan with original masterplan submitted with hybrid application. No significant changes. Noted that the majority of the planting within the areas of open space is native planting.

No badger setts currently present but activity recorded within the site and main and outlier badger setts are present. Possibility of a badger sett being established within the site and that commuting/foraging takes place across the site. Condition 59 requires an updated badger survey to be carried out prior to works commencing. A toolbox talk must be given to all staff on site and precautionary measures must be implemented during construction. All these measures have been agreed within the Construction and Ecological Management plan agreed under application 22/500639/SUB.

Advise measures are incorporated to ensure that badgers are unable to move in to the existing or future residential gardens in the future. Landscaping with badger friendly planting is proposed which is likely to benefit the population in the long run.

Hedgerows and scrub providing potential Dormouse habitat not affected under these proposals.

Some opportunities for ground nesting Skylark.

Some potential for reptiles.

With the exception of badgers and reptiles, largely satisfied that the CEMP submitted as part of application 22/500639/SUB is still valid for this application.

Recommend condition to secure faunal enhancements.

- 5.6. **KCC Archaeology** – Having viewed the work on site, KCC Archaeology have confirmed that the archaeological evaluation has been undertaken within Phases 3 and 4 following the written scheme of investigation (24/504081/SUB). KCC Archaeology advise that one feature has been found but that there is nothing that would have implications for the determination of this application. Any further work with the regard to the one feature found can be secured under condition 67 of the hybrid permission.
- 5.7. **KCC Public Rights of Way (PROW)** - No comment to make but states PROW ZR120 is a short distance away and could be affected by construction works and traffic. Permission should be sought for any closure.
- 5.8. **SBC Heritage** - Given the proposal largely follows the approved masterplan, no objection.
- 5.9. **SBC Urban Design** – No objections
- 5.10. **SBC Affordable Housing** – Three rounds of consultation have been carried out.
- 9 affordable units are proposed but 12% of the 160 across these two phases rounded up would be a requirement of 20. It is noted that whilst the s106 Agreement requires 12% across the wider site, there is no requirement to be 12% to be achieved on each phase. Provided the total of 81 units (12% across the wider site) is achieved no objection is raised.
- 5.11. **SBC Greenspaces** - the proposals generally adhere to the outline masterplan in relation to the location and level of open space. Play area is adequate, but a little constrained. Different play types is reasonable and caters for disabilities. Fencing should be bow-top metal fencing.
- 5.12. **SBC Tree Officer** - General arrangement of planting shown on landscape strategy plan is acceptable subject to more detailed drawings showing plan species and sizes with management programme.
- 5.13. **SBC Climate Change Officer** – No comments.

- 5.14. **Mid-Kent Environmental Protection** - No further comment or recommendations to make to those contained in our response during the consultation for the outline approval.
- 5.15. **National Highways** - Satisfied that, if permitted, it would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network. Our formal response is No Objection.
- 5.16. **Environment Agency (EA)** - The EA is not a statutory consultee for reserved matters applications so no longer provide comments on these consultations. It is advised to take account of any planning conditions, informatives or advice and comments provided in our response to the outline application.
- 5.17. **Natural England (NE)** - No comment.
- 5.18. **Historic England (HE)** – They state that they provide advice when their engagement can add most value. In this case they are not offering advice.
- 5.19. **Network Rail** - No objections. Advise applicant to engage with asset protection team.
- 5.20. **Active Travel** - Refer to standing advice
- 5.21. **Sport England** - Sport England has no comments to make.
- 5.22. **Lower Medway Internal Drainage Board (LMIDB)** - The site is outside the drainage district of the LMIDB and understand surface water runoff is directed to deep borehole soakaways. KCC is the appropriate authority to comment.
- 5.23. **Southern Water** - Three rounds of consultation have been carried out.

Insufficient information regarding foul water drainage.
- 5.24. **UK Power Networks** - No objection. Accurate records of overhead cables should be obtained prior to commencement of work.
- 5.25. **Kent Police** - Applicants/agents should consult us as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured By Design (SBD) as appropriate. If approved, site security is required for the construction phase.
- 5.26. **Kent Fire and Rescue** - Access into each road appear acceptable for the fire and rescue service, subject to confirmation that turning areas in front of any driveways are outside of each plots ownership and managed to ensure they are not impeded. Similarly, for the grasscrete secondary access points.

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
 ST5 Sittingbourne Area Strategy
 MU3 Land at South-West Sittingbourne
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 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
 DM21 Water, flooding and drainage
 DM24 Conserving and enhancing valued landscapes
 DM28 Biodiversity and geological conservation
 DM29 Woodland, trees and hedges
 DM32 Development involving listed buildings
 DM33 Development affecting a conservation area
 DM34 Scheduled Monuments and archaeological sites

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
- Size and Type of Housing
- Affordable Housing
- Heritage
- Archaeology
- Design – Layout, Scale and Appearance
- Landscaping
- Ecology
- Transport and Highways
- Open Space
- Flood Risk, Drainage and Surface Water
- Living Conditions

- 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. The principle of the development is established by the appeal decision dated 29 April 2021 granting hybrid planning permission listed above under reference 17/505711/HYBRID. The site forms Phases 3 and 4 of the outline area of the hybrid permission.
- 7.2.4. In this case, reserved matters proposals are required to come forward in broad accordance with the hybrid planning permission which approved a set of parameter plans under condition 8. These parameter plans covered the following aspects: land uses, heights, density, indicative landscape strategy and route infrastructure.
- 7.2.5. In addition, certain conditions and aspects of the s106 have direct relevance to the proposal for these phases at this reserved stage. Assessment of the proposal's compliance with relevant conditions and aspects of the s106 is discussed where relevant in the sections below.
- 7.2.6. Subject to compliance with the parameter plans, other conditions and the s106 directly relevant to these phases at this stage of the development process, the principle of the development is acceptable.

7.3. Size and Type of Housing

- 7.3.1. The NPPF recognises that to create sustainable, inclusive, and diverse communities, a mix of housing types, based on demographic trends, market trends, and the needs of different groups, should be provided.
- 7.3.2. 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	59 (42%)	72 (51%) 4-bed 10 (7%) 5-bed
Affordable Required	27%	23%	30%	20%
Affordable Proposed	0	13 (68%)	6 (32%)	0

- 7.3.3. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes. It should be remembered that this reflects the Borough wide need.
- 7.3.4. The table above shows a split of 141 dwellings as market housing and 19 dwellings as affordable housing.
- 7.3.5. In terms of the market housing, the proposal would deliver a greater proportion of 3- and 4-bed houses and no 1- and 2-bed houses than is indicated as being required by the supporting text to Policy CP3 of the Local Plan or the HMA.
- 7.3.6. It is noted that the mix of dwellings set out in Policy CP3 of the Local Plan and the HMA is borough wide and does not take account of localised differences in market housing need. To account for localised differences, local housing market areas have been established which relate to specific postcode evidence. For the town of Sittingbourne, the supporting text to Local Plan Policy CP3 states that Sittingbourne has the opportunity to provide a mix of quality housing types and unit sizes. Prices are affordable and there are reasonable levels of demand from a range of consumers. Objective two for this area is to ‘Reinforce’ by not changing an area’s housing offer. Design should protect and enhance existing characteristics of a neighbourhood area.
- 7.3.7. It is considered that the mix of units in terms of size and type is reflective of the area and therefore is in accordance with the objective of reinforcing and enhancing the characteristics of the area.
- 7.3.8. Having taken account of the context, the policy requirements and the HMA, no objection is raised in this regard and the proposal is considered to broadly comply with Policy CP3 of the Local Plan and the NPPF.

7.4. **Affordable Housing**

- 7.4.1. Through Policy DM8, the Local Plan requires 10% of affordable housing from developments in Sittingbourne town and urban extensions, whereas it requires 40% from extensions to rural areas. The affordable housing requirement of the wider development site was secured within the s106 Agreement at the time the hybrid permission was granted, with an Affordable Housing Scheme required to be submitted prior to the commencement of each phase pursuant to the s106. The s106 Agreement requires 12% affordable housing across the wider development site (not per phase).
- 7.4.2. Whilst the delivery of affordable housing on the development is controlled by the s106, the details submitted indicate that a total of 19 dwellings are proposed as affordable housing across these two phases, representing 11.875% of the total number of units proposed (160 dwellings) which is slightly below 12%. Although slightly below 12% across Phases 3 and 4, it is noted that 36 of the 289 dwellings previously approved through the hybrid application and an earlier reserved matters application were confirmed to be affordable dwellings. That amounts to 12.45%. Combining this application with the other approved dwellings, 55 dwellings out of a total of 449 dwellings would be affordable which equates to 12.2%. Therefore, the development as a whole is proceeding in accordance with the terms of the Section 106 agreement relating to the overarching planning permission.
- 7.4.3. In accordance with the s106 Agreement, the tenure split of the 19 units is proposed as 90% affordable rented units (17 dwellings) and 10% shared ownership units (2 dwellings).
- 7.4.4. The affordable housing is shown to be split into three areas within the application site, with 6 dwellings being located to the northeastern corner of Phase 4, 7 dwellings within a central area, close to the linear park within Phase 3 and 6 dwellings further to the east within Phase 3.
- 7.4.5. Furthermore, in accordance with the s106 Agreement, all affordable dwellings are designed to meet Part M4(2) Building Regulations accessibility standards ensuring homes are adaptable for future needs.
- 7.4.6. The affordable housing proposal complies with the requirements of the hybrid permission and Policy DM8 of the Local Plan and the NPPF.

7.5. **Heritage**

- 7.5.1. Any planning application for development which will affect a listed building, or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

- 7.5.2. 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.
- 7.5.3. 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.
- 7.5.4. The impact of the wider development on listed buildings and conservation areas was considered at the hybrid application stage where the impact arising in terms of less than substantial harm at the lowest end (to the Chestnut Street CA and its setting and associated listed buildings and to Riddles House/Riddles Cottage) was outweighed by the benefits of the development.
- 7.5.5. Chestnut Street is located to the west of the wider development site. Phases 3 and 4 are located to the eastern side of the wider development site, the furthest residential phases away from Chestnut Street. At the time of the hybrid application being considered, the boundary of the Chestnut Street CA was drawn along the northern edge of School Lane. An extension to the CA in 2021 included two additional parcels of land to the northeastern side of the CA. The extension included the remainder of the properties on the northwestern side of Chestnut Street (Frederick Cottage, Florence Cottages and the Tudor Rose), land between the southeastern side of Chestnut Street and the northeastern side of the boundary to Hooks Hole Farm. The CA extends northeast towards a substation. Given the distance of Phases 3 and 4 from the CA as extended, the development of these phases would not result in harm to the setting of the Chestnut Street CA.
- 7.5.6. Considering the impact on The Street CA and a number of listed buildings (Grade I Church of St Peter and Paul, Grade II* Borden Hall which includes a Grade II listed dovecote in the grounds, Grade II Oak House, Grade II Street Farmhouse, Grade II Apple Tree Cottage and The Cottage and Grade II Thatch Cottage) which are located to the south of this application site, the Inspector concluded that given the degree of separation from the development and the scale of the proposed boundary screening context, the development would not affect the setting and significance of The Street CA and the associated listed buildings.
- 7.5.7. To the east and southeast, the closest listed buildings are Riddles Cottage and Riddles House which was a Grade II listed building now divided into two houses located on eastern side of Borden Lane; and Cryalls Farmhouse, Grade II listed, accessed from Auckland Drive but located to the eastern side of Cryalls Lane with a boundary fronting Cryalls Lane opposite Phase 3.

- 7.5.8. In relation to the wider development proposals for the whole site, the SoS agreed with the Inspector that there would be a material change to the character of the setting of Riddles Farmhouse (now Riddle Cottage and Riddles House), amounting to less than substantial harm, but at the lowest end of that category. The Inspectors report indicates that this is primarily due to the proposed new roundabout in Borden Lane and its proximity to the listed building. The roundabout was granted as part of the hybrid permission.
- 7.5.9. In relation to Cryalls Farmhouse, its architectural significance as a Georgian Farmhouse was recognised and it was considered that although there is no longer any functional relationship to the agricultural land to the northwest (Phases 3 and 4), it's historical significance is through its relationship to the agricultural development of the area. In considering the appeal, the setting of Cryalls Farmhouse was stated as comprising its own substantial enclosed plot, suburban development to the north and east and scrubland/Local Green Space (LGS) to the south.
- 7.5.10. The Masterplan submitted with the hybrid application showed Cryalls Lane to the rear being retained with open/space landscaping between the lane and the proposed housing and a landscape buffer to the south. It was for these reasons that the Inspector considered there to be no effect from the proposed development on the setting of Cryalls Farmhouse or its architectural/historic significance.
- 7.5.11. In considering the appeal and in line with para. 207 (196 at the time of the appeal) of the NPPF, the 'less than substantial harm' to Riddles Cottage and Riddles House (as well as to Chestnut Street Conservation area to the west) was considered against the public benefits of the wider proposal. At paragraph 52 of his letter, the SoS agrees with the Inspector's conclusion that the benefits of the appeal scheme are collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of heritage assets.
- 7.5.12. The detailed layout of the proposed development for Phases 3 and 4 of the hybrid permission is in broad accordance with the layout of the masterplan with open space of a similar area shown between Cryalls Lane and the proposed houses. Furthermore, the height of the houses in this southeastern corner of the site are proposed as 2 storey in height in accordance with the approved parameter plan. The architectural design and materials are similar to the earlier phases of the wider development.
- 7.5.13. Given the proposed layout, appearance and scale of the development proposed, that there is has been no change in policy nor are there any other material considerations that would lead to conclusion that would differ from that reached by the Inspector and the SoS, the proposal for Phases 3 and 4 is acceptable and complies with Policies CP8, DM32 and DM33 of the Local Plan and the NPPF.
- 7.5.14. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

7.6. **Archaeology**

- 7.6.1. 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.
- 7.6.2. 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.
- 7.6.3. Condition 66 of the hybrid planning permission requires a programme of archaeological field evaluation works to be secured for that phase in accordance with a specification and written timetable. The written scheme of investigation (WSI) and timetable is approved for these phases on 20.01.2025 under reference 24/504081/SUB.
- 7.6.4. Archaeological evaluation has taken place across Phases 3 and 4. KCC Archaeology have confirmed that the evaluation through Phases 3 and 4 has been undertaken following the approved WSI (24/504081/SUB). One feature has been found for which KCC advise would have no implications for this proposal and are satisfied that the details of any further investigation can be secured pursuant to condition 67 of the hybrid permission and that development as proposed for Phases 3 and 4 can be approved.
- 7.6.5. In view of the above, it is considered that the proposal is acceptable and complies with Policies CP8 and DM34 of the Local Plan and the NPPF.

7.7. **Design – Layout, Scale and Appearance**

- 7.7.1. Local Plan Policies CP4 and DM14 and the NPPF attach great importance to the design of the built environment and that design should contribute positively to making places better for people.

Layout

- 7.7.2. Whilst layout was a reserved matter, in considering the hybrid application, an indicative masterplan was submitted to demonstrate that the quantum of development proposed could be accommodated within the site. The masterplan is listed in Condition 8 of the hybrid permission as an approved drawing with the purpose of providing a framework to the development of subsequent reserved matters applications. A route infrastructure drawing was also listed as an approved parameter plan within condition 8 of the hybrid permission.
- 7.7.3. The masterplan and the route infrastructure drawing submitted as part of the hybrid application showed a similar road layout to that being considered under this current

application for reserved matters. They both show the main access road through the centre which is referred to as the link road or spine road. This road provides a route from Chestnut Street to the west and Borden Lane to the east. This road was approved as part of the hybrid permission. Reserved matters applications have subsequently been approved for the spine road.

- 7.7.4. Access roads adjoining the north and south of the main spine road are generally similarly positioned to those shown on the masterplan. Pedestrian connection points with the existing settlement to the east are also proposed in similar locations when compared to the infrastructure parameter plan. There is pedestrian connection point into the site via the spine road and another pedestrian crossing point towards the northern end of Cryalls Lane before it bends significantly to the east. There is no objection to the proposed layout with regard to the road layout and pedestrian connectivity.
- 7.7.5. In addition to route infrastructure, Condition 8 of the hybrid planning permission listed an indicative landscape strategy plan (drawing number L8 revision E). Both the layout of the masterplan and the indicative landscape strategy showed a linear park located to the western edge of the site, a greenspace area located in a central location with Phase 4 and a greenspace area to the southeast corner of the site opposite the nature reserve. The proposals reflect this distribution and amount of greenspace provision for these two phases and no objection is raised in this regard.
- 7.7.6. Most dwellings face the road, and green space where applicable, creating an active frontage to the street scene. This in turn provides natural surveillance creating safer streets. Where the side elevations of the dwellings face the street scene, there are windows in the street facing side elevation to ensure an active frontage. In addition, where boundary treatments to the rear of dwellings present to the streetscene, they are proposed as brick walls rather than the close-board fencing that is proposed elsewhere across the site.

Scale and Density

- 7.7.7. Building heights were set by the inclusion of a building heights parameter plan within condition 8 of the hybrid permission. The parameter plan set the building heights for this area to be up to 2 storeys high along Cryalls Lane, up to 2.5 storeys high within the centre of the site and up to 3 storeys to the northern part of the site.
- 7.7.8. The majority of dwellings are proposed to be 2 storeys high. The only dwellings proposed at 2.5 storeys high are to be located along the southern side of the spine road and a further 3 dwellings located around a junction a short distance to the south of those dwellings. The dwellings are well proportioned in terms of the footprint to height ratio and all enjoy the provision of a private rear garden resulting in development that is of appropriate scale and in accordance with the parameter plans approved as part of the hybrid permission.

- 7.7.9. The hybrid permission also set density as a parameter plan showing a lower density along the frontage of Cryalls Lane (up to 25 dph), and higher densities moving into the site and further north within the site (up to 40dph). The proposed density is generally in accordance with the parameter plan. 25dph is proposed along the sensitive interface with the Borden Nature Reserve along Cryalls Lane. Phase 3 includes a slightly higher density at the core to allow for lower density along the western edge of Phase 4 where it fronts the linear park. It is a sensible approach to design that achieves a cohesive and varied layout and allows for a more spacious arrangement to front the linear park.

Appearance – Architectural design and materials

- 7.7.10. Phases 3 & 4 are located in such a manner within the wider development site that it is only in close proximity to a short section of existing development along Cryalls Lane. The development along Cryalls Lane fronting the application site comprises the wall to the Grade II listed Cryalls Farmhouse, Cryalls Farm Cottages, a semi-detached pair of 2-storey houses and 6 2-storey dwellings that are all either detached or semi-detached. The character of these existing properties along Cryalls Lane is of dwellings of yellow or red brick construction, some with red or brown tile hanging to the first floor level and all with barn hip style, tiled roofs. One property has a cat slide roof with a hipped roof dormer to the front.
- 7.7.11. The dwellings proposed follow a similar architectural style to that approved under earlier residential phases. The dwellings proposed to be located opposite the existing dwellings, are all proposed to be of red or yellow brick construction, with some showing soldier course details and flat brick arches to the windows and some showing tile hanging or render to the first floor with some inclusion of mock Tudor timber framing. All have hipped roofs, some include cat slide roofs with a hipped roof dormer to the front.
- 7.7.12. The architectural design is considered to reflect the design of the wider development site as well as the existing residential properties opposite. The design is acceptable and no objection is raised in this regard.
- 7.7.13. The overall design in terms of layout, scale and appearance is in accordance with the parameters set by the hybrid permission and is considered acceptable. The proposal is compliant with Policies CP4 and DM14 of the Local Plan and the NPPF.

7.8. Landscaping

- 7.8.1. Policy DM29 of the Local Plan and the NPPF recognise the contribution of trees to the intrinsic character and beauty of the countryside.
- 7.8.2. Condition 8 of the hybrid planning permission requires reserved matters to accord with the plans stated within that condition. An indicative landscape strategy plan (drawing number L8 revision E) is listed within condition 8. This strategy plan forms the framework for the general location for different forms of landscape across the wider development. It also includes an indicative planting schedule which provides the

selection of species for each area. The main landscape feature shown on this drawing relative to Phases 3 and 4 is a linear park running in a north-south direction through the site to the western edge of these phases. Two areas of amenity green space are shown, one to the southeast corner of Phase 3 and one roughly centrally located within Phase 4. The roads and areas alongside Cryalls Lane are to be tree lined where possible. Trees also feature around the SUDs basins and provide screening to the substation.

- 7.8.3. A landscape strategy plan has been submitted with the application. The plan follows the strategy plan listed as an approved drawing under condition 8 of the hybrid permission and species will be selected in accordance with those listed in the indicative planting schedule. A north-south linear park is proposed to the western edge of the two phases which includes a pedestrian route through and play space to the southern end. There are green spaces located to the southeastern corner of Phase 3 and roughly centrally located within Phase 4. The planting for these areas will mainly comprise mown grass/wildflower and trees.
- 7.8.4. It is noted that there are SUDs features in each of these spaces. No objection has been raised in this regard from the Greenspaces Manager. Areas within and around the SUDs features will be maintain as long grass/wildflower suitable for a wet environment.
- 7.8.5. Native woodland species are proposed to the northern boundary of Phase 4 to infill the existing vegetated boundary. Native hedgerow is proposed to the southern side and part of the eastern side of Cryalls Lane, to the eastern boundary of Phase 4 and the northern boundary to Phase 3. Street trees are proposed along the route of the link road and main access roads. Fruiting species will be selected to provide foraging habitat for existing wildlife within the locality.
- 7.8.6. On-plot landscaping is proposed in the form of ornamental hedges, shrubs, climbers and grassed lawns.
- 7.8.7. The proposed landscaping strategy has been reviewed by the Council's Tree Officer and KCC EAS who note the majority of planting within the areas of open space comprises native planting and consider the proposal acceptable. It is recommended that detailed planting plans and their subsequent implementation be secured by condition.
- 7.8.8. In addition to the details submitted for this reserved matters application, conditions attached to the hybrid permission further secure some landscaping details and management. Condition 44 requires details of how trees that are to be retained will be safeguarded throughout the development. This detail is required prior to commencement of development for each phase. Condition 62 requires an updated Landscape Ecological Management Plan to be submitted within 6 months of the commencement of each phase.

- 7.8.9. With the conditions attached to the hybrid permission and an additional condition for detailed planting schedules to be submitted, the proposal is acceptable, in accordance with the parameters set by the hybrid permission and complies with Policies CP7, DM14 and DM29 of the Local Plan and the NPPF.

7.9. Ecology

- 7.9.1. Local Plan Policies CP7 and 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.
- 7.9.2. Conditions attached to the hybrid permission relating to various aspects of ecology required the following details which are shown below with status:
- Condition 58 – Updated baseline surveys for breeding birds, bats, reptiles and dormouse; (approved on 06/04/2022 – reference 22/500133/SUB).
 - Condition 59 – Updated Badger Survey to be submitted within 6 months prior to commencement of development of any phase. Submitted and under consideration (reference 25/503255/SUB).
 - Condition 60 – Revised Skylark Mitigation Strategy; (approved on 11/04/2022 – reference 21/506820/SUB – Legal Agreement in Place dated 15/09/2022).
 - Condition 61 - Construction Ecological Management Plan (CEMP); (approved on 06/05/2022 – reference 22/500639/SUB); and
 - Condition 62 – Landscape and Ecological Management Plan (LEMP) to be submitted within 6 months of the commencement of development of any phase. To be submitted in relation to Phases 3 & 4.
- 7.9.3. KCC EAS have reviewed this reserved matters application and having compared the submitted plans with the masterplan secured as a parameter plan by the hybrid permission, they are satisfied that layout has not significantly changed and that the areas of open space proposed correspond with the masterplan.
- 7.9.4. A technical note has been submitted with the reserved matters which provides an overview of ecology for Phases 3 and 4. It references a badger survey that has been submitted pursuant to condition 59 and confirms that no badger setts are currently present on site, but that badger activity was recorded within the site and that main and outlier badger setts are present to the south of Phase 3. KCC EAS advise that it is therefore possible that a badger sett could establish within the site and it is likely that badgers will commute/forage across the site.
- 7.9.5. As detailed within the Ecology Technical Note (Badgers) an updated badger survey must be carried out prior to works commencing (pursuant to condition 59 of the hybrid permission), a tool box talk must be given to all staff on site a precautionary measures must be implemented during construction. All these measures have been agreed

within the Construction and Ecological Management plan (CEMP) agreed under application 22/500639/SUB. Condition 59 of the hybrid permission will ensure an updated survey will be undertaken within 6 months of commencement of development for each Phase. The most recent badger survey was undertaken in March.

- 7.9.6. In their comments West Kent Badger Group (WKBG) sought assurances that the measures outlined within the technical Note will be implemented and that the phases are not considered in isolation. They also asked that consideration be given to how wildlife corridors will be protected, how the wider development will promote, restore and enhance ecological networks and the impact of lighting on the nature reserve.
- 7.9.7. The applicant has provided a response in the submitted 'Response to Consultee Comments' that the mitigation measures and parameters in which to design the development are secured by the hybrid permission and associated conditions. The submitted response also confirms the scheme is not considered in isolation and that condition 59 of the hybrid ensures that prior to works commencing within each phase, updated badger surveys are undertaken and a report with additional measures may be required. Details of management, maintenance and retention of landscaping of open space in the site is secured by condition 62 (LEMP) and a lighting strategy is secured by condition 37 of the hybrid permission.
- 7.9.8. KCC EAS have reviewed the Technical Note and advise that the works undertaken across the wider site are resulting in existing badger setts being closed or temporarily closed and therefore how badgers use the site will change during the construction works and the completed development. It is advised that measures are incorporated into the development site to ensure that badgers are unable to move in to the existing or future residential gardens in the future through the use of badger proof fencing. In stating this point KCC EAS acknowledge that landscaping with badger friendly planting is proposed which is likely to benefit the population in the long run.
- 7.9.9. With regard to other ecological aspects, hedgerows and scrub providing potential Dormouse habitat are located beyond Cryalls Lane and are not affected under these proposals (the treeline at the northern boundary being gappy and unlikely to form suitable habitat). The area provides some opportunities for ground nesting Skylark, with a single territory recorded from the wider arable field which contains the site during the 2021 bird survey and margins of rank grassland and ruderal vegetation along Cryalls Lane and adjacent to the northern treeline offer some potential for reptiles. No reptiles were recorded adjacent to Cryalls Lane during the 2021 survey, although a single slow-worm was recorded adjacent to the northern treeline.
- 7.9.10. The CEMP approved under reference 22/500639/SUB is still considered valid for this application with the exception of badgers as detailed above, (the requirement of an updated survey) and reptiles. Information has been provided confirming that the habitat within the site is not optimal for reptiles and therefore a precautionary approach will be implemented to clear the vegetation and encouraging reptiles to move into the edge of the site in to retained habitat. This approach is considered satisfactory. A

condition is proposed to secure the precautionary approach as advised within the Technical Note.

- 7.9.11. The proposal is in accordance with the parameters set by the hybrid permission and taking account of the existing conditional safeguards attached to the hybrid planning permission and with further conditions proposed securing badger proof fencing and a precautionary approach to reptiles, the application is acceptable and in accordance with Policy DM28 of the Local Plan and the NPPF.
- 7.9.12. This application is a reserved matters application related to a hybrid permission that was submitted and approved before the commencement of Mandatory Biodiversity Net Gain and is therefore not required to deliver at least a 10% biodiversity net gain under the Environment Act 2021.

7.10. **Transport and Highways**

- 7.10.1. 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.
- 7.10.2. 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.”*
- 7.10.3. The impact of the wider development has already been considered and accepted with the grant of the hybrid planning permission. At paragraph 18 of his letter the Secretary of State (SoS) agrees with the Inspector that subject to the implementation of mitigation measures the scheme would not have an unacceptable impact on highway safety or the free flow of traffic on the local or strategic road network.
- 7.10.4. It was also noted that the creation of a link road between Borden Lane and Chestnut Street with access onto the southbound A249 was identified to provide benefits which include mitigating congestion on the A2 and the provision of an alternative route which the Key Street/A249 and the Key Street roundabout and the link road would contribute to improving air quality along this key route into and out of Sittingbourne. The requirement for the link road to be provided as part of the wider development was secured by conditions 24 and 26 along with the roundabout at Chestnut Street (condition 25) of the hybrid planning permission.

- 7.10.5. All sections of the link road have been approved. Phases 3 and 4 form the eastern most residential phases of the development and are situated to the south (Phase 3) and north (Phase 4), of the link road.
- 7.10.6. Phase 4 is served by one main access from the link road, a major access road located between plots 76 and 117. This provides access to the majority of dwellings on this Phase, leading to a series of minor access ways and private drives. A separate minor access way is also provided from the link road further west, which leads to a small cul-de-sac of dwellings and a private drive. One private drive is accessed directly from the link road serving 5 dwellings, and some properties are provided with individual direct access from the link road. As Phase 4 is only served by one major access road, an emergency link is provided to the north eastern corner of the site (between plots 85 – 93) by connecting two private drives with a grasscrete link (shown as a dotted line on the layout drawings). A condition is recommended to secure details of how this will be used as an emergency access only.
- 7.10.7. Phase 3 is served by two main accesses from the link road. These each comprise a priority controlled junction, one located between plots 32 and 65 and the other between plots 6 and 16. Each access leads to a minor access way which connect into a looped arrangement within the phase. These minor access ways then lead into private drives and shared surfaces towards the edge of the phase, near the open spaces. Two private drives are further accessed directly from the link road, one at each end of Phase 3, with the westernmost private drive serving 4 dwellings and the easternmost private drive serving 3 dwellings.
- 7.10.8. Cryalls Lane which is to be retained on its existing alignment is also within Phase 3. A small stretch of Cryalls Lane is proposed to become a footway/cycleway only (between Phase 5 and plot 34), preventing vehicular traffic from progressing along this route. Cryalls Lane has always been proposed to be closed off at this point as part of the hybrid permission, and traffic diverted through the development site.
- 7.10.9. Vehicle access is also still maintained to Borden Nature Reserve, which is currently accessed via Cryalls Lane. The proposal does not seek to change the width of Cryalls Lane. Vehicles will travel a new route along the link road before turning south through Phase 3 and onto Cryalls Lane. A turning head is to be provided further north along Cryalls Lane (which was approved under reserved matters application for the eastern link road reference 23/505420/REM) should any vehicles inadvertently continue along Cryalls Lane past the Nature Reserve. A cycle barrier is shown at the point Cryalls Lane meets the southern side of the link road. This is a requirement of the reserved matters permission granted for the eastern link road.
- 7.10.10. The layout of the site is in broad accordance with the infrastructure parameter plan secured by condition 8 of the hybrid permission.
- 7.10.11. In accordance with conditions 34 and 36 of the hybrid permission, a parking plan is submitted with the application. This plan was subsequently revised to address

concerns raised by KCC Highways. The parking plan also confirms that cycle parking is to be provided on plot in rear gardens.

- 7.10.12. In accordance with the hybrid permission (condition 71), and subject to separate formal discharge application a plan showing the provision of electric vehicle charging points (EVCP) has been submitted. This shows all dwellings have access to a wall or post mounted EVCP.
- 7.10.13. In reviewing the proposal, initial concerns raised by KCC Highways related to the number of houses fronting the link road and having driveways as well as the number and distribution of visitor spaces and the type and arrangement of off-road parking provision. The drawings showed a heavy reliance on triple tandem parking. The Council's adopted standards require 2/3 spaces for 3-bedroom units, and 3+ spaces for 4+ bedroom units. In addition, in suburban locations free-standing and integral garages are not taken into account as counting towards the required quantum of allocated parking spaces where the size standards are not met. The initial parking plan provided showed some garages to be smaller than the recommended guidance and double car ports and garages proposed. It was recommended that amendments be submitted to address these concerns.
- 7.10.14. A Technical Note has been submitted by the applicants in response. The Technical Note details agreement between the applicant and KCC Highways that waiting restrictions in the form of double yellow lines be imposed along the link road together with the provision of additional visitor parking bays will address the concerns regarding potential on-street parking and driveway access along the link road.
- 7.10.15. To address concerns around the proposed triple parking, garage dimensions and the distribution of visitor parking spaces, the applicant has provided an additional 17 visitor bays, evenly distributed and particularly near dwellings with triple tandem arrangements and integral garages. This includes improved coverage in areas such as plots 65-48, 92-85, and 157-151, aligning with the standard of one visitor space per five dwellings. A revised parking plan has also been submitted to show the additional visitor parking provision.
- 7.10.16. The Technical Note confirms that only 4-bedroom dwellings with integral garages are proposed to count toward parking provision. A key has been added to the revised parking plan identifying these units and their garage dimensions, which range from 4.63m to 5.30m in width, exceeding the 3.6m minimum in Table 7 of Swale's Parking SPD.
- 7.10.17. Swept path drawings show the site is accessible by fire tenders and refuse collection vehicles. Confirmation has also been provided within the submitted 'Response to Comments' that all turning areas will be managed by the Management Company for the development to ensure they are not used for parking. Where refuse is shown to be collected from a bin storage area drag distances for both the occupier

and refuse collection operative is not exceeded and therefore no objection is raised in this regard.

7.10.18. KCC Highways also request details regarding the street lighting and visibility splays and requested the submission of a Section 38 highway adoption plan. These plans are provided in the appendices of the Technical Note. The detail regarding street lighting and visibility splays is also secured by condition 37 of the hybrid permission.

7.10.19. In reviewing the Technical Note and the revised parking plan, KCC Highways are satisfied with the highways arrangements including the parking provision and raise no objection to the proposal. There is a request for conditions, however, the details required by the suggested conditions are already secured by the conditions attached to the hybrid permission so there is no need to impose them again.

7.10.20. Active Travel England responded to the proposals by referring to standing advice. The standing advice (toolkit) primarily relates to matters approved by the hybrid permission. Parameter plans and other conditions such as condition 33 (Travel Plan) secured as part of the hybrid permission ensure that the detail of the reserved matters also conforms with the Active Travel toolkit.

7.10.21. The proposal is acceptable and complies with the hybrid permission and Policies CP2, DM6 and DM7 of the Local Plan and the NPPF.

7.11. **Open Space**

7.11.1. 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.

7.11.2. Condition 8 of the hybrid permission and the s106 Agreement secured the provision, type and distribution of open space throughout the wider development. A total of 1.6ha of open space is proposed across Phases 3 & 4 which is slightly greater than that shown on the Land Use parameter plan secured by condition 8 of the hybrid permission. This allows for a larger area of woodland and landscape buffer planting adjacent to Borden Nature Reserve and along eastern and northern boundaries as well as green amenity space at the centre of the northern residential parcel and in the form of a linear park. The greenspaces accommodate SUDS as well as formal play space in the form of a Local Standard of Play Area (LSPA) within the linear park in accordance with the requirement of Schedule 4 of the s106 Agreement. New SUDS features will provide a drainage function but will also be designed to be attractive landscaped features and incorporate species that create biodiversity benefits.

7.11.3. SBC Greenspaces Manager has reviewed the proposals and is satisfied that the proposals are in broad accordance with the hybrid permission. No objection is raised to the presence of the SUDS features within the space. Schedule 4 of the s106 Agreement requires the LSPA to be in accordance with Appendix A of the Swale Borough Council Open Spaces and Play area Strategy 2018-2022. Appendix A sets

out the type of equipment that is adequate for a LSPA. Comment is made by the Greenspaces Manager that the play area proposals are adequate. The number of play types is considered reasonable and caters for disabilities both in terms of access and use.

7.11.4. There is a request that the fencing should be changed from the proposed timber rail to a bow-top railing to prevent dog access and to be more sustainable in the long term with regard to wear and tear. It is considered that this detail could be conditioned and the final design agreed at a later date but prior to the first use of the play space. The delivery of the space and the timing of that is secured by Schedule 4 of the s106 Agreement.

7.11.5. The proposal is acceptable, in broad compliance with the hybrid permission and Policy DM17 of the Local Plan and the NPPF.

7.12. Flood Risk, Drainage and Surface Water

7.12.1. 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.

7.12.2. Each phase within the overall development site is subject to a detailed drainage strategy to be submitted and approved before works commence (Condition 49) and ongoing maintenance prior to use/occupation (Condition 50). The applicant has acknowledged that this will be submitted should the reserved matters be approved.

7.12.3. Nevertheless, a drainage strategy has been submitted for Phases 3 & 4. The strategy shows a design to mitigate the impact of additional surface water by utilising a variety of surface water storage solutions including, attenuation basins, underground crate systems, deep bore holes as well as permeable paving. The range of solutions proposed is designed to maximise the amount of useable open space whilst achieving adequate surface water volumes. Rainwater is to be collected from roofs and areas of hardstanding and will be conveyed via surface water sewers to the attenuation features.

7.12.4. KCC Flood and Water Management have reviewed the application and raised no objection to the approach of three separate networks discharging into deep borehole soakaway. Some points were raised for the applicant's consideration in relation to the rainfall datasets used and the depth of the deep borehole soakaways and their relationship with groundwater. Further information has been submitted by the applicant in response to these points in order to provide clarification and to show a reduction in the depth of the deep borehole soakaways to be 1m above the recorded level of groundwater. This has been accepted by KCC Flood and Water Management.

7.12.5. There has been no objection to the principle of the drainage approach as outlined at this stage with further details required to be submitted under conditions 49 and 50.

- 7.12.6. Southern Water have commented that insufficient information has been submitted in relation to foul water drainage. This aspect of drainage will need to be addressed by the applicant through compliance with Building Regulations.

7.13. **Living Conditions**

Existing residents

- 7.13.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.13.2. The impact of the wider development of the hybrid proposal has already been considered at the appeal in terms of the impact on residents with regard to issues such as the traffic generation, noise and air quality.
- 7.13.3. The impact on surrounding residents as a result of the construction activity will be controlled through condition 21 of the hybrid planning permission which restricts the hours of construction activity.
- 7.13.4. This application for Phases 3 & 4 is located on existing fields with Cryalls Lane to the east. As such, the nearest existing residential neighbours will be the 6 dwellings on the opposite (eastern) side of Cryalls Lane and the semi-detached pair (Cryalls Farm Cottages) on the northern side of Cryalls Lane as the road runs almost 90 degrees to the east.
- 7.13.5. The layout of the proposal within the application site is such that the proposed dwellings are set back from Cryalls Lane with grassed areas and access roads in between. The separation distances between the proposed and the existing dwellings is such that there would be no detrimental harm caused on the living conditions of the occupiers of these existing properties when considering the impact on loss of outlook, privacy, daylight and overshadowing.

Future residents

- 7.13.6. 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.
- 7.13.7. The floor plans for each dwelling type comprise an acceptable layout, demonstrating that rooms can adequately accommodate the furniture necessary for day-to-day living. On this basis, it is considered that the dwellinghouses would provide future occupiers with an acceptable standard of internal accommodation. All habitable rooms are served by window providing natural daylight.
- 7.13.8. Careful consideration has been given to the layout of the development with regard to the back-to-back and rear-to-flank arrangements of the dwellings and their habitable room windows. The layout provides sufficient separation between the proposed dwellings within the site to ensure privacy for the future occupiers. All dwellings are

provided with a good amount of private outdoor amenity space in the form of rear garden areas.

7.13.9. Refuse storage would be accommodated out of sight within the rear garden areas for the majority of dwellings. The layout has been designed to allow for direct external access from the rear to the front of each dwelling to enable the refuse to be moved to kerbside collection points on refuse collection days without the need to travel internally through the dwelling.

7.13.10. The proposal is considered to be in accordance with Policy DM14 of the Local Plan and the NPPF.

7.14. **Sustainability / Energy**

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

7.14.2. The submitted design and access statement confirms a fabric first approach has been adopted prioritising passive design principles over technology. This method involves reducing energy consumption by increasing insulation, reducing heat loss and air infiltration and using heat from the sun before resorting to renewable technologies such as solar panels, heat pumps or wind energy to create energy.

7.14.3. Conditions attached to the hybrid permission also secure the maximum water consumption rate (condition 13), the provision of electric vehicle charging points (condition 71) although this is also now required by Building Regulations and the provision of low emission boilers (condition 72).

7.14.4. The Climate Change Officer has reviewed the application and raises no objection. The proposal complies with Policy DM19 of the Local Plan and the NPPF.

7.15. **Other matters**

7.15.1. Concern has been raised by the public that the turning head area would increase existing anti-social behaviour at the Borden Nature Reserve. Existing anti-social behaviour would need to be referred to the appropriate authority. The residential development proposals for Phase 3 will result in increased natural surveillance or at the very least the perception of natural surveillance. This tends to deter anti-social and criminal activity.

7.15.2. There is a requirement for the Council to show that it has complied with the statutory duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The impact on residents' mental health has been raised as a concern to the general public within the vicinity of the wider development. Individuals are likely to be affected by different aspects of the proposal and react in different ways. At appeal, the hybrid application

was considered acceptable and planning permission granted with conditions attached and a s106 securing mitigation where possible to reduce impacts on surrounding residents and the environment. Officers have had due regard to the objectives set out within the Equality Act 2010 and the Public Sector Equality Duty that arises from this. However, as the proposal is considered acceptable for the reasons set out in this report, this duty is not reason to reach a different decision and need not be commented on any further. Moreover, there is no overt reason why the proposed development would prejudice anyone with the protected characteristics.

- 7.15.3. Comment has been made within the public consultation responses that there has been no exploration of alternative sites. The site has the benefit of an extant hybrid planning permission. There is no requirement to explore alternative sites in this circumstance.
- 7.15.4. In addition, comments have been made within the public consultation responses that there is a lack of environmental impact assessment and that the proposal will negatively impact on infrastructure such as schools, GPs and hospitals.
- 7.15.5. The impact on infrastructure and the environment was assessed as part of the hybrid application and was concluded to be acceptable and hybrid permission was granted along with contributions secured through the s106 agreement towards mitigating the impact on infrastructure. The hybrid permission also granted permission for a school and a small local centre to be located elsewhere within the wider site.
- 7.15.6. The environmental impacts arising from the development were considered as part of the hybrid application in respect of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Conditions and the s106 Agreement attached to the hybrid permission (the principal decision) secure further assessment and mitigation towards environmental impacts and sets parameters to ensure the development complies with relevant policies. The hybrid permission adequately addresses any harm identified. The detail of the proposals within this reserved matters complies with the parameters set by the hybrid and relevant planning policies and do not raise any environmental issues beyond what has previously been considered and addressed by the conditions and the s106 Agreement of the hybrid permission.
- 7.15.7. In relation to contamination, Condition 53 of the hybrid planning permission required the submission of a contaminated land assessment for the whole site. Details have been submitted and approved under condition 53 on 23/05/2022 (ref: 22/500132/SUB).

7.16. **Conclusion**

- 7.16.1. 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.

7.16.2. Regard has also been had to the limited scope of the application, which relates solely to the reserved matters and not the matters that were addressed by the hybrid application or are to be considered under the terms of other applications for the approval of details

7.16.3. The proposal is for two residential phases of the wider development site. The application is not considered to have an adverse impact on the wider landscape, highway network, ecology, heritage assets and the living conditions of surrounding residents having been considered at the Hybrid application stage. The design of the residential development follows the parameters secured by the hybrid permission and is considered acceptable. The proposal is in accordance with the policies set out above and the NPPF and is recommended for approval.

7.17. **Recommendation**

7.17.1. Grant subject to conditions.

7.18. **Conditions**

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

Received 21 August 2025

100 Rev B	Planning Layout
100-1 Rev B	Colour Planning Layout
104 Rev B	Materials and Boundary Treatment Plan
105 Rev B	Parking Plan
106 Rev B	Refuse and Fire Tender Plan
108 Rev B	Tenure Plan
1113 Rev B	EV Charging Plan
51-2 Rev B	Street Scenes
55	Garage and Car Port Details
56	Garage Details
HT-Hamp-05 Rev A	Hampstead Elevations
HT-Hamp-07 Rev A	Hampstead Floor Plans
HT-Henl-03 Rev A	Henley Elevations
HT-Henl-04 Rev A	Henley Floor Plans
HT-Wctr-03 Rev A	Winchester and Study Elevations
HT-Wctr-04 Rev A	Winchester and Study Floor Plans

Received 7 July 2025

1659 102 Rev A	Landscaping Strategy
1659 51-1 Rev A	Street Scenes
17-051-150 Rev F	Refuse Swept Path
17-051-151 Rev I	Fire Swept Path
NSPD3798 Rev B	Playspace Layout

Received 03 April 2025

101	Site Location Plan
54-1	Wall and Fence Details
54-2	Wall and Fence Details
GTC-E-SS-0012_R2-2_1 of 1	Substation Floor Plan, Elevations and Sections
HT-AI-01	Alderney Elevations
HT-AI-02	Alderney Elevations
HT-AI-03	Alderney Floor Plans
HT-Camb-01	Cambridge Elevations
HT-Camb-02	Cambridge Elevations
HT-Camb-03	Cambridge Floor Plans
HT-CHTR+01	Chester + Study Elevations
HT-CHTR+02	Chester + Study Elevations
HT-CHTR+03	Chester + Study Elevations
HT-CHTR+04	Chester + Study Floor Plans
HT-Dart-01	Dart Elevations
HT-Dart-02	Dart Floor Plans
HT-EN-01	Ennerdale Elevations
HT-EN-02	Ennerdale Floor Plans
HT-En-Ma-01	Ennerdale and Maidstone Elevations
HT-En-Ma-02	Ennerdale and Maidstone Floor Plans
HT-Hamp-01	Hampstead Elevations
HT-Hamp-02	Hampstead Elevations
HT-Hamp-03	Hampstead Elevations
HT-Hamp-04	Hampstead Elevations
HT-Hamp-06	Hampstead Elevations
HT-Harr+01	Harrogate + Study Elevations
HT-Harr+02	Harrogate + Study Elevations
HT-Harr-01	Harrogate Elevations
HT-Harr-02	Harrogate Elevations
HT-Harr-03	Harrogate Floor Plans
HT-HE-01	Hesketh Elevations
HT-HE-02	Hesketh Elevations
HT-HE-02	Hesketh Elevations
HT-HE-04	Hesketh Floor Plans
HT-Henl-01	Henley Elevations
HT-Henl-02	Henley Elevations
HT-Ki-01	Kingsley Elevations
HT-Ki-02	Kingsley Elevations
HT-Ki-03	Kingsley Elevations
HT-Ki-04	Kingsley Elevations
HT-Ki-05	Kingsley Floor Plans
HT-Leamq-01	Leamington Lifestyle Elevations
HT-Leamq-02	Leamington Lifestyle Elevations
HT-Leamq-03	Leamington Lifestyle Floor Plans
HT-Ledh-01	Ledsham Elevations
HT-Ledh-02	Ledsham Floor Plans

HT-Ma-01	Maidstone Elevations
HT-Ma-02	Maidstone Floor Plans
HT-Ma-03	Maidstone Elevations
HT-Ma-04	Maidstone Floor Plans
HT-Over+01	Overton + Study Elevations
HT-Over+02	Overton + Study Elevations
HT-Over+03	Overton + Study Elevations
HT-Over+04	Overton + Study Elevations
HT-Over+05	Overton + Study Floor Plans
HT-Oxfo-01	Oxford + Study Elevations
HT-Oxfo-02	Oxford + Study Elevations
HT-Oxfo-03	Oxford + Study Elevations
HT-Oxfo-04	Oxford + Study Floor Plans
HT-Ra-01	Radleigh Elevations
HT-Ra-03	Radleigh Elevations
HT-Ra-03	Radleigh Elevations
HT-Ra-04	Radleigh Floor Plans
HT-Shaf-01	Shaftesbury Elevations
HT-Shaf-02	Shaftesbury Elevations
HT-Shaf-03	Shaftesbury Floor Plans
HT-Tavy-01	Tavy Elevations
HT-Tavy-02	Tavy Floor Plans
HT-Wctr+01	Winchester + Study Elevations
HT-Wctr+02	Winchester + Study Elevations
HT-Wo-01	Woodcote Elevations
HT-Wo-02	Woodcote Elevations
HT-Wo-03	Woodcote Floor Plans
HT-YB50-01	YB50 Elevations
HT-YB50-02	YB50 Floor Plans
HT-YB50-03	YB50 Elevations
HT-YB50-04	YB50 Floor Plans
HT-YB52-01	YB52 Elevations
HT-YB52-02	YB52 Floor Plans

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

2. Site clearance and construction work shall be undertaken in accordance with the precautionary approach with regard to reptiles as set out in section 2 of the Technical Note 33: Consideration of KCC Ecology Consultation Response (9 June 2020) and the accompanying annotated drawing number 100 rev P5 – Planning Layout.

Reason: To ensure the protection of reptiles.

3. No development in any phase shall take place above slab level until a detailed planting plan including schedules of plants, noting species (which shall include native species), plant sizes and proposed numbers/densities where appropriate has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details

and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

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

4. No development in any phase shall take place above slab level until a scheme of badger proof fencing within gardens and the design of that fencing has been submitted to and approved in writing by the Local Planning Authority. The badger proof fencing shall be implemented in accordance with the approved details prior to occupation of the relevant dwellings to which badge proof fencing relates and shall thereafter be maintained in accordance with the approved details.

Reason: To safeguard protected species.

5. Notwithstanding the submitted details and prior to the first occupation of any dwelling in any phase herein approved, details of an alternative boundary treatment (such as bow top fencing) for the Local Standard Area of Play (LSAP) shall be submitted to and approved in writing. The boundary treatment enclosing the LSAP shall be implemented in accordance with the approved details and thereafter maintained.

Reason: To ensure adequate boundary treatment to the play space.

6. Prior to the occupation of each dwelling herein approved, the boundary treatment for that dwelling shall be provided in accordance with drawing number 104 Rev B – Material and Boundary Treatment and details approved pursuant to condition 3 of this decision notice. The boundary treatment shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual and occupier amenity.

7. Prior to the occupation of each dwelling herein approved, the refuse storage arrangements for that dwelling shall be provided within the curtilage of the dwelling in accordance with drawing number 106 Rev B – Refuse and Fire Tender Plan. The refuse storage arrangements shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual and occupier amenity.

8. Prior to the occupation of any of the dwellings hereby approved within Phase 4, details of measures to ensure that the emergency access at the northeastern corner of the site (between plots 85 – 93) is only used at times of emergency shall be submitted to and approved in writing by the Local Planning Authority. All approved measures shall thereafter be implemented prior to the occupation

of the 20th dwelling within Phase 4 and retained at all times (other than in emergency).

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



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2.2 REFERENCE NO – 25/500935/FULL		
PROPOSAL - Erection of 1 No. two storey 4 bedroom detached chalet style residential dwelling		
SITE LOCATION - Land Rear of The White House, Eastling Road, Eastling, Kent ME13 0AN		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions as may be necessary and appropriate.		
APPLICATION TYPE – Full (Minor)		
REASON FOR REFERRAL TO COMMITTEE – Objection from Eastling Parish Council including a request for the item to be presented to the Council's Planning Committee.		
Case Officer – Ian Harrison		
WARD East Downs	PARISH/TOWN COUNCIL Eastling	APPLICANT Hadley Polhill and Prentis Polhill AGENT Alpha Design Studio Limited
DATE REGISTERED – 11/03/2025		TARGET DATE – 11/11/2025
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SSQTP5TYKLR00		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is located to the west of Eastling Road, within the defined built-up area boundary of Eastling. The site is within the Kent Downs National Landscape (NL) which was formerly known as the Kent Downs Area of Outstanding Natural Beauty.

- 1.2. The primary part of the site measures approximately 600 square metres and is connected to Eastling Road by a track that measures approximately 5.2 metres wide and 30 metres long. Gates currently sit within the access track part of the site, being set back from the highway by a minimum of 6.7 metres according to the submitted plans.
- 1.3. The primary part of the site is bordered by trees and other vegetation, with the centre being clear of any features other than grass. The site is generally flat. The access track continues along the northern part of the site, extending to the north west corner where it continues on to the property of The Polhills, which is shown to be in the ownership of the applicant.
- 1.4. To the north of the site are the properties of 23 to 26 inclusive (odds and evens) Glebe Cottages. The properties of 22 and 23 Glebe Cottages are orientated with their rear elevation facing south west and so the side elevation of 23 also faces the application site, with the closest corner being approx. 5.6 metres from the site. The other Glebe Cottages that are mentioned above have their rear elevation facing the site, with the closest to the site being approx. 9.3 metres from the site.
- 1.5. To the east, is the property of The White House which has its rear elevation facing the primary part of the application site and its side elevation facing the access track part of the site. The rear part of the dwelling, excluding a single storey projection at the side and rear, is within approx. 9.6 metres of the shared boundary and the side elevation is approx. 1.5 metres from the access part of the site.
- 1.6. To the south of the site is the property of 13 Meeson's Close. The side elevation of that dwelling faces the application site and is approx. 6 metres from the shared boundary.

2. PLANNING HISTORY

- 2.1. None

3. PROPOSED DEVELOPMENT

- 3.1. The applications seeks planning permission for the erection of a single dwelling at the application site. The dwelling would have accommodation over two floors, with the first floor accommodation being within the roofspace of the building.
- 3.2. The main two storey part of the building would measure approx. 12.1 metres by approx. 7.3 metres with an overall height of approx. 6.5 metres. Two dormers and a rooflight are proposed on the north west (rear) elevation, a high level rooflight is proposed on the south east elevation and a first floor window is proposed in the north east gable end.
- 3.3. At the south east corner, would be a single storey projection that would measure a maximum of 8.5 metres by approx. 5.2 metres with a maximum height of approx. 4.8 metres.

- 3.4. Vehicle and pedestrian access to the site would be obtained through the use of the existing access point and three parking spaces are proposed to the north and east of the dwelling. A cycle store is proposed to the rear of a dwelling, within the garden area which would be enclosed by a low fence.
- 3.5. One group of trees and three individual trees are shown to be removed but each of these are of lower quality, being graded C1 or U within the applicant's Arboricultural Impact Assessment.

4. REPRESENTATIONS

- 4.1. One round of consultation has been undertaken, during which letters were sent to most neighbouring properties and a notice was displayed at the application site. Full details of representations are available online.
- 4.2. It is noted that, whilst all other adjoining properties appear to have been notified of the application, The White House was not sent a notification letter. However, the statutory requirement to publicise the application has been met through the posting of a site notice and it is noted that two submissions have been received from the occupier of that property, indicating that they have become aware of the application and able to comment even without receiving a letter. In addition, the Case Officer has spoken to a resident of the dwelling and discussed the application. Not sending a letter is unfortunate, but it is considered that adequate publicity has occurred to meet statutory requirements and enable the application to be determined without prejudicing the ability for interested parties to comment on the proposal.
- 4.3. Nine letters of representation objecting to the proposal were received. Concerns and comments were raised in relation to the following matters:

Comments	Report reference
The proposed backland development does not respect existing development patterns and is out of character with the area. The development would be cramped and contrived, visible and not well designed.	Section 7.5
The proposal would set a harmful precedent.	Paragraph 7.11.3
Overlooking and loss of privacy within neighbouring properties.	Section 7.9
The access route is inadequate and unsafe and there would be unacceptable additional traffic.	Section 7.8
Inadequate parking provision and turning areas.	Section 7.8
Noise and disruption would be caused by the use of the proposed gravel access, the movement of vehicles and general activity by residents as well as during the construction process. This would be harmful to human residents and pets	Section 7.9
Light pollution to the detriment of the area and living conditions.	Section 7.9 and Condition 12
Unacceptable loss of trees, hedgerows, open space and green buffer between dwellings.	Section 7.6

Pressure to remove or undertake works to trees to ensure continued living conditions of acceptable standard.	Section 7.6
Harm to biodiversity.	Section 7.7
The site was cleared prior to the BNG Assessment being undertaken and, as such is not reflective of the actual situation.	Section 7.7
Overdevelopment of the site.	Section 7.5
A dwelling is not needed within the village.	Paragraph 7.2.8
There is development at Perry Court which should meet any current demand for four bedroom housing.	Paragraph 7.2.8
Backland development would be harmful to the AONB (National Landscape).	Section 7.4
The proposal would not be of benefit to the community.	Paragraph 7.11.4
The development would reduce natural drainage offered by undeveloped land and pose a flood risk.	Paragraph 7.11.1
Potential for works to impact trees which could then damage nearby properties.	Section 7.6
Backland housing development is contrary to development plan policy.	Paragraph 7.5.2
The proposed new trees would cause shading and light obstruction to the detriment of residential amenity and shed seeds which would represent a nuisance.	Section 7.9
The living conditions for future residents would be inadequate in terms of outlook and amenity space.	Section 7.9
Unsustainable location for development due to the village only being served by one public house and one bus route. Therefore, future occupiers will be reliant on access to a car for day to day activities.	Paragraph 7.2.7
No site notice was posted and some residents of the area did not receive notification letters.	Paragraphs 4.1 and 4.2
Harmful impact on local infrastructure.	Paragraph 7.11.4
It has been clarified that the applicant is not the owners of The White House.	Paragraphs 4.1 and 4.2

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

Comments	Report reference
The proposal is within the Kent Downs National Landscape, is not supported by the development plan, is not beneficial to the village and is not sustainable.	Section 7.4
The proposal would cause light pollution in a dark area and be detrimental to bats.	Condition 12
The views of neighbours should be considered.	Sections 4 and 7.9
Advised that some properties had not been notified and a site notice has not been posted.	Paragraphs 4.1 and 4.2

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 has been one round of consultation for most consultees. For those individual consultees that have been consulted more than once, it is stated under their heading below.
- 5.2. **KCC Highways** – No objection subject to conditions relating to the provision and retention of parking, electric vehicle charging and cycle storage facilities and the use of a bound surface material for the first 5 metres from the highway.
- 5.3. **KCC Ecological Advice Service (KCC EAS)** – Having initially requested additional information, on receipt of additional information and following a second phase of consultation, it has been stated that the proposal can be found acceptable subject to the imposition of conditions.
- 5.4. **SBC Tree Officer** - Based on the submitted tree information, the only existing trees that will need to be removed to implement the development are of low quality and as such not considered to be an arboricultural constraint under BS5837:2012. The most notable tree (a Sweet Chestnut listed as T1 in the accompanying tree survey) is shown to be retained. Provided the tree protection measures and working methodologies detailed in the submissions are adhered to throughout the development stages, no objections are raised from an arboricultural perspective.
- 5.5. **Mid-Kent Environmental Protection** - No objection on the grounds of noise, air quality, contamination or lighting. An informative is suggested to address construction impacts.
- 5.6. **Kent Downs National Landscape Unit** - No proposal specific comments but highlighted legislative requirements.

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
- ST7 The Faversham area and Kent Downs strategy.
- CP2 Promoting sustainable development
- CP3 Delivering a wide choice of high quality homes
- CP4 Requiring good design
- CP6 Community facilities and services to meet local needs
- CP7 Conserving and enhancing the natural environment – providing for green infrastructure
- DM3 The rural economy
- DM6 Managing transport demand and impact
- DM7 Vehicle parking

DM14 General development criteria
DM19 Sustainable design and construction
DM21 Water, flooding and drainage
DM24 Conserving and enhancing valued landscapes.
DM26 Rural lanes
DM28 Biodiversity and geological conservation
DM29 Woodland, trees and hedges

Supplementary Planning Guidance/Documents –

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
Parking Standard Supplementary Planning Document, 2020.

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.

Kent Downs National Landscape Management Plan 2021-2026

7. ASSESSMENT

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

- Principle
- Size and Type of Housing
- National Landscape
- Character and Appearance.
- Trees
- Ecology
- Transport and Highways
- Living Conditions
- 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. The application site is located within the defined built-up area boundary of Eastling. Therefore, for the purposes of Policy ST3 of the Local Plan, Eastling is an ‘Other Village with a Built-Up Area Boundary’. Policy ST3 indicates that the village “*will provide development on minor infill and redevelopment sites within the built up area boundaries where compatible with the settlement's character, amenity, landscape setting, heritage or biodiversity value.*” Subject to the assessment of the detail of the proposal, the provision of a dwelling at the application site would not conflict with the overall approach to the location of development that is set out within the Council’s settlement strategy.
- 7.2.4. Policy ST7 of the Local Plan addresses the Faversham area and states that the conservation and enhancement of the historic and natural environment are the primary planning aims, indicating that planning decisions will strengthen the viability of Faversham or its rural communities and support their shared social, economic and cultural links. The policy then sets out 16 criteria for the assessment of proposals within this area, several of which are not directly relevant to an assessment of this particular proposal or the application site. However, criteria 4 relates to the economies of rural settlements, criteria 7 indicates that housing will be supported at appropriate locations, provided that the role and character of the community can be maintained and criteria 12 requires that adequate regard is had to the National Landscape. Criteria 15 and 16 are also relevant to the proposal, relating to biodiversity net gain, designated habitat sites, the character of the area and the importance of heritage assets. These factors will be commented on below but, subject to the proposal being found acceptable in these respects, the proposal would accord with Policy ST7 of the Local Plan.
- 7.2.5. For the reasons given above and subject to the assessment of the detail of the proposals which will be undertaken below, the general principle of undertaking residential development at this site is considered to accord with the development plan.
- 7.2.6. Whilst access to services is limited and reliance on the use of a car is inevitable, this is not different to the services and accessibility that is able to be utilised by existing residents. The NPPF does not require all developments to be served by extensive services, facilities and public transport connections, identifying that “*opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.*” In this regard, it is considered that the limited services available are better than if a more remote or isolated site was chosen and there would be some services available to residents, albeit they are limited.
- 7.2.7. Paragraph 83 of the NPPF states that “*to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities*” before going on to state that “*development in one village may support services in a village nearby.*” From this basis, any use of the existing public house and bus route that arises as a result of the provision of an additional dwelling and any additional use of comparable facilities in other nearby villages would weigh in favour

of the proposal. However, no evidence in this regard has been provided and given the scale of the development, any benefit arising would be inherently limited.

- 7.2.8. The Council is not able to demonstrate a five year housing land supply and the most relevant policies to the determination of housing developments are considered to be out-of-date in the context of the NPPF. From this basis, the approach set out at paragraph 11d) of the NPPF is applicable. This indicates that planning permission should be granted unless there are any unacceptable impacts on protected areas or assets that provide a strong reason for refusal or whether the adverse impacts of granting planning permission would demonstrably outweigh the benefits. The balancing exercise that is required as a result of the application of the content of the NPPF will be undertaken below.

7.3. **Size and Type of Housing**

- 7.3.1. The NPPF recognises that to create sustainable, inclusive, and diverse communities, a mix of housing types, based on demographic trends, market trends, and the needs of different groups, should be provided.
- 7.3.2. 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.
- 7.3.3. Whilst the greatest identified need in the Borough is for two and three bedroom dwellings, there is an identified requirement for four bedroom dwellings which amounts to 19% of the overall requirement. As the proposal is for a single dwelling it is impossible for a mix of dwellings to be provided and in this instance and having regard to the context of the site, it is considered that the provision of a four bedroom dwelling should be found acceptable in the context of the housing needs of the Borough.

7.4. **National Landscape**

- 7.4.1. The site is within the Kent Downs National Landscape and therefore, as a result of The Countryside and Rights of Way Act 2000 Act (as amended by the Levelling-up and Regeneration Act 2023), there is a statutory duty for the Local Planning Authority to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty (hereafter referred to as the National Landscape).
- 7.4.2. 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. As the site is within the Kent Downs National Landscape, Part A of Policy DM24 indicates that planning permission should only be granted where the development conserves and enhances the special qualities and distinctive character of the National Landscape, furthers the delivery of the National Landscape Management Plan, minimises the impact of individual proposals and their cumulative

effects on the National Landscape and its setting, and is appropriate to the economic, social and environmental wellbeing of the area or desirable for the understanding and enjoyment of the area.

- 7.4.3. In addition, Criteria 12 of Policy ST7 of the Local Plan states that development proposals will *“ensure the landscape qualities and distinctive features of the Kent Downs AONB remain valued, secure and strengthened, alongside the local landscape designations within and around the North Kent Marshes, The Blean and North Downs. Improve the condition and quality of landscapes in the area, especially those in poor condition and ensure that development is appropriate to landscape character and quality, especially within areas with low or moderate capacity to accommodate change.”*
- 7.4.4. The NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues. It goes on to state that the conservation and enhancement of wildlife and cultural heritage is also an important consideration and that the scale and extent of development within all these designated areas should be limited.
- 7.4.5. In this instance, the provision of a building within the built-up area boundary is considered to conserve the general pattern of development within the National Landscape and, by undertaking development within the settlement that could support the vitality of the settlement to a small degree, the proposal would not cause the spread of the settlement into the undeveloped parts of the National Landscape. As the site represents a small parcel of land within an area that is enclosed by other residential development on three sides and an extensive tree belt to the other, the development would not be viewed other than from short distance views between the existing dwellings of the area and would have no impact on the overall landscape of this part of the National Landscape. Maintaining the settlement pattern, not encroaching into the rural surroundings and providing a dwelling that will be found to maintain the character of the area can be considered to be meeting the requirement to conserve the natural beauty of the National Landscape.
- 7.4.6. In terms of enhancing the National Landscape, the proposal would enable a net gain of tree planting at the site relative to the existing situation. Over time, this would not only mitigate the visual impact of the development, it would also represent a benefit to the National Landscape in the longer term. Part IV of the abovementioned Act states that *“any reference in this Part to the conservation of the natural beauty of an area includes a reference to the conservation of its flora, fauna, geological and physiographical features.”* The consideration of natural beauty can therefore be wider than landscape impacts. In this regard, noting that the landscape impact is negligible and the potential tree planting would be a benefit, it is considered that the proposal would accord with the abovementioned policies and meet the statutory duty.

7.5. **Character and Appearance**

- 7.5.1. Local Plan Policies CP4 and DM14 and the NPPF attach great importance to the design of the built environment and that design should contribute positively to making places better for people.

- 7.5.2. The positioning of the dwelling to the rear of the application site can be construed as backland development. However, whilst paragraph 5.3.22 refers to garden grabbing and it is noted that interested parties have objected on the grounds that the proposal represents backland development, there is no policy within the development plan that specifically precludes backland development from occurring. In this instance it is considered relevant that the arrangement of Glebe Cottages and Meeson's Close creates a layout of development where there is a line of dwellings set back from Eastling Road and a line of dwellings fronting Eastling Road. The manner in which the nearby developments is viewed is materially different from this proposal which would be served by its own access rather than a communal highway. The formal layout of those surrounding developments to appear as larger, planned developments is also different. However, it is the case that the proposed dwelling would sit between three dwellings and appear, in part, as a continuation of the existing pattern of development by virtue of it sitting, loosely, within the lines of dwellings that extend to the north and to the south.
- 7.5.3. An existing access is present at the site and as such, there would be minimal visual harm arising from the works that are proposed to enable an improved access to the site. Unlike some backland developments where the access is a conspicuous and discordant feature of a street, the presence of the existing access point means that, at worst, a negligible impact would result from the proposal and it is not considered that there is reason to conclude that the resultant situation would have a detrimental impact relative to the existing gate entrance to the site.
- 7.5.4. The dwellings to the north, south and east of the site are of three markedly different architectural styles, different scale and different form. The proposed dwelling would not replicate any of the existing dwellings that currently surround the site but, in the context of the mixed appearance of the dwellings of the area, there is not considered to be an essential requirement for any of the dwellings to be replicated.
- 7.5.5. The 'chalet' style form of the dwelling would sit comfortably between the two storey buildings to the north and east and the single storey dwellings to the south, thereby representing a suitable transition between the built form of the area.
- 7.5.6. The proposed parking would be discreet at the site as it would be of limited visibility from the surrounding area and, from those vantage points where the dwelling would be visible, it would not have an imposing impact due to its positioning distant from most parts of the public domain. From where it would be seen, the dwelling would appear as a dwelling of acceptable design quality and feature sufficient visual interest through its detailing to sit acceptably within the local context.
- 7.5.7. From this basis, the proposal is considered to be acceptable and in accordance with the abovementioned policies and the applicable sections of the NPPF.
- 7.6. **Trees**
- 7.6.1. Policy DM29 of the Local Plan and the NPPF recognise the contribution of trees to the intrinsic character and beauty of the countryside.

- 7.6.2. The Council's Tree Officer has assessed the survey of the trees at the site that has been undertaken and the means of protecting trees that are to be retained and found that the development can be undertaken in an acceptable manner that accords with the abovementioned policy.
- 7.6.3. It is noted that trees have previously been removed from the site, a long time before the arboricultural assessment. It is probable that those trees could have been removed without requiring any form of consent and therefore, whilst this is a material consideration in respect of Biodiversity Net Gain as will be considered below, the past removal of trees at the site is not a reason to reach a different conclusion in respect of the application of Policy DM29 of the Local Plan.

7.7. Ecology

- 7.7.1. 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.

The Swale Special Protection Area

- 7.7.2. The application site is located outside 6km of The Swale Special Protection Area (SPA) and, therefore, an appropriate assessment under the terms of the Habitat Regulations is not required.

Protected Species

- 7.7.3. 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.'
- 7.7.4. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

- 7.7.5. The ecology advice received indicates that the submitted Preliminary Ecological Appraisal (PEA) provides a good overview of the current state of the application site, although it is acknowledged that significant clearance has occurred recently which will have significantly reduced the biodiversity value of the site. It is noted that further surveys for bats are recommended in the PEA report as two trees (G1 and T4) were found to have the potential to support roosting bats but that it is acceptable for these to be undertaken under the terms of a condition. It is recommended that a condition also requires precautionary/avoidance measures to protect the adjacent woodland, badgers, hazel dormice, nesting birds, reptiles and great crested newts. The advice given in these respects is considered to be sound and therefore, subject to conditions, no objection is raised to the proposal on the grounds of any impacts on protected species.

Biodiversity Net Gain (BNG)

- 7.7.6. This application was submitted after the commencement of Mandatory Biodiversity Net Gain and is therefore required to deliver at least a 10% biodiversity net gain under the Environment Act 2021.
- 7.7.7. The initial ecology advice received requested the submission of a revised BNG assessment accounting for recent habitat degradation/loss which had occurred at the site. A new BNG assessment has subsequently been received which considers the site to have consisted of 'Other coniferous woodland' prior to recent tree felling. This is considered to have addressed the concern about the assessment of the baseline condition of the site.
- 7.7.8. There is no scope for delivery of biodiversity gains onsite as the entire site will consist of private residential curtilage which it is not possible to access for monitoring/remediation purposes. As such, the applicant will be required to make up a 0.56 biodiversity unit deficit off-site, likely through purchase and allocation of units from a habitat bank. The allocation of off-site units must be evidenced prior to commencement of any development. This is in accordance with the deemed condition of planning permission relating to biodiversity gain as per Schedule 7A 13(1) of the Town and Country Planning Act 1990. The condition is that the development may not be begun unless (a) a biodiversity gain plan has been submitted to the planning authority, and (b) the planning authority has approved the plan. As this is a deemed condition, it does not need to be explicitly included in the decision notice by the Local Planning Authority.
- 7.7.9. Based on the above, whilst not on-site, the development will be able to secure off-site BNG in a manner that accords with the requirements of legislation. From that basis, no objection is raised to the proposal on the grounds of BNG.

7.8. Transport and Highways

- 7.8.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety

standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD.

- 7.8.2. Eastling Road is also a rural lane and, as such, it is relevant that Policy DM26 of the Local Plan states that development will not be permitted that would either physically, or as a result of traffic levels, significantly harm the character of the rural lane.
- 7.8.3. 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.”

- 7.8.4. The proposal would utilise an existing vehicle access and result in a limited additional use of public highways relative to the existing situation. The Highway Authority are satisfied that the proposed access arrangements are safe and, as the proposal is for a single dwelling, it is not considered that the highway impacts of the development would be severe, which is the test of acceptability that is set out within the NPPF.
- 7.8.5. The provision of three parking spaces within the proposed development to serve future residents accords with the Council's Parking Standards and the provision of cycle parking, as shown, also accords with requirements. This can be secured under the terms of a condition and a further condition can be used to ensure that adequate refuse storage collection arrangements are in place prior to the occupation of the dwelling.
- 7.8.6. The proposal is therefore considered to be acceptable in this respect and in accordance with the abovementioned policies of the development plan and the NPPF.

7.9. **Living Conditions**

Existing residents

- 7.9.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.9.2. The two storey element of the proposed dwelling would be a minimum of 8.8m, 6.5m and 5.2m from the north, east and south boundaries of the site respectively. As a result of these separation distances and the depths of the gardens that have been set out above, the dwelling would be a minimum of 14.3 metres from the south east corner of the closest Glebe Cottage (no. 23), 21.3 metres from the two storey part of the dwelling at the White House and 10.4 metres from the side elevation of 13 Meeson's Close.
- 7.9.3. These separation distances are sufficient to ensure that the 6.5 metre tall dwelling would not have an unacceptably harmful impact on daylight, sunlight or outlook within any surrounding property. The dwelling would be visible and, at parts of the day could

cause the loss of some light, but not to a degree that the impact can be found to be unacceptably harmful which is the test that is set out within the abovementioned policy.

- 7.9.4. The proposed first floor dormers are shown at the rear elevation and, as such, would face sufficiently away from neighbouring properties to only afford oblique views towards those neighbours and their gardens. The first floor rooflight to the front serving the circulation space of the landing would also be set at a sufficiently high level to prevent harmful overlooking and the first floor side facing window serving bedroom 1 would be sufficiently small and distant from the boundary to ensure that the impact on privacy within the neighbouring properties to the north would be limited and not harmful.
- 7.9.5. Noise caused by the use of the access and through additional vehicle movements would be limited by virtue of the fact that the proposal is for a single dwelling. It is not considered that the level of use and the reliance on a gravel drive would generate noise to an extent that the impact can be deemed to be harmful. Similarly, subject to a condition related to external lighting being used to require details of lighting to be agreed, there is no reason to conclude that there would be light pollution arising from the proposal that would exceed what would reasonably be expected from a dwelling, in a residential setting that is surrounding by several dwellings.
- 7.9.6. Whilst there would be limited additional impact in terms of light and noise, it would not be to an extent that can be found to be unacceptably harmful. In this regard it is noted that no objection has been raised by the Council's Environmental Protection Officers.
- 7.9.7. The existing trees at the site could be removed and replaced without requiring planning permission as the planting of trees does not constitute development. Therefore, it is considered that it would not be sound for the application to be refused on the grounds that the proposed trees could lead to seeds being a nuisance to neighbouring residents.
- 7.9.8. Moreover, whilst it is noted that construction noise can be impactful to human residents and pets, this is limited in duration, limited in scale in this case due to the proposal being for a single dwelling and controlled under other legislation. This would not, therefore, be a sound basis for the application to be refused.

Future residents

- 7.9.9. 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.
- 7.9.10. The proposal would provide a good-sized four bedroom dwelling with ample amenity space, window and access to light. Even allowing for the growth of trees and recognising that there might be some grounds to require trees to be reduced or trimmed in the future, it is considered that acceptable light will be able to be provided. There is not, therefore, considered to be a reason to conclude that the living conditions of future residents would not be acceptable.

Overall

7.9.11. The proposed development would be acceptable in terms of not having an unacceptably harmful impact on neighbouring residents whilst also providing future residents with acceptable living conditions. The proposal therefore accords with Policy DM14 and the NPPF.

7.10. **Sustainability / Energy**

7.10.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. A condition can be imposed to seek to enhance the sustainability credentials of the development and, therefore, the proposal will be able to accord with this policy.

7.11. **Other matters**

7.11.1. The site is outside and distant from the Eastling Conservation Area and distant from any other heritage assets. The proposal would therefore cause no harm to the setting of any heritage assets or archaeological features. Moreover, there is no known reason to conclude that the site would be the subject of contamination and the site is located within an area of low flood risk. No objections are raised and no conditions are imposed in relation to these matters.

7.11.2. Policy DM26 of the Local Plan states that development proposals should have particular regard to the landscape, amenity, biodiversity, and historic or archaeological importance of rural lanes. Each of these matters are considered elsewhere but in summary it is considered that the proposal would not have an unacceptable impact on the rural lane of Eastling Road in any of these respects.

7.11.3. Whilst a comment of objection refers to the proposal setting a precedent, it is considered appropriate to highlight that all applications are to be considered on their own planning merits and so any decision reached in this case would not undermine the ability to consider any other application on its own merits.

7.11.4. Whilst a comment has indicated that the proposal would not benefit the local community and harm local infrastructure, it is considered that the proposal has to be considered on its planning merits as has been done above and below. There is no clear reason to conclude that the provision of a dwelling in this location would harm the local community or local infrastructure.

7.12. **Planning Balance**

7.12.1. 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.

7.12.2. In this case the application accords with the Local Plan.

7.12.3. 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. In this instance there are no harms arising from the proposal that indicate that planning permission should be refused and, in light of the benefit to the supply of housing that would arise, albeit limited by virtue of the proposal being for one dwelling, it is considered that the NPPF also indicates that planning permission should be granted.

7.13. **Conclusion**

7.13.1. 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. Having done so, it is considered that the proposal accords with the development plan and the NPPF and, therefore, planning permission should be granted.

7.14. **Recommendation**

7.14.1. Grant Planning Permission subject to the following conditions:

1. The development hereby permitted shall begin no later than 3 years from the date of this permission.

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

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

1686/1 – Existing Site and Location Plans

1686/2 – Proposed Site Plan

1686/3 – (Labelled Proposed Landscaping but showing the proposed floor plans, elevations and section)

1686/4 – Proposed Landscaping

Cycle Store Plan

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

3. No development (including site clearance and demolition works), shall commence until all existing trees shown to be retained within the submitted Arboricultural Impact assessment, Method Statement and Tree Protection Plan (PJC, Dated 31/01/2025) have been protected in accordance with the details that have been set out within that document. The approved measures shall be kept in place during the entire duration of the construction phase.

Reason: In the interests of tree protection and the character and appearance of the area and the countryside setting.

4. Prior to the first occupation of the dwelling hereby approved the hard landscaping shown on plan 1686/4 (Proposed Landscaping) shall have been fully implemented in accordance with the approved details except for the first 5 metres of the access from the public highway which shall be bound and not loose. The soft landscaping shown on plan 1686/4 (Proposed Landscaping) shall be fully implemented in the first planting season following the occupation of the dwelling. Subsequently, in the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub of equivalent number and species shall be planted as a replacement and thereafter properly maintained.

Reason: In the interests of the character and appearance of the area and the countryside setting and to ensure that the materials of the access are not brought onto the highway.

5. No development shall be undertaken (including any site and/or vegetation clearance) until a construction ecological management plan (CEMP) which contains full details of the measures outlined in section 5 of the Preliminary Ecological Appraisal (PJC, January 2024) associated with the planning application has been submitted to and approved in writing by the local planning authority. The CEMP shall be based on up-to-date ecological survey information, as advised by a suitably qualified ecologist and include the following:
 - a) Retained tree and hedgerow protection measures in accordance with BS 5837:2012;
 - b) Results of pre-commencement aerial/endoscope inspection surveys for bats relating to trees G1 and T4;
 - c) Specific measures (which may be presented as a series of method statements) to avoid impacts to the adjacent woodland, roosting bats, badgers, hazel dormice, nesting birds, reptiles and great crested newts (GCN);
 - d) The role and responsibilities of an Ecological Clerk of Works (ECoW) or similarly competent person(s); and
 - e) Copies of any protected species mitigation licences issued by Natural England as required.

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

Reason: To protect biodiversity in accordance with the NPPF 193 and Local Policy DM28, to avoid an offence under the Wildlife and Countryside Act 1981 (as amended) and with consideration for Species of Principal Importance under the Natural Environment and Rural Communities Act 2006.

6. Prior to any works above slab level, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the local planning authority. The plan shall include full details of biodiversity enhancements as recommended in section 5.5 of the Preliminary Ecological Appraisal (PJC, January 2024), clearly detailed in a scaled block plan with a planting schedule.

Integral features (bat tubes and bee bricks) shall be clearly detailed in elevations drawings.

The BEP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To protect and enhance biodiversity in accordance with paragraphs 187, 192 and 193 of the National Planning Policy Framework (December 2024), and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

7. Prior to any works occurring above ground level, details of the materials to be used in the external appearance of the dwelling shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then only be undertaken in accordance with the approved details.

Reason: In the interests of the character and appearance of the area and the countryside setting and due to the generic information that has been provided within the application submissions.

8. 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 the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

9. Prior to the occupation of the dwelling, the dwelling shall have been fitted out with all energy efficiency and renewable energy generation provisions that are detailed within an Energy Statement that shall have first been submitted to and approved in writing by the Local Planning Authority. Subsequently, all approved and implemented provisions shall be retained at all times.

Reason: In the interest of promoting energy efficiency and renewable energy generation.

10. Prior to the first occupation of the dwelling hereby approved, all car parking areas and cycle storage facilities shown on the plans hereby approved shall have been provided. They shall be retained at all times thereafter.

Reason: To ensure the adequate provision of car parking and cycle storage.

11. Prior to the first occupation of the dwelling hereby approved, all provisions required in association with a Refuse Collection Strategy, that shall first have been submitted to and approved in writing by the Local Planning Authority, shall have been implemented.

Reason: To ensure that adequate refuse collection arrangements are in place, including the designation and provision of a day-of-collection refuse storage point that is sufficiently close to the highway.

12. No external lighting shall be installed at the site unless details of that lighting have first been submitted to and approved in writing by the Local Planning Authority. Any lighting subsequently installed shall be in accordance with the approved details.

Reason: To minimise light pollution, provide a suitable environment for biodiversity and to not unduly impact on the dark skies of the Kent Downs National Landscape.



PLANNING COMMITTEE – 6th November 2025

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO 25/500821/FULL		
PROPOSAL Demolition of existing brick outbuilding and erection of 3 detached self-build dwellings with associated works.		
SITE LOCATION Ten Acres Breach Lane Lower Halstow Kent ME9 7DD		
RECOMMENDATION Delegate to the Head of Planning to refuse planning permission, with further delegation to the Head of Planning to negotiate the precise wording of reasons of refusal, including adding or amending such reasons as may be necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Call-in from Ward Councillor for reason that it is in the public's interest		
Case Officer Rebecca Corrigan		
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Lower Halstow	APPLICANT Mr & Mrs Keith & Glenda Tress AGENT Benchmark Design Build LTD
DATE REGISTERED 03.03.2025		TARGET DATE 17.10.2025
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SSCMKTTYGE800		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site relates to a parcel of land on the west side of Breach Lane, to the north of an existing dwelling, Westfield House.

- 1.2. The site is roughly rectangular in shape. It has a site area of approximately 0.18ha. There is a derelict outbuilding within the north west corner of the site. The land is generally clear of vegetation.
- 1.3. The site is bordered to the north by a vacant plot which gained outline planning permission for a single dwelling under application ref: 22/502340/OUT. This was followed by the approval of a Reserved Matters application Ref: 24/502764/REM. Further afield to the north and west is open countryside. Westfield House is located to the south, beyond which is more open land. There are residential dwellings to the east situated on the opposite side of Breach Lane.
- 1.4. Access to the site is via Breach Lane, with the entrance located toward the northern part of the plot, directly opposite The Club House and Club Cottages, which sit at the northern end of the terrace of dwellings along Breach Lane.
- 1.5. The site is located approx. 150m to the south of Lower Halstow and falls outside of the built confines of the village.
- 1.6. There is a public right of way (footpath, ZR43) situated to the north of the site.

2. PLANNING HISTORY

- 2.1. **19/500764/OUT** - Outline application (all matters reserved except access) for the demolition of former farm building/garage and erection of 10 no. 2, 3- and 4-bedroom dwellings with garages, associated landscaping and parking, together with new access and part widening of Breach Lane.

Refused - 19.08.2025.

The application was subject to an appeal which was dismissed, dated 31.07.2020.

- 2.2. **17/502046/OUT** – Outline application (some matters reserved) for the erection of 9 dwellings and garages, new access with associated landscaping and parking – access to be sought at this stage.

Refused - 11.07.2017.

Immediately adjoining parcel of land to the north

- 2.3. **24/502764/REM** - Approval of Reserved Matters (appearance, landscaping, layout and scale) for the erection of a single detached self-build dwellinghouse and carport/garage pursuant to 22/502340/OUT.

Application Permitted - 10.10.2024

- 2.4. **22/502340/OUT** – Outline application (all matters reserved except access) for the erection of a single detached self-build dwellinghouse and carport/garage.

Application Permitted - 06.12.2022

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the demolition of an existing brick outbuilding and the erection of three no. two storey detached self-build dwellings. The proposals would be served by two accesses off of Breach Lane, one to the north of the site where the existing access is located, and another further to the south. Each of the plots would comprise a soft landscaped area and hardstanding to the front for the parking of vehicles, with the southernmost dwelling served by a detached single-storey garage. Gardens would be located to rear.

4. REPRESENTATIONS

- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers. A site notice was displayed at the application site. Full details of representations are available online.
- 4.2. A total of 26 letters of representation were received in relation to the consultation. Of these 14 were letters of objection received from 12 separate households and 12 letters of representation in support were received from 10 separate households. Concerns/ comments were raised in relation to the following matters:

COMMENTS	Report Reference
The site is located outside the village boundary- further isolated growth into the countryside.	7.2.3 – 7.2.7
Upchurch village has limited facilities, including just one pub, a primary school, and a small convenience store.	7.2.3 – 7.2.7
Essential services such as schools, doctors, and shops are not accessible without a car, placing additional strain on local infrastructure.	7.2.3, 7.2.5 & 7.5.10
The claim that Upchurch is a short walk away is misleading, the route is lengthy, unsafe, and largely inaccessible for those with mobility issues.	7.2.3 & 7.5.10
The proposal does not meet sustainability or low-carbon requirements.	7.2.3, 7.8 & 7.5.10
It fails to align with Swale Council's Bearing Fruits 2031 policies	7.2.4, 7.2.11, 7.3.5, 7.5.10, 7.10.9 & 7.11.1
A similar development proposal in 2017 was rejected due to poor access to services, and the situation remains unchanged.	2.2
The proposal closely resembles a previously refused application (19/500764/OUT), upheld on appeal, affirming that adverse impacts significantly outweighed any benefits.	2.1, 7.2.5 – 7.2.7
The bus service is infrequent and does not reliably stop near the site.	7.2.3, 7.2.8 & 7.5.10
Limited public transport options mean residents would rely heavily on private vehicles.	7.2.3, 7.2.8 & 7.5.10

The proposed houses do not match the architectural style and design of historic properties within the surrounding area.	7.3.4
Negative effects on Westfield Cottages and the wider village, including noise, pollution, and lighting impacts.	7.7.1 - 7.7.4
A housing estate of any size would fundamentally alter the rural nature of the area, contributing to the urbanization of a once quiet village.	7.3.4 - 7.3.5
An increase in traffic would worsen road safety, especially as the 20mph speed limit is often ignored.	7.5.4, 7.5.5 - 7.5.6
Access points for Plots 3 & 4 are located on a blind corner, posing risks for pedestrians, cyclists, and vehicles.	7.5.4, 7.5.5 - 7.5.6
Previous support for a single dwelling was based on its accessible location; this larger development intensifies hazards.	7.5.6
The revised layout worsens concerns, introducing seven entrances in a small area, including two used for farm equipment access.	3.1, 7.5.4 - 7.5.6
Road conditions—including potholes, blind bends, and the absence of footpaths—make walking and cycling unsafe.	7.5.10
The new buildings would cast shadows over existing homes, reducing sunlight and cause disruption from headlights.	7.7.1 - 7.7.4
The adjacent property has an unusual layout, with a small rear garden and a larger front amenity space, which would be heavily impacted.	7.7.2
Loss of privacy and views that contribute to the rural setting	7.7.1 - 7.7.4
The site previously supported wildlife, including bats and owls, but clearance has led to a decline in biodiversity	7.4.6 & 7.4.8 – 7.4.9
Lighting changes could negatively impact protected wildlife.	7.4.6
Insufficient parking despite planned spaces. Will exacerbate existing situation	7.5.7 - 7.5.9
No consideration for contractor parking during construction, leading to congestion and unsafe parking practices.	7.5.9
School placements, healthcare access, and other services are already overstretched.	7.9.1
The development does not contribute to affordable housing.	7.9.1
Offers only short-term construction jobs with no lasting benefits.	7.10.6
The replacement of permeable land with impermeable materials would increase surface runoff, raising the risk of flooding	7.6.4
Immediate neighbours were not properly notified by the LPA	4.1
Increased demand may lead to problems with sewage disposal.	7.6.5
A known manhole overflow poses health and safety risks.	7.6.5

4.3. The letters of support raised the following matters:

Comments	Report reference
The location is accessible, with footpaths leading to the village centre, and street lighting ensures safe road crossing.	7.2.3, 7.2.5 & 7.2.7
Slightly outside the central area but close to key amenities like school, pub, and shop.	7.2.3, 7.2.5 - 7.2.7
Accessibility to local amenities was acknowledged in previous approvals for Plot 1.	7.2.7 & 7.2.8
The land is currently bare and does not contribute to the village scenery or wildlife	7.3.2 - 7.3.5 & 7.4.6
The site is previously developed land, aligning with central government policy supporting such development.	7.2.20 - 7.2.22
Frequently heard concerns about housing shortages. A proposal for three additional houses is a better alternative to large housing estates.	7.9.2
Rejecting small developments could make it easier for large-scale projects to be approved in the future.	7.9.2
Larger homes are needed to help growing families stay in the area and free up smaller homes.	7.2.10 & 7.10.6
Highlights the challenges young families face in securing housing in Lower Halstow due to high demand and long-term property ownership.	7.2.4 & 7.2.12
Four-bedroom home has already been approved, and additional similar homes would meet local demand and align with the Parish Council's development plan	7.2.8
The new dwellings follow Plot 1's modern design with similar materials and ecological features, including hedgerow planting and bird, bat, and insect habitats.	7.2.8, 7.4.5 - 7.4.9
Swale lacks a five-year housing land supply and self/custom build policies, highlighting the demand for housing opportunities	7.2.12, 7.2.17-7.2.19, 7.9.3 & 7.9.6
Local tradespeople could find work during construction.	7.10.6
The proposed houses align with an approved home, creating an attractive entrance to the village.	7.3.3 - 7.3.4
The proposed homes will fit well within the space without appearing cramped. Homes will be set back between Plot 1 and Westfield House to maintain openness and reduce prominence.	7.3.4 - 7.3.5 & 7.7.4
The land is very much a part of the village and I cannot see how 3 or 4 homes with disrupt the village feel.	7.2.3-7.2.4 & 7.3.2 - 7.3.5
The proposed site is on brownfield land, and continuous rejection has led some landowners to sell plots, which are then used for mobile homes that expand rapidly.	7.2.20 - 7.2.22
Support a previously approved self-build home, praising its design for fitting with the area's aesthetic. A self-build project would generate jobs for local tradespeople and benefit the village school.	7.2.8 & 7.2.19
The new entrance poses no safety concerns with clear sightlines and visibility in both directions.	7.5.5 - 7.5.6

Breach Lane's 20mph speed limit enhances pedestrian and cyclist safety.	7.5.5
The proposal includes infrastructure improvements, like road widening and enhanced parking, to support sustainable growth.	7.5.6 - 7.5.8
The current site is unattractive, and the proposed homes would improve the village's entrance visually.	7.3.4
The proposal meets most criteria outlined in Lower Halstow Parish Council's planning strategy.	6
An ecological survey found no environmental concerns, and the author describes the land as barren.	7.4.6

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. There have been 2 rounds of consultation for most consultees. Full copies of consultation responses are available online.
- 5.2. **KCC Highways** – Initially raised concerns as the visibility splays to the north of the existing and proposed access had been drawn incorrectly. In addition, it was advised that a minimum of 3 car park spaces are required for 4 bedroom dwellings and that garages are not considered as part of the allocation. Following receipt of amended plans raise no objection subject to conditions.
- 5.3. **KCC Flood and Water Management** – Set out that the application falls outside the definition of major development and therefore falls outside of KCC's remit as statutory consultee on this matter.
- 5.4. **KCC Ecological Advice Service (KCC EAS)** - Sufficient information has been provided and no objection is raised to the proposal. In the event of an approval, conditions are requested for a Biodiversity Enhancement Plan, Precautionary Working Methods and details of external lighting.
- 5.5. **KCC Public Rights of Way (PROW)** - Satisfied that it would not affect ZR 39 and 43 on their present lines.
- 5.6. **Mid-Kent Environmental Protection** - Raise no concerns relating to noise, air quality or lighting. A condition is recommended for land contamination and an informative is recommended to bring the Mid Kent Environmental Code of Development Practice to the attention of the applicant.
- 5.7. **Health and Safety Executive (HSE)** - The proposed development falls within the SD3 distance of the nearby licensed explosives site, but outside SD2 distance. HSE therefore has no comment to make on the planning application provided that the development is not a vulnerable building – which it is not.
- 5.8. **Environment Agency (EA)** - Due to the scale, nature and setting of this proposal and the supporting information submitted, the proposal is considered low risk. The EA do not have any specific comments to add.

- 5.9. **Natural England (NE)** - The proposed development has the potential to have a harmful effect on terrestrial Sites of Special Scientific Interest (SSSIs) and those Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin. As the competent authority, the Council can apply an Appropriate Assessment. Providing the appropriate assessment concludes that the measures can be secured by means of a SAMMS payment, Natural England will be satisfied.

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
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM24 Conserving and enhancing valued landscapes
 DM28 Biodiversity and geological conservation
 DM31 Agricultural land

Supplementary Planning Guidance/Documents

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
 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
- Landscape and Visual
- Ecology
- Transport and Highways
- Flood Risk, Drainage and Surface Water
- Living Conditions
- Sustainability / Energy

7.2. Principle

- 7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.2.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Location of Development

- 7.2.3. The site is located within the open countryside, outside of the built up area boundary of Lower Halstow. Lower Halstow itself is a Tier 5 settlement (as set out in the supporting text to Policy ST3) with limited services. The location of the site is remote from the village which is some 150m to the north. Access to the village is possible via a footpath on the east side, although this is largely unlit. Given the limited services available in the village, the remote location of the site away from the village, and the unlit nature of the road, the occupants of the development would be likely to rely on car-borne journeys.
- 7.2.4. The main relevant planning policy is ST3 of the Local Plan, which sets out the settlement strategy for the Borough. Policy ST3 of the Local Plan states that at locations in the open countryside outside the defined built-up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquility and beauty of the countryside, its buildings, and the vitality of rural communities. As will be assessed in further detail below, the visual impact of the proposal would not contribute to protecting the intrinsic value, landscape setting, tranquility and beauty of the countryside or its buildings. Consequently, the proposal does not accord with Policy ST3 of the Local Plan.
- 7.2.5. It is also material to highlight an appeal decision for 10 dwellings which included the land subject to this application (following the Council's decision to refuse permission under 19/500764/OUT). The appeal Inspector stated in paragraph 11:

I conclude that the appeal site would not be a suitable location for the proposed development having regard to the settlement strategy and its poor access to local services and facilities and would conflict with policies ST1, ST3 and DM9 of the LP and paragraphs 8,11,79,and 170 of the National Planning Policy Framework (2019) (the Framework), which when read together seek to deliver sustainable development consistent with the settlement strategy by restricting development in the open countryside.

- 7.2.6. The site and its surroundings retain the same overall characteristics in terms of access to services, facilities, and footpaths as they did at the time of the previous appeal (19/500764/OUT).
- 7.2.7. Whilst the current application is now for three dwellings, it remains the case that the site is not in a suitable location for such development, and the scheme continues to perform poorly under policy ST3 of the Local Plan.
- 7.2.8. With regard to the new dwelling approved immediately to the north of the site (under ref. 22/502340/OUT, which has yet to be built out), the Planning Committee considered that proposal for a single dwelling to be acceptable, overturning the Officer's recommendation for refusal. Although this decision is recognised, each application must be assessed on its own merits. In having carefully assessed the current proposals, and with regard to the previous Inspector's appeal decision which in part related to the same site as now being assessed, it is considered that this site remains unsuitable for housing due to its open countryside location and poor access to services and facilities.
- 7.2.9. It is also the case that the Council cannot currently demonstrate a five-year supply of housing land such that paragraph 11 of the NPPF is engaged.
- 7.2.10. In accordance with footnote 8 to paragraph 11 of the NPPF, the Council's relevant policies for the supply of housing cannot be considered up-to-date. This does not, however, lead to an automatic assumption that planning permission should be granted for residential development in locations that would otherwise have conflicted with Development Plan policies. Rather in situations where the Development Plan policies have failed to secure a sufficient supply of deliverable housing sites, the NPPF seeks to ensure that the 'presumption in favour of sustainable development' is duly applied. If the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, then planning permission should still be refused.
- 7.2.11. The harm caused by the proposal, the benefits of the proposal and the associated conflict and accordance with the Local Plan and the NPPF, as a material consideration of significant weight, will be considered fully in a balancing exercise below, once other material considerations have also been considered.

Self-Build

- 7.2.12. The application has been submitted on the basis that it would deliver three self-build/custom build dwellings. Under the Self-build and Custom Housebuilding Act 2015 (as amended), local planning authorities are required to keep a register of individuals and associations seeking to acquire serviced plots of land in the Borough for their own self-build and custom housebuilding projects. The Council's Self-Build Register, as of the base date of 30 October 2024, records 127 individuals seeking 128 plots and 5 associations seeking 32 plots for self-build/custom housebuilding.

- 7.2.13. The Act and associated Planning Practice Guidance (PPG) define self-build and custom house building as housing built or completed by individuals (or associations) to be occupied as their own home, where the initial owner has primary input into the design and layout of the dwelling. The self/custom build act states,

“it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person”.

The PPG states, *“Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing”.*

- 7.2.14. As such, homes built to a fixed design without input, as is the case here, do not meet this definition.
- 7.2.15. The applicant has provided a statement explaining that purchasers would be able to specify internal layouts, finishes, and some external materials, and that the landowner would not act as a developer selling completed homes. It is also stated that the plots would be marketed as self-build opportunities and that flexibility could be secured through conditions or a legal agreement. The applicant has offered to enter into a Section 106 agreement requiring that the plots are sold for self-build/custom build purposes in accordance with the Act, including an occupancy clause of three years. It is the applicant's opinion that this would provide a suitable mechanism to secure the principle of self-build and address enforceability concerns.
- 7.2.16. In addition, the applicant has advised that there is now interest from self-builders in both Plots 2 and 3, subject to planning approval being granted, despite these plots not currently being marketed. The applicant considers this demonstrates clear demand for such plots and argues that this strengthens their position that the supply of approved self-build sites is not keeping pace with demand.
- 7.2.17. Whilst this interest is noted, the application still seeks full planning permission for fixed house designs and layouts. Although the proposed legal agreement would result in the plots being marketed and sold for self-build purposes, the level of flexibility described (internal finishes and minor layout changes) does not demonstrate that future occupiers would have primary input into the overall design and layout prior to construction. This remains a key requirement of the statutory definition and national guidance.
- 7.2.18. Appeal decisions confirm that the ability for the initial owner to influence the design is fundamental to meeting the statutory definition. In APP/J3720/W/25/3364463 (Bidford-on-Avon) the Inspector dealt with the issues of self-build in detail emphasising that design input by the initial owner is essential and detailing the requirements to be met in order for the development to be considered self-build. The decision demonstrates

that simply marketing plots as self-build, without securing meaningful design input, is insufficient.

- 7.2.19. In the absence of design input from the initial owner, the Council cannot be satisfied that the proposal qualifies as self-build/custom build housing. Consequently, the development cannot be considered as contributing to the Council's obligations under the Self-build and Custom Housebuilding Act 2015.

Previously Developed Land

- 7.2.20. The applicant asserts that the site qualifies as brownfield land. It contains a small brick structure and remnants of hardstanding. According to the NPPF, there is a strong emphasis on redeveloping brownfield (previously developed) land, especially for housing. Annex 2 of the NPPF defines previously developed land as:

“Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

- 7.2.21. The planning history of the site is also a material consideration. In the appeal decision for application 19/500764/OUT, the Inspector acknowledged that part of the site (Parcel B) constitutes previously developed land, stating:

“I acknowledge that part of Parcel B is previously developed land and due to the rows of dwellings opposite, the appeal site cannot be considered isolated in the true sense of its meaning. However, Policy ST3 does not make provision for an exception to the restrictive approach to development in the countryside for such sites.” (paragraph 7)

The Inspector further noted that:

“The proposal would produce some environmental benefits including the remediation of previously developed land on part of Parcel B; would reduce the pressure on agricultural land for development and would make a financial contribution towards mitigation of any impacts arising from the development on the SPA. I attach moderate weight to these benefits.” (paragraph 22)

- 7.2.22. This appeal decision confirms that whilst the partial brownfield status of the site and the presence of existing development in the locality are relevant, they do not in themselves override the restrictive policy approach to new development in the countryside (Policy ST3 of the Local Plan). The Inspector attached only moderate weight to the environmental benefits arising from the remediation of previously developed land, and did not consider these sufficient to justify an exception to policy. It is considered that the same assessment of this matter applies in terms of the current application.

Loss of Best and Most Versatile Agricultural Land

- 7.2.23. Policy DM31 of the Local Plan seeks to safeguard the best and most versatile agricultural land from development.
- 7.2.24. The application site comprises Grade 1 agricultural land, which is classified as being of the highest quality. However, based on the available evidence, the land does not appear to have been previously farmed and, due to its limited size, would not constitute a viable agricultural unit. Whilst the proposal would result in the loss of land designated as best and most versatile, the scale and nature of the site significantly limits its agricultural potential.
- 7.2.25. As such, although a degree of conflict with Policy DM31 of the Local Plan is acknowledged, the weight attributed to this harm within the overall planning balance is considered to be minimal.

7.3. Landscape and Visual

- 7.3.1. 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. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'.
- 7.3.2. The site is also part of the Upchurch and Lower Halstow Fruit Belt as designated in the Swale Landscape Character and Biodiversity Appraisal 2011 (SPD). The key characteristics of the area are of an undulating landscape with occasional long views to north and south, small to medium-scale rural landscapes with a strong sense of enclosure and small villages with historic centres and modern urban expansion on the periphery, amongst others. The SPD notes that the landscape is in 'moderate' condition and moderately visually sensitive. Guidelines for this character area include conserving the remaining enclosed landscape structure and look for opportunities to create features to restore a strong landscape structure with trees, shelterbelt, hedge planting and wetland features.
- 7.3.3. In terms of visual impact, the Inspector's comments in relation to 19/500764/OUT, highlight that the site's partial brownfield status and its relationship to existing built form are material, but the proposal must still be assessed against the need to protect the character and appearance of the countryside. The site is in a non-designated landscape and on this basis Policy DM24 of the Local Plan states: "*Non-designated*

landscapes will be protected and enhanced and planning permission will be granted subject to:

- 1. the minimisation and mitigation of adverse landscape impacts; and*
- 2. when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.”*

- 7.3.4. The current proposal for three new detached dwellings, together with a detached garage, opposite a modest row of terraced cottages on Breach Lane, would appear visually intrusive and overly dominant within the streetscape. The scale and massing of the proposed dwellings, combined with the extent of hardstanding to the front, would detract from the rural landscape character and erode the visual quality of the surrounding area. The development would appear as unduly prominent additions to the street scene, failing to have sufficient regard for the established character, setting, and context of the site.
- 7.3.5. Furthermore, the proposal would extend beyond the established pattern of development and, due to its prominent position in the landscape, would result in significant harm to the character and appearance of the open countryside. It would appear as an incongruous residential intrusion in a rural setting. For these reasons, it is concluded that the development would have a detrimental impact on the character and visual quality of the site and its surroundings. It is considered that adverse landscape impacts of the proposal have not been minimised or mitigated and (as discussed further in the balancing exercise below) the social and or economic benefits do not outweigh the identified harm to the landscape character and value of the area. Therefore, the proposal conflicts with Policies ST1, ST3, CP4, DM14, and DM24 of the Local Plan and the NPPF.

7.4. **Ecology**

- 7.4.1. 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.
- 7.4.2. 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, 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.’

- 7.4.3. 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.

Habitats / Appropriate Assessment

- 7.4.4. 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 (the SAMMS payment).
- 7.4.5. Off-site mitigation is required by means of developer contributions at the rate of £337.49 per dwelling (total £1012.47). The applicant has confirmed willingness to make the SAMMS payment under a unilateral undertaking (UU) which would provide an acceptable form of mitigation. However, in the absence of the UU securing the necessary mitigation, the Council cannot conclude that there will be no harm. On this basis, the proposal is in conflict with Policies ST1, CP7 and DM28 of the Local Plan and the NPPF.

Site Specific Ecology / Protected Species

- 7.4.6. In terms of the site itself, the applicant has submitted a Preliminary Ecological Appraisal and landscape plan with associated biodiversity enhancements alongside the application. KCC Ecology have provided comment. The site occupies an area of bare ground with short emergent vegetation that appears to have been cleared of scrub between 2020 and 2022. A single dilapidated barn building is present onsite, which was determined to be of negligible potential for supporting roosting bats as reported within the Preliminary Ecological Appraisal (PEA), though there is some potential for nesting birds. The PEA determined that the site as a whole was of overall low-negligible for supporting protected species (e.g. reptiles/amphibian/dormice), and therefore it is considered that adverse impacts to these species may be avoided through the implementation of precautionary practices. These ecological impacts arising are therefore considered to be acceptable subject to conditions securing a biodiversity enhancement plan, details of precautionary working practices and details of external lighting in the event of an approval.

BNG

- 7.4.7. Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (TCPA) (as inserted by the Environment Act 2021) introduces a general condition requiring most developments to achieve a minimum 10% biodiversity net gain. This requirement does

not apply where an exemption is engaged, including for self-build and custom housebuilding developments that meet the criteria set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

- 7.4.8. The applicant asserts that the proposal qualifies as self-build/custom build housing and is therefore exempt from the BNG requirement. However, as set out in the Self-Build section above, the Council is not satisfied that the proposal meets the statutory definition of self-build/custom build housing. This is because the application seeks full planning permission for fixed designs and does not demonstrate that initial owner(s) would have primary input into the design and layout prior to construction. Consequently, the exemption cannot be applied, and the development remains subject to the biodiversity gain condition.
- 7.4.9. No Biodiversity Gain metric or draft plan has been submitted, consequently, there is insufficient information to conclude how appropriate BNG will be delivered. The PPG indicates it would generally be inappropriate to refuse an application on grounds that 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. As a result, although there is insufficient information at this point, if planning permission was granted the mandatory condition for a minimum 10% of BNG would be applicable. This would be a pre commencement condition and is the mechanism to confirm whether the development meets the biodiversity gain objective. As a result, in that scenario, the development would be unable to commence until the Biodiversity Gain Plan, required as part of the condition, was approved. Therefore, as the minimum 10% BNG would be able to be achieved via a number of routes, such as on-site or off-site, it is likely that the biodiversity gain condition would be capable of being discharged. As such, despite there not being sufficient information at this point for the purposes of the statutory BNG condition, this is not considered to be a reason to refuse the application.

7.5. **Transport and Highways**

- 7.5.1. 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.
- 7.5.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. The NPPF states:
- “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”*
- 7.5.3. The development proposes a new vehicular and pedestrian access onto Breach Lane to serve two of the properties, with the third property using the existing access.

- 7.5.4. Several representations have been received raising concerns that the development would increase road safety risks in an area already affected by traffic and ineffective speed limits. Objectors also highlight that the proposed access points are located near a blind corner, which they consider would exacerbate highway safety issues.
- 7.5.5. KCC Highways initially raised concerns that the visibility splays to the north of both the existing and proposed accesses were incorrectly drawn. Revised plans were subsequently submitted, and a full re-consultation was carried out. Following review of the amended plans, KCC Highways confirmed they are satisfied with the proposal, subject to conditions in the event of approval. On this basis, highway safety is considered acceptable.
- 7.5.6. In terms of traffic volumes, it is not considered that the vehicle movements associated with three dwellings would give rise to any severe impacts upon the surrounding highway network. The scheme is therefore acceptable in this regard.
- 7.5.7. Based on the Council's Parking Standards SPD, four-bedroom dwellings in this location require three spaces each, plus an additional 0.2 spaces per dwelling for visitors, equating to a total requirement of 10 spaces. Initially, KCC Highways highlighted that a minimum of three parking spaces per four-bedroom dwelling is required, and garages cannot be counted towards this provision. The plans were amended accordingly.
- 7.5.8. The revised layout now provides nine on-plot parking spaces, with additional capacity within garages. Each property also has sufficient space to accommodate visitor parking.
- 7.5.9. Should planning permission be forthcoming, a condition is recommended to ensure the delivery and retention of parking spaces. A condition could also be applied to ensure sufficient parking space during construction. In view of the above, the parking proposals are considered to comply with Policy DM7 of the Swale Local Plan and the relevant provisions of the NPPF.
- 7.5.10. Policies CP2 and DM6 of the Local Plan require proposals to minimise the need to travel for employment and services, facilitate sustainable transport and requires priority to be given to pedestrians and cyclists. As set out above when considering the location of development, there is an unlit footpath which would provide access to Lower Halstow. However, Lower Halstow itself only has a very limited number of services and facilities, which is reflected in its position low down in the settlement hierarchy as set out in Policy ST3. Therefore, due to the distance of the site from higher order centres which contain services and facilities necessary for day-to-day living, the scheme would not minimise the need to travel. In addition, due to the unlit footpath, it is not considered that sustainable travel methods would be prioritised. On this basis, the scheme would conflict with those elements of Policy DM6 and CP2 which relate to these specific matters.

7.6. Flood Risk, Drainage and Surface Water

- 7.6.1. 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.
- 7.6.2. The site is not located within Flood Zone 2 or 3; however, the Council's Strategic Flood Risk Assessment and Environment Agency maps indicate that a section to the west of the site (rear garden) is at medium/high risk of surface water flooding.
- 7.6.3. On 17 September 2025, the Government updated the Planning Practice Guidance (PPG) on flood risk. The revised guidance introduces a more pragmatic and proportionate approach to surface water flood risk. Specifically, where a site-specific Flood Risk Assessment (FRA) clearly demonstrates that the proposed layout, design, and mitigation measures will ensure that occupiers and users remain safe from current and future surface water flood risk for the lifetime of the development without increasing flood risk elsewhere the sequential test does not need to be applied.
- 7.6.4. Although a site-specific Flood Risk Assessment has not been submitted, the location and design of the development ensure that no built elements are at risk from any form of flooding. Surface water management would be achieved through soakaways and permeable driveways, as detailed in the submitted Drainage Strategy Report and supported by site-specific infiltration tests. The Environment Agency, having reviewed the supporting information, assessed the proposal as low risk and had no specific comments.
- 7.6.5. Concerns have been raised in representations regarding the potential impact of the development on sewage disposal, as well as reference to an existing manhole overflow and the potential for associated health and safety risks. While these concerns are noted, matters relating to foul drainage is addressed through separate legislation and regulatory regimes, including the Building Regulations. Any connection to the public sewerage network would require approval from Southern Water under Section 106 of the Water Industry Act, and any existing issues with infrastructure maintenance fall outside the scope of planning control. As such, these matters are not material planning considerations in the determination of this application.
- 7.6.6. Overall, the proposal aligns with the objectives of Policy DM21 of the Local Plan and the NPPF and is considered acceptable.

7.7. Living ConditionsExisting residents

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

- 7.7.2. The nearest property to the site is Westfield House, located to the south. It is set back within its plot, with its main amenity space situated to the north and front of the dwelling. Although the proposed new dwellings would extend further forward than Westfield House, a separation distance of 18 meters would be maintained between the main house and the side boundary. This ensures that there would be no unacceptable loss of light to the existing property. Furthermore, given the orientation of the site where the new development would be positioned to the north, any overshadowing would be minimal.
- 7.7.3. Regarding privacy, no windows are proposed on the southern side elevation of the nearest new dwelling, eliminating concerns about direct overlooking. Additionally, the placement of windows at the front and rear prevent direct overlooking. While the garden of Westfield House is located to the side, with regards to privacy this would be acceptable again based upon the location of the windows and furthermore immediate views into the space would be limited by a boundary fence.
- 7.7.4. Directly opposite the site lie Breach Cottages. While the proposed dwellings are larger in scale and introduce elevated views, the layout and positioning of the development have been carefully considered to avoid any unacceptable impact on the privacy or living conditions of neighbouring occupiers. The relationship between the new dwellings and existing properties is such that issues of overlooking, overshadowing, and loss of light are not considered to be significant. As a result, any potential impact on residential amenity is deemed acceptable in this regard.

Future residents

- 7.7.5. 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.
- 7.7.6. The proposed dwellings offer a good quality living environment, with two-storey layouts that meet the national internal space standards. All habitable rooms benefit from natural light and ventilation, contributing to a comfortable living space. Although the garden areas are smaller than typically expected for dwellings of this size, they are considered sufficient to meet the day-to-day needs of future residents and are therefore acceptable.
- 7.7.7. As such, the proposed development is considered to provide an acceptable standard of amenity for both existing neighbouring occupiers and future residents. The layout, scale, and design of the dwellings ensure that issues such as privacy, light, and outlook have been appropriately addressed. The internal accommodation meets the Nationally Described Space Standards, and although garden sizes are modest, they are sufficient to meet the needs of future occupiers. As such, the proposal is

considered to comply with Policy DM14 of the Local Plan and the NPPF, which seeks to ensure that developments provide a good standard of amenity for all.

7.8. Sustainability / Energy

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

7.8.2. If the application was approved a condition would be imposed on any planning permission to control excessive water consumption and to require the future development to include details of energy efficiency and/or renewable energy generation. Subject to conditions securing this detail, the application would comply with Policy DM19 of the Local Plan and the NPPF.

7.9. Other Matters

7.9.1 Some representations have raised concerns regarding the potential impact of the proposed development on local infrastructure, including school placements, healthcare access, and other overstretched services. Comments have also been received in relation to the provision of affordable housing. However, the proposal comprises only three dwellings and does not meet the threshold for a major application. As such, it is not considered to result in a significant impact on local infrastructure or to trigger requirements for affordable housing provision under current planning policy.

7.9.2 While some representations suggest that small-scale developments such as this proposal for three dwellings are preferable to large housing estates and could help address housing shortages, this argument does not outweigh the planning concerns identified in this case. The National Planning Policy Framework (NPPF) does support the contribution of small and medium-sized sites to housing supply (paragraph 69); however, such support is conditional on proposals being well-designed, appropriately located, and policy-compliant. The fact that a development is small does not justify setting aside other material considerations, particularly where harm has been identified. Furthermore, the refusal of this application would not set a precedent that favours large-scale development, as each proposal is assessed on its own merits and in accordance with the development plan and material considerations.

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. In this case conflict with policies in the development plan have been identified as set out above.

- 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. As per part (i), in the absence of a UU, whilst it would be resolvable, the proposal currently fails to mitigate its impact on designated habitat sites, which conflicts with Policies ST1, CP7 and DM28 of the Local Plan. 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 a UU were to be submitted securing the necessary contribution towards mitigation, it is considered sensible to undertake an assessment on the basis of the habitats harm 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 proposal would deliver some benefits, including a modest contribution to housing supply (not self-build) and short-term economic benefits during construction. Future occupiers may also provide limited support to local services. Moderate weight is attached to these public benefits.

Harm (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.10.7. The application site lies within the open countryside for the purposes of the Local Plan. The proposals would give rise to a harmful urbanising effect on the rural landscape character of the site, conflicting with the settlement strategy and Policies ST1, ST3, CP2, elements of policy DM6 and DM24 of the Local Plan and with the design and

character objectives of Policies ST3, CP4 and DM14 of the Local Plan. Substantial weight is given to this harm.

- 7.10.8. The site is also identified as Grade 1 agricultural land, and its loss would conflict with Policy DM31 of the Local Plan. Given the size of the site and its potential for viable agricultural activity the weight attributed to this harm is limited.

Balance

- 7.10.9. The Council cannot currently demonstrate a five-year housing land supply, and therefore paragraph 11(d) of the NPPF is engaged. Notwithstanding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'titled balance' on the basis that the protected habitats harm can be easily resolved, it is still considered that the harm arising from the unsustainable location and harmful impact upon the rural character, results in conflict with the NPPF which would significantly and demonstrably outweigh the benefits of the proposal.

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 the unsustainable location and the visual impact upon the rural character of the site; 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.

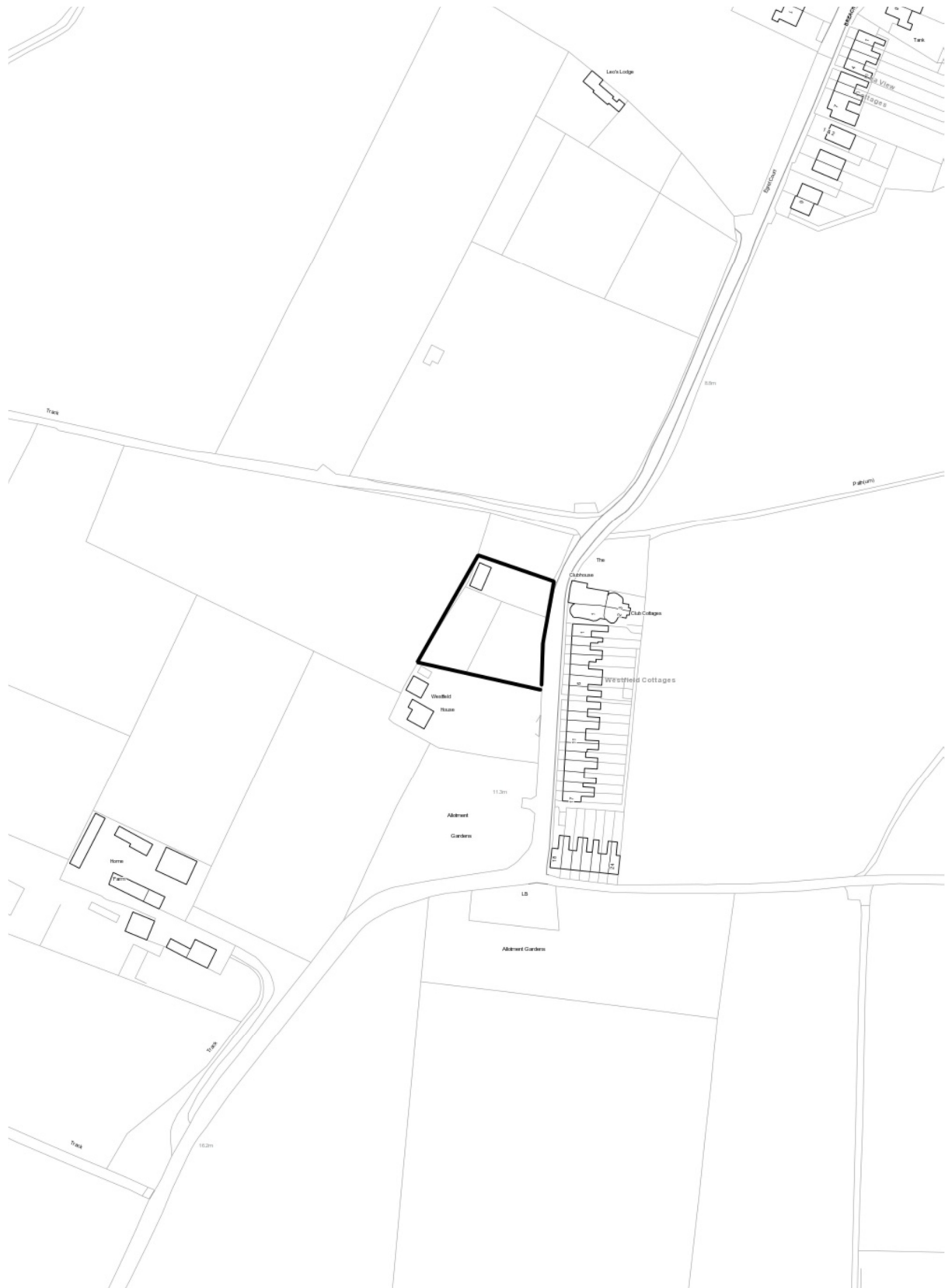
7.12. Recommendation

- 7.12.1. Refuse for the following reasons.

7.13. Reasons for refusal

1. The proposed dwellings, by virtue of their location outside of any identified built-up settlement boundary, would give rise to unacceptable urbanisation of the site and intensification of sporadic development, representing an unsustainable and harmful form of development in a rural location, poorly related to day-to-day services and facilities. The adverse impacts of the proposal would significantly and demonstrably outweigh the benefits arising. The application is therefore contrary to Policies ST1, ST3, CP2, CP4, DM6, DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 and the National Planning Policy Framework.

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, 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 – 6th November 2025

PART 5

Report of the Head of Planning

PART 5

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

Item 5.1

Land on either side of Vigo Lane and Wrens Road, Sittingbourne, Kent, ME9 8LA

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision : COMMITTEE DECISION

Observations

The application sought planning permission for a solar farm. The application was refused on the grounds of the visual and landscape impact, the impact on public rights of way, the impact on tourism and the impact on agricultural land. By the time of the Public Inquiry, the application had been amended by the applicant and the matter had been presented to the Council's Planning Committee to consider its position in light of the amendments.

In relation to the visual impact and the impact on the Kent Downs National Landscape, the Inspector found that *“the development would result in some temporary landscape and visual harm within the setting of the KDNL, the scale of which would reduce as the proposed landscaping matures. The nature of this landscaping is something that would be covered by condition. The overall effect on the landscape and scenic beauty of the KDNL, which would be preserved, would be acceptable and no harm would be caused to other important aspects of the designated area.”*

In terms of agricultural land, The Inspector concluded that *“the proposal would result in a temporary loss of B&MV agricultural land from food production. That temporary loss would have no material impact on food security. The use of agricultural land has been shown to be necessary, and no areas of poorer quality land have been identified in preference to higher quality land.”*

The Inspector considered that that proposal would have no unacceptable impacts on neighbours as a result of noise.

The Inspector also found that there would be a negligible level of less than substantial harm to heritage assets and no impacts on archaeology that could not be addressed by conditions. The harmful impacts on the heritage assets were found to be outweighed by the energy generation benefits of the proposal, the biodiversity net gain benefits and the economic benefits arising from construction and farm diversification. For similar reasons, the harms that were identified were also considered to be clearly outweighed by the benefits of the proposal.

The appeal was therefore allowed and planning permission was granted.

Item 5.2**Land at Hill Top Farm, Elverland Lane, Ospringe, Faversham, Kent ME13 0SP****PINS Decision: APPEAL DISMISSED****Committee or Officer Decision : DELEGATED REFUSAL****Observations**

The appeal related to an enforcement notice that has been served in relation to the erection of stables and kennel buildings, the erection of a timber framed kennel, the alteration of land levels and the stationing of a touring caravan. The appeal was made on Grounds C (that a breach has not occurred), F (the notice requirements are excessive) and G (that the compliance period was too short). No appeal was made on the grounds that planning permission should be granted (Ground A). As a procedural matter, the Inspector identified that the notice should refer to a part of the development in singular rather than plural terms. The Inspector was content that the Notice could be corrected in this regard.

The crux of the Ground C appeal is that the works to ground levels should, in the view of the appellant, be considered a bund and, therefore, as a means of enclosure that could be permitted development. The Inspector disagreed and found that *“the raised soil bund does not constitute a means of enclosure and is therefore not permitted by Class A, Part 2, Schedule 2, Article 3 of the GPDO”*. No case was made that the bund did not constitute development and no planning permission had been granted for the development. Therefore, the Inspector found that the raised soil bund does constitute a breach of planning control and, as a result, the Ground C appeal failed.

The Inspector amended the terminology of the requirements of the notice but found that the removal of the unlawful building at the site was necessary to remedy the breach of planning control and, in so doing, was not persuaded by the appellant's case that it would be onerous to do so. Similarly, whilst the cost of removing materials was identified as being a reason for the appellant to not be made to do so, the Inspector found that these works were necessary to achieve the purpose of the notice. Moreover, whilst the appellant cited the amount of works involved and the need to appoint suitable persons to undertake those works, which would make a year long compliance period unachievable, the Inspector was satisfied that the compliance period was proportionate. For these reasons, the Ground F and G appeals failed.

Overall, the appeal was dismissed and, subject to corrections and a variation, the enforcement notice was upheld.

Item 5.3**Land at The Yard, Beckenham Park Industrial Estate, Otterham Quay Lane, Sittingbourne ME8 7UX****PINS Decision: Appeal A: APP/V2255/C/25/3366417
Appeal B : APP/V2255/W/25/3366416
Costs Application****NOTICE QUASHED
APPEAL ALLOWED
REFUSED****Committee or Officer Decision : DELEGATED REFUSAL**

Observations

Planning permission was sought retrospectively for the use of the land as a scaffolders yard and access to that yard. In light of the evidence available and the mitigation measures that were deemed to be required at the time to address an impact on neighbouring residents that had been identified, which would not have been able to have been the subject of conditions, planning permission was refused and an enforcement notice was served on similar grounds. Both the refusal of planning permission and the enforcement notice were the subject of appeals.

By the time of the appeal, additional evidence had been submitted by the appellant to demonstrate that the impact of the use on the living conditions of neighbouring residents is not unacceptable. This was corroborated by key consultees. Having considered comments from interested parties, the Inspector concluded that the use was acceptable but that conditions were required to be imposed to limit the use in the interests of ensuring that there is no unacceptable harm to living conditions in neighbouring properties.

Planning permission was therefore granted and the enforcement notice, which was also modified through the appeal process, was quashed.

An application for an award of costs was unsuccessful with the Inspector noting that it was reasonable, in light of the evidence available, for the Council to have concluded that conditions could not have been imposed to make the planning application acceptable at the time of the determination. It was also found that it was not unreasonable for the Enforcement Notice to not have been withdrawn as, to do so, could have enabled the use to continue without permission, conditions or limitations.

Item 5.4

91 Chaffes Lane, Upchurch, Kent ME9 7BG

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

The proposed first floor rear extension would have been provided above an existing single storey extension, with the extension abutting the boundary of the neighbouring property which is described as having a modest rear projection and a shallow rear garden

The Inspector noted that the proposed extension would markedly exceed the depth of extensions that is set out within the Council's SPG guidance and, due to its scale and proximity to the boundary, would present an imposing and unrelenting mass to the neighbouring property. It was found that the extension would dominate the outlook from that neighbouring property and cause a harmful sense of enclosure that would diminish the enjoyment of the adjacent amenity space and have an overbearing and oppressive relationship.

The access to views of the countryside to the rear and the presence of the existing single storey extension were not found to be reasons to find the first floor extension acceptable and the proposal being acceptable in terms of overshadowing and loss of light was

considered to weigh neutrally in the assessment of the proposal. An example at a nearby property was not considered to be a direct parallel and the absence of any objections was not considered to be a reason to find the proposal acceptable. Similarly, the Inspector did not find it determinative that the application was determined under delegated powers rather than by the Planning Committee despite this being raised by the appellant. The Inspector also found that, having had regard to the Public Sector Equality Duty and the Human Rights Act, the public interest of protecting living conditions within the neighbouring property meant that it was proportionate and necessary to dismiss the appeal.

The appeal was, therefore, dismissed.

Item 5.5

The Lodge, Hawks Hill Lane, Bredgar, Kent ME9 8HE

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was refused for a double garage with a porch link to the dwelling. The main issue was identified to be the visual impact of the proposal, having regard to the character and appearance of the existing building and the area, including the Kent Downs National Landscape (KDNL).

Having assessed the character of the area and the contribution it makes to the KDNL, the Inspector noted that the development would be subservient to the host dwelling and use matching materials. The Inspector recognised that the extension would cause the dwelling to no longer appear as a modest bungalow, being a more noticeable building. However, the original building would remain discernible and the new extension was not considered to be so large as to overwhelm the dwelling or be unduly prominent. It was found that wider views would be limited and that the prominence of the dwelling would not be so intrusive that it would spoil the landscape or visual qualities of the KDNL. The impact on the KDNL was therefore considered to be acceptable and it was found that the proposal would not cause harm to the character and appearance of the dwelling or the wider area. Therefore, the appeal was allowed subject to conditions.

Item 5.6

Land rear of 6 Coastguard Cottages, Plough Road, Eastchurch, Sheerness, Kent ME12 4JH

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for a bungalow. The SAMMs payment had not been made at the time that the appeal was determined and this was, therefore, a fundamental flaw with the proposal. Setting that aside, the Inspector found that the site was suitable for development in terms of accessibility of services and facilities. However, the proposal was found to be contrary to the settlement strategy with associated harm being identified in relation to the proliferation of development in the open countryside. It was also found that there was harm caused by the development not reflecting the positive characteristics and features of the site and the locality and not strengthening the sense of place, thereby being contrary to Policies DM14 and CP4.

The Inspector undertook a balancing exercise, having regard to the above considerations and harms and the benefits arising from the proposal in terms of housing supply, potentially quick delivery and minor economic benefits. Overall, it was concluded that, particularly in light of the failure to mitigate the impact on the Special Protection Area and Ramsar site, neither the NPPF nor the development plan indicated that planning permission should be granted. The appeal was, therefore, dismissed.

Item 5.7**2 Parsonage Chase, Minster-on-Sea, Kent ME12 3JL****PINS Decision: APPEAL DISMISSED****Committee or Officer Decision : DELEGATED REFUSAL****Observations**

Planning permission was sought for the demolition of outbuildings and the erection of two bungalows. The main issues were the impact on the character and appearance of the area and the living conditions of neighbouring residents.

The Inspector noted the set-back and spacious arrangement of dwellings in the area and found that the proposed access arrangements and backland dwellings on subdivided plots would be unreflective of the predominant layout and prevailing linear pattern of development. Whilst the design of the bungalows was not found to be out-of-keeping, the resultant small plot size of the host dwelling, the highly conspicuous nature of one of the dwellings and the access and parking arrangements led the Inspector to conclude that the development would appear visually cramped and be at odds with the character of the area. The scale of the existing ancillary buildings at the site was not considered to be grounds to reach a different view as they have an inherently different effect. The proposal was therefore found to be contrary to local plan policies CP3, CP4 and DM14.

The main concern around the living conditions of neighbouring residents was the disturbance arising from vehicle movements serving the development which would unavoidably pass close to a dwelling. The impact of this the additional activity on the occupiers of one neighbouring resident was found to be harmful and contrary to local plan policies CP4 and DM14.

The Inspector weighed these harms against benefits of the proposal, including the small boost to housing supply, the potential quick delivery of the dwelling, a potential benefit arising from BNG, and economic benefits arising from development. Areas where the

proposal was simply acceptable did not weigh for or against the proposal. Overall, the Inspector found that the harms significantly and demonstrably outweighed the benefits and, therefore, the appeal was dismissed.

Item 5.8

Pear Tree House, Otterham Quay Lane, Upchurch, Kent ME8 8QW

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for the demolition of the existing buildings at the site, which could have been converted to dwellings under the terms of permitted development rights, and their replacement with a single dwelling. This appeal follows another recent appeal which related to a scheme proposing two dwellings. That appeal was also dismissed.

The site was found to make a positive contribution to the ILCG in this area and it was found that the development of the site, even though it would reduce the amount of built form at the site, would encroach into and harmfully erode the rural character of the site and the area. The Inspector noted that the domesticated appearance of the site, the large two storey dwelling, the car parking and detached double garage and the general change to the character of the site would cause it to have an urban appearance. The loss of rural character was found to be seriously harmful. The fallback position of the abovementioned conversion was considered to be less harmful than the situation that would arise from the proposed development. The proposal was therefore found to be contrary to policies CP4, DM14 and DM25.

In terms of accessibility, the Inspector found that the proposal was as acceptable as the fallback position and, therefore, raised no objection on this ground. The Inspector had regard to the modest benefit to housing supply, the inability of the Council to demonstrate a 5 year housing land supply, the potential for the development to provide a self-build dwelling and the social and economic benefits of development. Limited weight was given to the conflict with the settlement strategy.

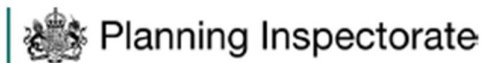
Overall, the visual harm was found to significantly and demonstrably outweigh the benefits of the proposal and, therefore, the presumption in favour of sustainable development was not considered to apply. The development plan was found to indicate that planning permission should be refused and, therefore, in the absence of material considerations to the contrary, the appeal was dismissed.

PLANNING COMMITTEE – 6th November 2025**PART 5**

Report of the Head of Planning

PART 5

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



Appeal Decision

Inquiry held on 5 August 2025

Site visit made on 6 August 2025

by Mr Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st September 2025

Appeal Ref: APP/V2255/W/25/3360089**Land on either side of Vigo Lane and Wrens Road, Sittingbourne, Kent, ME9 8LA**

- 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 Industria Solar Vigo Ltd against the decision of Swale Borough Council.
 - The application Ref is 23/502210/FULL.
 - The development proposed is construction of a solar farm together with a control building, switch room, substations and compound, point of connection equipment, storeroom, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a solar farm together with control building, switch room, substations and compound, point of connection equipment, storeroom, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements on land either side of Vigo Lane and Wrens Road, Sittingbourne, ME9 8LA in accordance with the terms of the application, Ref 23/502210/FULL, and the plans submitted with it, subject to the conditions contained in the attached Schedule of Conditions (Annex A).

Preliminary Matters

2. Following the submission of amended plans (Option 2), public consultation by the appellant and no objection by the local planning authority (lpa), I confirmed, at the inquiry, that the appeal would proceed on the basis of Option 2. The Option 2 amendments include, moving panels away from the site boundaries, a partial reduction of the site boundary, reorientating panels, widening public footpaths, removing panels from Fields 5 and 6 to the east of Wrens Road and extra landscaping. This ruling is based on my conclusion that the amendments meet the substantive and procedural tests set out at S16 of the Procedural Guide: Planning Appeals – England September 2024 and that no party would be prejudiced by determining the appeal on this basis.
3. The lpa's position is that planning permission should be granted for the proposed development in its revised form, Option 2. The lpa did not produce evidence to substantiate the reasons for refusal (RfR). The lpa's participation in the inquiry was confined to an opening statement and the roundtable on conditions.
4. Further to Regulations 14(1) and 7(5) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017), this development is not an Environmental Impact Assessment (EIA) development. This conclusion is consistent with one made by the lpa.

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Main Issues

5. These are, (1) the landscape and visual impact of the proposal, and (2) the effect on the supply of agricultural land.

Reasons

6. The development plan for the area is Bearing Fruits 2031: The Swale Borough Local Plan (LP) adopted July 2017.

Landscape and Visual Impact

7. LP Policies ST 1 and DM14 seek to ensure that development conserves and enhances the natural environment. The site sits immediately beyond the M2, which forms the southern boundary of the Kent Downs National Landscape (KDNL) and sits within its setting. Consistent with LP Policy DM 24, Framework paragraph 189 says that development within the setting of a National Landscape should be sensitively located and designed to avoid or minimise adverse impacts on that area.
8. The KDNL is an extensive area, the special components and characteristics of the landscape include dramatic landforms and views that create a distinctive landscape character and tranquillity and remoteness. The KDNL Joint Advisory Committee published an updated Setting Position Statement in 2024, which lists examples of adverse impacts development might have on the setting of the KDNL. These include significant impact on views in or out of the KDNL, loss of tranquillity through the introduction or increase of lighting, noise, or traffic movement, introduction of abrupt change of landscape character, and loss or harm to heritage assets and natural landscape. These matters align with the KDNL Management Plan 2021-2026.
9. The Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document 2011, locates the site within the Tunstall Farmlands Landscape Character Area (LCA). This LCA is an extensive area to the south of the Sittingbourne and straddles the M2. That part of the LCA to the south of the M2 lies within the KDNL. Key characteristics for this LCA consistent with the character of the site and the land to the south of the M2 are, areas of traditional orchard lost to agricultural intensification, fragmentation of hedgerows along lanes, internal field boundaries lost with enlargement of field sizes, narrow winding lanes and noise and pylons associated with M2 detracting from tranquillity.
10. Following a review of the landscape evidence, I have no reason to disagree with the following conclusions. These are, the value of the site and surrounding landscape north of the M2 is Medium, the value of the KDNL south of the M2 is High, the susceptibility and sensitivity of the site to change is Medium. The magnitude of effect on the landscape character of the site would be Medium albeit the effects would be highly localised. At Year 1, the effect on landscape character would Moderate Adverse. As the proposed hedgerow screening matures, Year 15 and beyond, the landscape effect would reduce to Slight Adverse.
11. On landscape impact, 3 factors are pertinent. First, the landscape impact would be temporary, and after decommissioning the agricultural landscape would be restored. Secondly, the current open arable landscape is the result of an increased emphasis on intensive arable farming. This emphasis has resulted in

- the wholesale removal of hedges from a landscape that was traditionally a tight network of enclosed orchards and fields. Thirdly, surrounding the arrays with hedge and tree planting would be consistent the guidelines for the Tunstall Farmlands, which seek opportunities to diversify and restore hedgerows, recreating a more enclosed landscape,
12. Relevant views from the KDNL are from public footpath (FP) ZR137 to the north of the M2 (VP 16), Deans Hill (VP 7 & Photomontage 7) and Vigo Lane south of the M2 (VP15). From Deans Hill, parts of the site are visible in the context of a busy motorway and a backdrop that includes groups of large agricultural buildings, a row of pylons, wind turbines and the built-up edge of Sittingbourne. Where visible the arrays would be seen as narrow band in this already compromised landscape. Existing planting along the M2 margins would break up the appreciation of the arrays and as the planting along the southern boundary matures, views of the arrays would be materially reduced. From here, the visual impact of the scheme would be Slight Adverse. For users of FP ZR137 to the south of the M2 (VP16), views of the site are again limited by planting along the M2. At Year 1 the effect on the view would be Slight Adverse reducing to Negligible as the proposed planting matures. From Vigo Lane (VP 15), this is a glimpsed view at one point on a well hedged narrow road where opportunities to stop are limited. In this context, the assessment of a Medium to Low Adverse effect at Year 1 reducing to Slight to Moderate Adverse as the planting matures is reasonable.
 13. Views into the KDNL from north of the motorway are largely confined to FPs ZR137, ZR138, Vigo Lane, ZR134 and Wrens Road (VPs 3 and 4). From these locations, whilst the arrays would be prominent in close views at Year 1 and progressively screened as the planting matures, they would sit below the rising ground within the KDNL resulting in localised Moderate Adverse effects at Year 1 reducing to Slight to Moderate as the planting matures.
 14. Given the above impacts would be temporary, albeit for 40 years, the adverse landscape and visual effects need to be considered in the round. The impact of the proposal on the KDNL would, at Year 1, result in some highly localised Moderate Adverse effects reducing to Slight Adverse as the proposed planting matures. As such, the development would have a limited impact on the special characteristics and quality of the KDNL.
 15. The site is crossed north to south and east to west by a network of public footpaths. Users of FP ZR137 that runs from Oad Street through a farmyard and doubles as a farm track giving access to land south of the M2. Where the FP passes the site, it has an open aspect to the east. FPs ZR138 and FP134 are narrow tracks running southwards across the arable fields from Oad Street to the boundary with the M2 and have open aspects to the east and west. All 3 FPs are linked east to west by what I understand to be a permissive path, the Toll Ride, and parts of FPs ZR134 and ZR138, all running parallel to the M2, which has an open aspect to the north. Notwithstanding the open aspects of these paths as they approach and skirt the M2, they are subject to high levels of traffic noise and cannot be described as tranquil.
 16. The proposed width of FP ZR137 would be between 14 to 16m to the fence line and 12 to 14m to the new hedge on its eastern side. The width of FPZR138 where it crosses the site would have a width of some 16 to 26m between the fence lines and 12 to 22m between the new hedges. FP ZR134 where it crosses the site from

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the north would be between 14 and 25m to the fence lines and 10 to 21m to the new hedges. Those parts of the permissive path and FPs ZR138 and ZR134 where they run along the boundary with the M2 would vary in width between 12 and 20m to the fence line and 10 to 12m to the new hedge.

17. At Year 1 the visual impact on FP users would be Substantially Adverse, reducing to Slight to Moderate adverse as the planting matures. That said, as the planting matures, wide green corridors bounded by tall hedgerows, similar in style to many roads within the area would be created. Overall, whilst there would be an effect on the amenity of these paths, it would not lead to walkers being oppressively enclosed.
18. Drawing these matters together, the development would result in some temporary landscape and visual harm within the setting of the KDNL, the scale of which would reduce as the proposed landscaping matures. The nature of this landscaping is something that would be covered by condition. The overall effect on the landscape and scenic beauty of the KDNL, which would be preserved, would be acceptable and no harm would be caused to other important aspects of the designated area.

Agricultural Land

19. The thrust of national policy¹, LP Policies DM 20 and DM31 and the Ipa's Renewal Energy Guidance Note 1 on the use of agricultural land is, that where significant development of agricultural land is shown to be necessary, areas of poorer quality land should be preferred to that of a higher quality with due weight given to the use of Best and Most Versatile (B&MV) agricultural land.
20. The development would use some 46.28ha of B&MV agricultural land for a period of 40 years. Although there is no requirement for a developer to undertake an alternative or sequential site assessment, the application was accompanied by an Alternative Site Assessment April 2023 (ASA). This robust study is material in assessing whether the use of agricultural land is necessary.
21. Site selection was largely driven by the need for a viable 132kV grid connection. The site is crossed by power lines capable of accepting the electricity generated, and the appellant has secured, on-site, a point of connection to the grid. The availability of an on-site connection not only maximises the amount of electricity captured but also minimises the environmental disturbance from a longer cable route. The search area extended to 3m from the proposed point of connection. This is within the generally acknowledged maximum distance for a connection before viability, both in terms of electricity transmission and cost, becomes questionable. A large part of the 3km search area falls within the National Landscape, which effectively limited the search area to land north of the M2. The ASA identified 5 potential sites. However, none would have a viable existing 132kV connection to the grid, some involved the use of Grade 1 agricultural land and were subject to other land use policy constraints that ruled out their suitability.
22. Whilst the proposal would take B&MV agricultural land out of productive use for 40 years, the ability to make a 132kV connection on-site, is a compelling reason to do so. Whilst the current intention is to leave the land under and around the arrays as

¹ Framework paragraph 187, Written Ministerial Statements 25 March 2015 & 15 May 2024, Planning Practice Guidance – Renewable and Low Carbon Energy, Paragraph: 013 Reference ID: 5-013-20150327, Overarching National Policy Statement for Energy (EN-1) and National Policy Statement for Renewable Energy Infrastructure (EN-3).

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herb rich grassland, this would not prevent the landowner from using the land for sheep grazing; a common agricultural practice associated with solar farms. In this context, the land would not be permanently lost from agricultural production. Moreover, as the land would be "rested" from intensive arable use, soil and health/structure would improve for when the land would revert to agriculture following decommissioning. The implementation of a Soil Management Plan would ensure that where soil would need to be removed to allow for construction, this would be effectively managed so that it could be returned to agricultural use.

23. World events and climate change have brought food security into sharper focus. That said, the UK's food supply chain remains highly resilient with a high degree of food security being built on supplies from diverse sources. The appellant has produced an unchallenged assessment of the impact of taking the appeal site out of food production albeit temporarily. Here, the primary crop has been winter wheat, alternating with crops of oilseed rape, spring barley and oats. Based on the 10-year average yield data for the region, the yield from the areas to given over to solar panels would be less than 0.2% of the regional yield and 0.05% of the national yield for these crops. The temporary loss of these fields from food production would have a negligible effect on food production and security.
24. Drawing the above together, the proposal would result in a temporary loss of B&MV agricultural land from food production. That temporary loss would have no material impact on food security. The use of agricultural land has been shown to be necessary, and no areas of poorer quality land have been identified in preference to higher quality land.

Other Matters

25. LP Policy DM 14 (8), Framework paragraph 198 and the Noise Policy Statement for England (NPSE), seek to avoid significant adverse impacts on health and quality of life. Planning Practice Guidance (PPG) – Noise identifies a noise hierarchy table. Of the 4 levels of noise effects identified, the No Observed Adverse Effect Level (NOAEL) is a situation where noise is perceptible but does not change behaviour or quality of life.
26. Noise monitoring was undertaken at 4 noise sensitive locations to the north and east of the site. Whilst I understand the concerns relating to the potential noise effects from the use of String Inverters, the noise assessments and my experience indicates that their effect diminishes rapidly with distance. Here, given the degree of separation between the panels and dwellings, which following the Option 2 amendments would be increased over the gaps referred to in the submitted Noise Statement, the potential for noise disturbance would be limited.
27. Following a reassessment, small increases in noise levels are predicted. However, noise levels from the development are predicted to be between 7dB nighttime and 18dB daytime below the prevailing background noise, which is dominated by traffic noise from the M2 motorway. Given that background levels fluctuate naturally throughout the day due to time of day, weather and wind direction, the noise contribution from the development would be masked by existing conditions. Accordingly, the proposal would fall within the NOAEL category and not result in a material change to the acoustic environment and as such no material unacceptable adverse effect on residents.

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28. Heritage impacts would be restricted to changes within the setting of the Grade 2 listed Sutton Baron House and Sutton Barron Hall located to the north of the site. The impact on the significance of these assets would be indirect and limited to their wider setting resulting from the change of use of historically associated land. The parties agree that the potential for harm would be less than substantial. I have no reason to disagree and consider on that scale the degree of harm would be negligible. Framework paragraph 215 indicates this harm should be weighed against the public benefits of the proposal. Modern solar farms sit lightly on the ground and disturbance of potential archaeology can be acceptably mitigated by condition.
29. The solar farm would have an installed capacity of 40MW, sufficient to power some 11,500 homes, displacing some 8,152 tonnes of carbon dioxide per annum. This would be a significant benefit in mitigating the wider impacts of climate change. The Council, through its Climate and Ecological Emergency Action Plan 2020 has set an ambitious target of becoming a carbon neutral Council by 2030. Government strategy is to reach net zero by 2050 and current guidance confirms that solar power is crucial in meeting that target. Solar power is acknowledged as a key part of the strategy for energy security, net zero and clean growth with the expectation of a 5-fold increase in solar deployment by 2035. This project would make a material contribution to the imperative of mitigating climate change and achieving net-zero. Given the confirmed grid connection of 2029 and, as far as I am aware, there are no constraints that would prevent early implementation. The contribution of this scheme to securing energy security and mitigating climate change attracts substantial weight.
30. The biodiversity mitigation measures would provide substantial Biodiversity Net Gain (197.27% in habitat units and 289.77% in hedgerow units) as required by LP Policy DM 28 and Framework paragraph 187 (d). These gains and their maintenance are to be secured by condition. As a benefit, these gains attract significant weight.
31. The proposal would result in local economic benefits during construction, contribute to the economic stability and viability of the farm unit through diversification. These benefits attract moderate weight.

Planning Balance

32. When considering the effect of a proposal on the setting of a listed building, the decision-maker is required to have special regard to the desirability of preserving its setting. In line with Framework paragraph 212, when weighing the public benefits of the proposal, I have attached great weight to the asset's conservation. Here, the public benefits of this proposal in terms of clean energy generation and mitigating climate change (substantial), biodiversity net gain (significant), and local economic benefits (moderate) clearly outweigh the less than substantial harm at the very lowest end of that scale to the significance of the Grade 2 listed Sutton Baron House and Sutton Barron Hall.
33. The context for decisions on renewable energy proposals is provided by national policy on planning and renewable energy, development plan policy and the Council's declaration of a climate emergency. Addressing this climate crisis is a generational challenge. Delivering clean power by 2030 is a flagship policy initiative by the Government. Framework paragraph 161 supports the transition to

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a low carbon future and the development of renewable energy infrastructure. Framework paragraph 168 (a) enjoins the decision maker to give significant weight to the benefits associated with renewable energy and the contribution to a net zero future.

34. The need for renewable energy provision and in particular solar energy is referred to in PPG and National Policy Statements (NPS). NPSs EN-1 and EN3 highlight that solar is one of the lowest cost ways of generating electricity and that a secure reliable, affordable, net zero consistent energy generating system in 2050 is likely to be composed predominantly of solar and wind. As such, solar is a key part of the Government's strategy for low-cost decarbonisation of the energy sector and has an important role in delivering greater energy independence. Solar energy, as a key element of the UK's energy policy, was highlighted in the June 2025 Solar Roadmap. This proposal, given a guaranteed grid connection, would make an early and material contribution to achieving local and national objectives.
35. Although most of the site is B&MV land, the proposal would, in addition to solar farming, ensure that the land remains available for food production. The appellant has properly assessed the quality of the agricultural land and based on the site selection criteria, properly justified the use of B&MV land. The proposal accords with national and development plan policies regarding the use of B&MV land.
36. The proposal sits within the setting of the KDNL and the setting of listed buildings. I have had at the forefront of my conclusion the statutory duty placed on the decision maker in this regard. The adverse landscape and visual impacts identified would be temporary and reversible and relate to highly localised harms that do not go beyond Moderate Adverse effects at Year 1 reducing to Slight Adverse as the proposed planting matures. Similarly, with regard to the setting of the listed buildings, there would be less than substantial harm at the very lowest level of that scale. Although I attach great/significant weight to these harms they would be clearly outweighed by the substantial/significant weight attached to the public benefits of this scheme in terms of clean energy generation, mitigating climate change, maintaining energy security and biodiversity gains. Thus, the effects of the proposal on the landscape and scenic beauty of the KDNL and the significance of the listed buildings would be acceptable.
37. As to the effect on users of the FPs across the site, the visual impacts would be Substantially Adverse, reducing to Slight to Moderate Adverse as the planting matures. I attach significant weight to these harms. Notwithstanding these conclusions, these harms can be acceptably mitigated by imposing conditions and are clearly outweighed by the benefits of the proposal, particularly the mitigation of climate change and substantial biodiversity gains. On balance the benefits of this proposal clearly outweigh the harms identified.

Conclusion

38. For the above reasons, this proposal would not conflict with the development plan and would accord with the objectives of national planning and energy policy when read as a whole. Accordingly, having taken all other matters into consideration, the appeal is allowed.

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Conditions

39. The agreed list² of conditions includes several pre-commencement conditions. The appellant supplied, written confirmation of their acceptance. Where necessary in the interests of precision and enforceability, I have amended several of the conditions.
40. Given the grid connection is for 2029, condition 1 provides for a 5-year window for implementation of the permission. In the interests of clarity and certainty, conditions 2 and 3 are necessary. In the interests of the appearance of the area, conditions 4 and 13 are reasonable and necessary. In the interests of maintaining and enhancing biodiversity, conditions 8, 9, 10, 11 and 16 are reasonable and necessary. In the interests of protecting neighbours' living conditions, condition 7 is reasonable and necessary. To mitigate the potential for flooding and to mitigate water pollution, conditions 12, 14 and 15 are reasonable and necessary. In the interests of highway safety, condition 6 is reasonably necessary. To mitigate the impact of the development on potential underground archaeology, condition 5 is reasonable and necessary. To mitigate the impact of the development on soil structure condition 17 is reasonable and necessary.

George Baird

INSPECTOR

² The supplied list of conditions contains an error in that the list jumps from Condition 16 to Condition 19. I have renumbered Condition 19 as Condition 17.

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ANNEX A - SCHEDULE OF CONDITIONS

Time Limit

1. The development hereby permitted shall be commenced before the expiration of 5 years from the date of this permission.

Drawings

2. The development hereby permitted shall be carried out in accordance with the following approved plans, Site Location Plan (Drawing No: NT16093/001 Rev A), Existing Site Plan (Drawing No: NT16093/002 Rev A), Proposed Site Access Arrangements (Drawing NT16093-701 Rev B), Typical Fencing Detail (Drawing S3843-8312-0002 Rev R1.0), Access Track Detail (Drawing No: S3843-8312-0003 Rev R1.0), Cable Trench Detail (Drawing No: S3843-8312-0004 Rev R1.0), Client Substation Elevations (Drawing No: S3843-8312-0005 Rev R1.0), PV Panels and Elevations (Drawing No: S3843-8312-0006 Rev R3.0), Storage Cabin Elevations (Drawing No: S3843-8312-0007 Rev R2.0), CCTV Layout (Drawing No: S3843-8312-0008 Rev R5.0), 132kV - Substation Layout (Drawing No: S3843-8312-0011 Rev R4.0), LD11060/007(A) Landscape Strategy Plan Option 2 – Scale 1:2,500, A1 – Landscape, and LD11060/008(A) Illustrative Landscape Cross Sections Option 2 – Scale 1:250, A2 - Landscape

Temporary Permission

3. The planning permission hereby granted shall be for a temporary period only, to expire 40 years and 6 months after the first export date of the development except for the substation and its ancillary infrastructure, which will 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.

Decommissioning

4. Within 6 months of the cessation of the export of electrical power from the site, or within a period of 39 years and 6 months following the first export date, a Scheme for the Decommissioning of the solar farm (with the exception of the substation and its ancillary infrastructure which will be retained), and how the land is to be restored, to include 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, and details of site restoration measures.

Pre-commencement Conditions

Archaeology

5. A) No development shall take place until the applicant (or their agents or successors in title) have secured 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 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.

CTMP

6. 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. The CTMP shall include the following:
 - a) Routing of construction and delivery vehicles to / from site,
 - b) Parking and turning areas for construction and delivery vehicles and site personnel,
 - c) Timing of deliveries,
 - d) Provision of wheel washing facilities,
 - e) Temporary traffic management/signage.
 - Provision of measures to prevent the discharge of surface water onto the Oad Street and Vigo Lane.
 - Use of a bound surface for the first 5 metres of the access from the edge of Oad Street and Vigo Lane.
 - Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.
 - Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.6metres above carriageway level within the splays, prior to the use of the site commencing.
 - f) Details of safety measures in respect of interaction with Public Rights of Way (PRoW).

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- Signage.
- 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.

Construction Management Plan (CMS)

7. 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.

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

The construction of the development shall thereafter be carried out in accordance with the approved CMS.

Biodiversity Method Statement

8. No development shall take place (including any ground works, site or vegetation clearance) until a Biodiversity Method Statement which details all precautionary mitigation methods to be implemented for the protection of protected and priority species, including, potential bat tree roosts, badger, hazel dormouse, reptiles, badger, breeding birds (including ground-nesting species) and wintering birds has been submitted to and approved in writing by the local planning authority. The approved Biodiversity Method Statement will inform the Construction Environment Management (Biodiversity) Plan to be submitted under condition 9 and will be based on the information within the Preliminary Ecological Appraisal, Wardell-Armstrong, April 2023, Breeding and Wintering Bird Surveys, Wardell-Armstrong April/June 2023, and the Hedgerow Assessment for Dormouse, Wardell-Armstrong, May 2023.

The Biodiversity Method Statement shall include the following:

- A schedule detailing seasonal timing for precautionary works and surveys.
- An update site walk-over within 3 months of commencement to:
 - * Confirm that the condition/management of the onsite habitats is consistent with that recorded during the ecological assessment, such that the potential for protected species to occur has not changed.
 - * Identify any additional badger setts. Should new setts be identified during the pre-works walk over and/or monitoring during the construction period, all required surveys and mitigation/licensing will be implemented prior to further works being undertaken in the vicinity of the sett/s.

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- A Non-Licensed Method Statement for hazel dormouse, to include an update nut search survey during the period mid-August - December. If dormouse is confirmed prior to or during clearance, an appropriate mitigation scheme and licensing will be undertaken.
- Protection measures to avoid lighting impacts and damage of the Root Protection Area of tree T1 with moderate suitability features for roosting bats.
- Preliminary assessment followed by close-inspection, presence/likely absence surveys and mitigation (as required) of any trees on the fence-line which require removal or pruning for access purposes. Where roosting bats are confirmed, an appropriate mitigation scheme and licensing will be undertaken.
- Precautionary methods for reptiles during vegetation clearance.
- Precautionary methods to avoid capture of animals within open trenches and use of temporarily stored materials as refugia.
- Precautionary measures for badger and their setts.
- Procedure to be followed should a protected species be found within the construction area.

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.

CEMP (Biodiversity)

9. No development shall take place (including any ground works, site or vegetation clearance) until a Construction Environment Management Plan for Biodiversity (CEMP (Biodiversity)) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
 - a) Purpose and objectives for the proposed works,
 - b) Reference to the Biodiversity Method Statement submitted and approved under condition 8,
 - c) The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs,
 - d) Detailed design(s) and/or working method(s) necessary to achieve stated objectives,
 - e) Sensitive lighting proposal with reference to the Bat Conservation Trust 'Guidance Note 8: Bats and Artificial Lighting 08/23',
 - f) Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats,
 - g) Reference to any environmental permits required and any relevant mitigation measures,
 - h) Reference to the arboricultural method statement to protect retained trees and hedgerows,
 - i) Timetable for implementation, demonstrating that mitigation works are aligned with the proposed phasing of construction,
 - j) Persons responsible for implementing the mitigation works, including times during construction when specialist ecologists need to be present on site to undertake/oversee works,
 - k) Initial aftercare and reference to a long-term maintenance plan (where relevant),
 - l) Disposal of any wastes for implementing work.

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.

LEMP

10. No development shall take place (including any ground works, site or vegetation clearance) until a Landscape and Ecological Management (and Monitoring) Plan (LEMP) has been submitted to and be approved in writing by the local planning authority. The content of the LEMP will be based on the information submitted within the Biodiversity Offsetting Assessment Biodiversity Net Gain Addendum (dated: 14 January 2025), Wardell-Armstrong. The Plan will include the following:
 - Description and evaluation of features to be managed.
 - Constraints on site that might influence management.
 - Demonstrate the ability to deliver an overall biodiversity net gain of at least 175% and a net gain in hedgerow units of at least 250%.
 - Aims and objectives of management, in alignment with the Biodiversity Net Gain habitat and condition targets.
 - Details of additional biodiversity enhancements to be provided for priority and red/amber list bird species, bats, hazel dormouse, reptiles and invertebrates.
 - Measures to be implemented to ensure habitat connectivity for protected and priority species (such as badger gates).
 - Appropriate management prescriptions for achieving aims and objectives (including detailed grazing proposals where relevant).
 - Information regarding remedial measures.
 - Precautionary measures for protected species to be followed during operation (e.g. during replacement of damages panels or fencing).
 - Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period, for the 40-year duration of the development).
 - Details of the body or organisation responsible for implementation of the plan.
 - Details of a long-term monitoring program for all habitats (in accordance with the BNG targets) and for breeding birds. The methodology for breeding bird surveys will align with that of the original surveys as documented within the Breeding Bird Survey, Wardell-Armstrong, April 2023 to enable meaningful comparison with the baseline. Locations will be detailed for fixed point photographs to evidence habitat creation/enhancement. A timetable for monitoring surveys will be included. Habitat/BNG and species monitoring including breeding bird surveys will be undertaken in years 3, 5, 10 and 15. Copies of all monitoring reports, including details of any proposed remedial measures and a timetable for their implementation, shall be submitted to and approved in writing by the local planning authority.
 - The LEMP will include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer, with details of the management body or bodies responsible for its delivery.

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

Landscaping

11. No development shall take place (including any ground works, site or vegetation clearance) until a scheme for hard and soft landscaping of the site in accordance with drawing number NT16093-LVA 116 Rev B – Landscape Strategy Plan (incorporating existing flora and using native species) and including locations

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adjacent to the M2, A249 and PRoW network and a timetable for implementation has been submitted to and approved by the local planning authority.

Hard landscaping details shall include:

- existing and proposed finished ground levels,
- vehicle and pedestrian access and circulation areas,
- means of enclosure,
- updated details of CCTV equipment (to supersede drawing S3843-8312-0008 Rev R5.0), and
- all paving and external hard surfacing.

Soft landscape details shall include:

- details of planting plans,
- written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance), and
- schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate).

The hard and soft landscaping of the site shall be implemented in accordance with the approved details and shall be maintained and managed for the lifetime of the development hereby permitted.

Any trees or plants which within a period of 10 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.

SUDs

12. No development shall take place (including any ground works, site or vegetation clearance) until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall demonstrate 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.

Materials

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

SUDs Verification Report

14. Prior to the first export of energy from the site, a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved in writing by the local planning authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain:
- Information and evidence (including photographs) of details and locations of inlets, outlets and control structures.
 - Landscape plan.
 - 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.

Unexpected Contamination

15. If, during development, contamination not previously identified is found to be present at the site then no further development unless otherwise agreed in writing with the local planning authority shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented in accordance with the approved details.

External Lighting

16. No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the local planning authority. The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document) and details how any impacts on areas likely to be used by breeding and wintering birds will be avoided. The lighting shall be installed in accordance with the approved scheme.

Soil Resources Management Plan

17. No development, except for Enabling Works, shall take place until a written Soil Resources Management Plan has been submitted to and approved in writing by the local planning authority. The submitted details shall include:
- a) Areas of soil to be protected from earthworks and construction activities,
 - b) The areas and types of topsoil and subsoil to be stripped, stockpile locations,
 - c) The methods for stripping, stockpiling, re-spreading and ameliorating landscape soils, and,
 - d) Details for the sustainable re-use of soils.

The submitted Management Plan shall specifically take into account the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites. The development shall proceed in accordance with the approved plan.

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APPEARANCES

FOR THE APPELLANT

David Hardy Partner, CMS Cameron McKenna Nabarro Olswang LLP.

He called.

Stephen Fidgett BSc (Hons) Dip TP MRTPI.
Director, Union4 Planning Limited

Lucy Green BSc (Hons) Dip LA CMLI.
Technical Director, Wardell Armstrong.

Duncan Rose BSc (Hons), MSc, M.I. Soil Sci.
Associate Director, Wardell Armstrong.

FOR THE LOCAL PLANNING AUTHORITY

Matthew Henderson Counsel, instructed by Swale Borough Council

He called:

Ben Oates, BRTP (Hons)
Principal Planning Officer Swale Borough Council

INTERESTED PERSONS

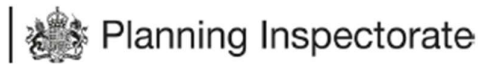
Cllr Small, Borden Parish Council.
Mr J Browse.
Mr P Sewell.
Mr P Willmott.

DOCUMENTS SUBMITTED AT THE INQUIRY

Doc 1 - Technical Note, Public Rights of Way submitted by the appellant.

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

Doc 2 - Agreed list of suggested planning conditions.



Appeal Decision

Site visit made on 5 September 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

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

Decision date: 22 September 2025

Appeal Ref: APP/V2255/C/23/3327594

Land at Hill Top Farm, Elverland Lane, Ospringe, Faversham, Kent ME13 0SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Caroline Webb against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 11 July 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of stables and kennel buildings, the erection of a timber framed kennel, the alteration of land levels and the stationing of a touring caravan.
- The requirements of the notice are:
 - (i) Dismantle and remove the stables and kennel building.
 - (ii) Dismantle and remove the timber framed kennel.
 - (iii) Remove the raised soil bund ensuring that the finished ground level matches the lay of the adjoining land, cover with topsail and seed with grass.
 - (iv) Remove the touring caravan from the land.
 - (v) Remove from the land all resultant materials, rubble and debris associated with steps (i) to (iv).
- The period for compliance with the requirements is twelve (12) months.
- The appeal is proceeding on the grounds set out in section 174(2) (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is dismissed

Procedural matters

1. The appeal was originally submitted on grounds (f) and (g) as set out in Section 174(2) of the Town and Country Planning Act 1990 (the 1990 Act). However, on my reading of the appellant's Enforcement Appeal Statement submitted with the appeal, it was apparent to me that an appeal was also being made on ground (c) as set out in Section 174(2) of the 1990 Act, namely that that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. The Council has commented on this matter under its response to ground (f) and I am therefore satisfied that no injustice would be caused by considering this ground of appeal.
2. Ospringe Parish Council and one local resident have submitted representations in relation to this appeal. Much of those representations relate to matters that should properly be considered under an appeal on ground (a) as set out in Section 174(2) of the 1990 Act, namely that planning permission ought to be granted

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for the matters stated in the notice. For example, the impact of the development on the Kent Downs National Landscape.

3. However, because an appeal has not been made on ground (a), I am unable to take those representations into account, other than insofar as they relate to the appeals that have been made on grounds (c), (f) and (g).

The Enforcement Notice

4. The breach of planning control alleged at paragraph 3 of the notice is, without planning permission, the erection of stables and kennel buildings, the erection of a timber framed kennel, the alteration of land levels and the stationing of a touring caravan.
5. The breach of planning control alleged refers to the erection of stables and kennel buildings, in the plural. In practice, there is only one building that is for dual use as stables and kennels. I shall correct and vary the notice accordingly.
6. The breach of planning control alleged in the notice refers to the alteration of land levels. However, the requirement at paragraph 5(iii) of the notice refers to the removal of a raised soil bund, this being at position 'C' as shown on the plan attached to the notice. This is the only aspect of the requirements to comply with the notice that involves an alteration of ground levels, and it is therefore reasonable to conclude that the raised soil bund paragraph 5(iii) equates to the alteration in ground levels alleged in paragraph 3.
7. It is essential that the requirements of the notice match as closely as possible the breach of planning control that is alleged. In this case, the description of a raised soil bund in the requirement at paragraph 5(iii) of the notice more accurately describes the breach of planning control alleged in paragraph 3. I shall therefore correct paragraph 3 of the notice to refer to the formation of a raised soil bund.
8. The requirement at paragraph 5(iii) of the notice also requires that, following the removal of raised earth bund, the finished ground level matches the lay of the adjoining land and then covered with topsoil and seed with grass. I take the appellant's point that there is an element of uncertainty in this requirement, which would make it difficult to comply with.
9. An alternative way of saying the same thing is to require that the land to be restored to its condition before the breach took place. This wording has the added benefit of being entirely consistent with the wording of Section 173(4) of the 1990 Act. I shall vary the notice accordingly.
10. Section 176(1) of the 1990 Act provides that a notice may be corrected and/or varied where the Inspector is satisfied that doing so will cause no injustice to the appellant or the Local Planning Authority. I am satisfied that the notice can be corrected and varied in the above respects without causing injustice.

The appeal on ground (c)

11. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control. The appellant's case on this ground of appeal relates only to the raised soil bund.

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12. The essence of the appellant's appeal on this ground is that the raised soil bund is a means of enclosure, and is therefore permitted by Class A, Part 2, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). Development is permitted by Class A subject to the limitations at Class A.1.
13. Assessment of the raised soil bund against the GPDO first requires consideration as to whether the bund constitutes a 'means of enclosure'. The Oxford English Dictionary (OED) defines 'enclose' as to surround or close off on all sides, and 'enclosure' as an enclosed area.
14. The appellant contends that the words "*other means of enclosure*" in Class A should be construed in context and that the *eiusdem generis* rule of statutory interpretation should apply here: in other words, that, for the purposes of Part A "*other means of enclosure*" should be similar to a gate, fence, or wall. In that context, the appellant relies on the judgment in *Ewen Developments Ltd v Secretary of State for the Environment* [1980] JPL 404 at 405¹.
15. In *Ewen*, the Inspector had concluded that embankments were not *eiusdem generis* with the (then applicable) Schedule 1 Class II.1 of the 1977 General Development Order. The High Court held that such a finding was a matter of fact and degree for the Inspector. The Court held that it matters not from what materials the bund is constructed. It is whether or not the bund 'encloses' that is relevant to the interpretation of the GPDO.
16. I noted at my site visit that the raised soil bund is completely covered in vegetation, to the extent that it is not possible to discern the shape of the bund and/or whether it completely enclosed the space within it. It is therefore not possible to discern if the raised soil bund actually encloses anything. Indeed, the space within the bund is covered in the same vegetation as the bund itself and is indistinguishable from it.
17. The appellant contends that the means of enclosure comprises the combination of bund, wall and gate but this was not evident to me at the site visit. Neither does the appellant state what function the bund performs and what it encloses. Again, this was not evident to me at the site visit.
18. I conclude that, as a matter of fact and degree, the raised soil bund does not constitute a means of enclosure and is therefore not permitted by Class A, Part 2, Schedule 2, Article 3 of the GPDO. It is no part of the appellant's case that the raised earth bund does not constitute development for the purposes of Section 55(1) of the 1990 Act. Section 57 of that Act states that planning permission is required for development. I have not been made aware of any planning permission, deemed or otherwise, for the raised soil bund.
19. I conclude that the raised soil bund does constitute a breach of planning control. Accordingly, the appeal on ground (c) fails.

The appeal on ground (f)

20. The appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to

¹ The appellant also refers to other cases where this issue has been considered by the Courts, as well as to appeal decisions where the Inspector has found that a bund could constitute a means of enclosure. However, I have not been provided with copies of those judgements and decisions, and therefore do not consider them further.

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remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Town and Country Planning Act 1990 sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach.

21. In this case, the requirements of notice (as I propose to vary them) include to dismantle and remove the building used as stables and kennels; dismantle and remove the timber framed kennel; remove the raised soil bund; and remove the touring caravan from the land. The purpose of the notice must therefore be to remedy the breach of planning control that has occurred.
22. The appellant maintains that the amount of work required to demolish and remove the buildings cannot be overlooked. The appellant explains that this would include a number of contractors, which would need to quote for the work and to be available within the timeframe specified.
23. I do not underestimate the amount of work that would be required to fully comply with the notice. However, the purpose of the notice is to remedy the breach of planning control that has occurred. Nothing short of the complete demolition and removal of the buildings would achieve that purpose. Consequently, whilst the requirement(s) might be onerous in terms of the amount of work required, they are necessary to achieve the purpose of the notice and accordingly are not excessive.
24. The appellant also considers that the removal of the materials to be an overstretch in terms of a remedy. The appellant points out that, should the building subsequently be replaced elsewhere with a suitable planning permission, then the same materials would be used. In that scenario, the appellant considers that in the interests of both finances and sustainability the removal of the materials is not necessary.
25. The difficulty with the appellant's argument is that there is no 'suitable planning permission' in place at this time for which the materials resulting from the demolition of the buildings might be used. Moreover, as the Council points out, there can be no guarantee that a suitable planning permission would be forthcoming given the isolated location of the site away from other permanent development and its sensitive location within a Natural Landscape. Overarching all the above is that the removal of the materials is necessary to achieve the purpose of the notice.
26. The appellant considers that the remedy for the earth bund is excessive and unclear. The requirement in this respect, as I propose to vary it, is:

Remove the raised soil bund shown in its approximate position marked "C" on the attached plan and restore the land to its condition before the development took place.

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There is nothing unclear or uncertain in that amended requirement. Furthermore, the Courts have held that the oft-used standard wording 'to restore the land to its condition before the development took place' is sufficient and that in many cases the landowner will be the person with the best knowledge of what that previous condition was. This is one of those cases.

27. I have considered whether there are any other suitable alternatives to the requirements stated in notice which would achieve the purpose of the notice with less cost or disruption to the appellant, but none are obvious to me.
28. I conclude that requirements of the notice (as I propose to vary them) are necessary to achieve the purpose of the notice and are therefore not excessive. Accordingly, the appeal on ground (f) fails.

The appeal on ground (g)

29. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is twelve (12) months.
30. My task in relation to this ground of appeal is to balance the public interest in securing expeditious compliance with enforcement notice against the private interest bound up in the development subject to the notice. In so doing, I must assume that the development subject to the enforcement notice does cause the harm alleged in the reasons for issuing the notice, including to character and appearance to a National Landscape. Indeed, evidence of the harm caused by the breach of planning control on the character and appearance of the National Landscape is to be found in the letters of objection submitted in relation this appeal.
31. The appellant considers that twelve (12) months is a very limited window in which to dismantle and remove several buildings, landscape the site, remove vehicles and remove all the materials as well. The appellant points out due to a combination of factors builders and trades are in high demand, with most having a lead-in time of approximately 6-9 months in terms of availability to start a project. It is therefore the appellant's view that requiring a building be dismantled and materials removed from site within 12 months is simply unachievable. The appellant accordingly seeks a period of compliance of eighteen (18) months.
32. The difficulty with the appellant's argument is that it is not supported by any evidence. For example, I have not been provided with any quotes or assessments from builders and/or contractors indicating that a lead-in time of approximately 6-9 months would be required before works could commence on complying with the notice. Neither have I been provided with any evidence that dismantling the buildings and removing the materials from site could not be achieved within the 12 months specified in the notice (or, for that matter, within the eighteen months sought by the appellant). Moreover, it appears to me that no specialist skills or equipment would be necessary to comply with the steps required by the notice.
33. In weighing the balance between public and private interests, for the reasons set out above I consider that the public interest in expeditious compliance with the requirements of the enforcement notice outweighs private interest in

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extending that period of compliance. I am, therefore, not persuaded that there is any need to extend the period for compliance with the notice and am satisfied the period of compliance of twelve months specified in the notice is a proportionate response to the breach of planning control that has occurred.

34. Accordingly, the appeal on ground (g) fails.

Conclusion

35. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation.

Formal Decision

36. It is directed that the enforcement notice is corrected by:

- in paragraph 3 of the notice, deleting the words 'the erection of stables and kennel buildings' and substituting there the words 'the erection of a building for dual use as stables and kennels'
- in paragraph 3 of the notice, deleting the words 'the alteration of land levels' and substituting there the words 'the formation of a raised soil bund'

37. It is directed that the enforcement notice is varied by:

- deleting paragraph 5(i) of the notice in its entirety and substituting there the words 'Dismantle and remove the building for dual use as stables and kennels shown in the approximate location marked with an 'A' on the attached plan'
- deleting paragraph 5(iii) of the notice in its entirety and substituting there the words 'Remove the raised soil bund shown in its approximate position marked "C" on the attached plan and restore the land to its condition before the development took place'

38. Subject to the corrections and variation, the appeal is dismissed and the enforcement notice is upheld.

Paul Freer
INSPECTOR



Planning Inspectorate

Appeal Decisions

Hearing held on 10 September 2025

Site visit made on 10 September 2025

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2025

Appeal A Ref: APP/V2255/C/25/3366417

Land at The Yard, Beckenham Park Industrial Estate, Otterham Quay Lane, Sittingbourne ME8 7UX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Paul Hancock against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 29 April 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the Land for the storage and distribution of materials and equipment and the stationing and use of vehicles in relation to a 'scaffolding' business (use class B8).
- The requirements of the notice are:
 - i) Cease the use of the Land for the storage and distribution of materials and equipment used in connection with the unauthorised business.
 - ii) Cease the use of the Land for the stationing and parking of motor vehicles used in connection with the unauthorised business.
 - iii) Dismantle all the storage structures (consisting of scaffold poles with corrugated roofs) on the Land.
 - iv) Remove all resultant materials, rubbish and rubble from the Land in connection with steps (i) to (iii) above.
- The period for compliance with the requirements is: six (6) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (e), (f), (g) of the Town and Country Planning Act 1990 (as amended) ("the Act"). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act ("the DPA").

Appeal B Ref: APP/V2255/W/25/3366416

The Yard, Beckenham Park Industrial Estate, Otterham Quay Lane, Sittingbourne, Kent ME8 7UX

- 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 Paul Hancock against the decision of Swale Borough Council.
- The application Ref is [23/504597/FULL](#).
- The development proposed is: Retrospective application for the change of use of the existing yard to a scaffolders yard (Class B8), including access.

Summary of decisions: The appeals are allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decisions.

Applications for costs

1. An application for costs was made by Mr Paul Hancock against Swale Borough Council. That application is subject to a separate decision.

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Preliminary Matters

2. The appeals relate to the same land and the same development, despite the differences in their descriptions, and the appellant has submitted a single case. I have therefore considered Appeal A ground (a) and Appeal B together.
3. For Appeal A, the Land comprises a parcel of land owned by the appellant, plus a small parcel at the rear owned by another ("the Land"). The application site for Appeal B also includes the private access road over which the appellant has a right of access to the public highway.
4. The appellant withdrew his appeal on ground (e) in relation to Appeal A at an early stage. Prior to the Hearing, having considered the appellant's evidence on noise, the Council withdrew its case on the main issue for Appeal A ground (a) and Appeal B and now considers planning permission can be granted, subject to conditions.
5. There was some debate at the Hearing about the description of development in relation to Appeal B. I have considered this matter below in the section entitled 'Appeal A on ground (a)/the DPA and Appeal B'.
6. The breach of planning control is described in the Notice as 'the change of use of the land', but only a material change constitutes development requiring planning permission for the purposes of the Act. Whether or not the lawful use of the land was one within Use Class B1 (now Class E), or one of open storage or storage and distribution, the change to the use which had occurred by the time the Notice was issued was a material one. The description of the breach should therefore be corrected to the "material" change of use. As no injustice would occur to the appellant or the Council were I to do so, I shall correct the Notice in my formal decision below.
7. The parties advise that the Council has issued proceedings against the appellant in relation to a Community Protection Notice concerned with noise from the use. That is a matter independent of my consideration of these appeals.

Appeal A on ground (b)

8. Appeals on ground (b) are made on the basis that the matters stated in the Notice as constituting the breach of planning control, have not occurred.
9. The appellant acknowledges that the Land has been used for the storage of materials and equipment for his scaffolding business. But he disputes that distribution has occurred, or that the stationing and use of vehicles has occurred as a primary use.
10. The appellant considers the use to be *sui generis*, rather than one falling within Use Class B8, and references an appeal decision¹ in which the Inspector referred to a 'scaffolder's yard' as a *sui generis* use. That development appeared to have particular characteristics, including 5 portacabins stacked in 2 storeys and contained an office, and it is not stated whether or how many of the 20-25 employees worked in the office space on the site. There are some similarities between that development and the one before me, but there are also differences, such as the absence in this case of any notable office space and with only a small building on the Land containing a toilet and being used to dry wet clothing. Whether

¹ APP/C3240/C/15/3135796

the use before me falls within Class B8, use for storage or as a distribution centre, or not depends on the particular characteristics of the use.

11. The appellant states the yard has been used primarily for storage of scaffolding equipment and vehicles associated with his business. He describes how his two lorries and a small truck are loaded in the afternoons and kept within the secure compound until morning. Most scaffolders leave their cars in the yard when they depart with the lorries and vans, but employee parking is not an unusual element of any use. The appellant's noise assessment also states that working on site is limited to the movement of scaffolding materials between their storage space and the company's vehicles.
12. The function of the use is to store scaffolding materials and transport them to building and other sites. Extensive areas of racking have been created to a height of around 2-storeys using scaffolding. Corrugated sheets provide a degree of protection from the elements from above and the rear of the racks, leaving the front open. From the scale and volume of the racking and storage space and the quantity of materials, it is clear the storage of scaffolding materials is the principal element of the use.
13. The use is different to one for a distribution centre, with the absence of deliveries to the site and its sole use by the operators. The parking of lorries on the Land overnight and when not in use is parking in the terms of the *Hickmet*² judgement. But that parking is associated entirely with the scaffolding storage use and, even though the lorries are registered at the Land, this element of the use is incidental to the storage use. Irrespective of the early morning departure of vans and lorries, with the evidence before me the single main purpose of the use is one falling within Use Class B8, with secondary activities incidental to that use.
14. I have seen no evidence of the use of vehicles, such as forklift trucks, within the site other than those arriving and departing in transportation of the stored scaffolding. Reference to the use of vehicles on the land should therefore be removed from the breach of planning control alleged, as should the references to distribution.
15. As a matter of fact and degree, the use which has occurred is therefore use for the storage of scaffolding materials and equipment (Use Class B8).
16. In conclusion, the matters stated in the Notice as constituting the breach of planning control had not occurred in the precise terms set out in Section 3 of the Notice. However, no injustice would occur to the appellant or the Council were I to correct the Notice, and I shall do so in my formal decision below.
17. The appeal on Ground (b) therefore succeeds to that extent.

Appeal A on ground (a)/the DPA and Appeal B

The nature of the development

18. The appeal on ground (a) and the DPA relates to the matters stated in the Notice as constituting the breach of planning control, as amended.

² *Crawley BC v Hickmet Ltd*, (1998) 75 P. & C.R. 500 (1997)

19. The parties agree that the planning application sought relates to the development that has occurred, and the appellant advises the description of development stated on the application form was suggested by the Council's enforcement officer.
20. The term 'scaffolders yard' describes the user of the land rather than the use for which planning permission is sought. But, in the terms of Section 55 of the Act, the parties agree the development could be described as use 'for the storage of materials and equipment in relation to a scaffolders yard, including access'. The appellant does not seek planning permission for distribution or the storage of vehicles, and I have therefore considered the application as the appellant intended it, but using the same form of words as the corrected enforcement notice. The appellant also firmly believes the use proposed is not a Class B8 use but, having found it to be, that element of the description should remain. As described above, the change is also a material one.
21. The inclusion of the words 'storage of materials and equipment' would not change the nature of the development sought and were part of the description on which the Council advertised the application. I am therefore able to amend the description of the development proposed for Appeal B to "material change of use to the storage of scaffolding materials and equipment, including access" and shall do so in my formal decision below.

Main Issue

22. The main issue is the effect of the development on the living conditions of local residents.

Living conditions

23. The Land is an open yard located to the south of a small industrial estate, and north of a dwelling known as Beggars Roost. Other dwellings are located further south, and there are recently developed park homes further north.
24. On entering the Land, ground levels fall and most of the yard is at a lower level than the adjoining dwelling. The access ramp adjoins a boundary wall enclosing a private area in front of the dwelling and an extension. Several windows at ground and first floor levels face the access to the yard, and the narrow form of the house means all upper rooms have windows facing the ramp, even if they also have windows facing the rear. At its western end the wall of the dwelling itself forms the boundary with the yard, where racking containing scaffolding materials and equipment is stored to around two storeys in height.
25. The appellant advises the loading and unloading of scaffolding materials and equipment takes place in the afternoons. Operatives arrive and leave the site with loaded vans and lorries at times between 5am and 7am.
26. The appellant's 2023 noise assessment found that early morning lorry movements just after 5am would have up to a medium noise impact, a significant observed adverse effect level ("SOAEL") in the terms of the noise policy statement for England and the Planning Practice Guidance ("PPG"). It outlined 'potential attenuation options' in the form of increasing the height of the boundary wall and phasing out lorry style vehicles for those with fully enclosed engines and reduced start up and move times. The appellant has replaced the oldest lorry with a quieter vehicle which is also compatible with the London Ultra Low Emission Zone.

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27. The appellant's 2025 noise impact assessment reviewed the 2023 assessment and supported its methodology. But it also found that it was not correct to have described the levels found in the 2023 report as SOAEL, as they were 3.2dB above background level, not 5dB or greater. It concluded the use was therefore not unacceptable without mitigation, but that it was good practice to have considered mitigation as environmental noise is variable. In addition, it concluded the replacement of the lorry also meant that all noise levels were now below background levels, but that the acceptability of the use was not dependent on it.
28. The 2025 noise assessment also concluded on other matters, including that the development does not increase background noise levels, that traffic in the area means that a rating penalty should not have been imposed, and that noise levels are therefore even lower. The Council has withdrawn its objection, subject to conditions, and there is no opposing technical evidence before me on these matters. I have therefore accepted these findings for the purposes of these appeals.
29. A number of comments have been made by other interested parties, both for and against the development. Many of those against the development are concerned about the effect of the development on the occupiers of Beggars Roost. The occupiers' accounts describe a noisy environment exacerbated by the semi-enclosed racking on three sides, amplifying sounds in the yard and noise associated with vehicles arriving and leaving around 5am. At the time of writing the occupier had been residing in a caravan while renovations took place in the house and has reported being unable to sleep with windows open. I have also seen comments from an occupier of the park home site in relation to noise from the Land and the gate alarm.
30. However, there is no technical evidence before me demonstrating unacceptable levels of noise pollution. The 2023 noise report was accompanied by noise measurements of the activities occurring and, as described above, some of the noise levels are now reported to be lower. Mitigation in the form of vehicle types has been implemented, and a 3.8m high barrier along the boundary with Beggars Roost adjacent to the access ramp is unnecessary. The appellant also advises he has updated the alarm which was associated with noise at the gates.
31. Some respondents have objected to disturbance from lighting, but others have suggested these effects are due to lighting elsewhere on the private access road. There is some flood lighting within the yard including a light outside the building near the access ramp at human height angled downwards. The light on the building may result in some disturbance to residents of Beggars Roost in the early mornings, but these effects could be remediated by the use of blinds or heavy curtains. Although the occupiers of the Lord Stanley Bungalow, on Otterham Quay Lane, have also reported light disturbance, that dwelling is some distance from the development and I have seen no lighting on the Land which could account for it.
32. In conclusion, with the evidence before me, the development does not significantly harm the living conditions of local residents. It therefore accords with Bearing Fruits 2031 - The Swale Borough Local Plan (2017) ("Local Plan") Policy DM14, which requires new development to cause no significant harm to amenity and other sensitive uses.
33. It also accords with paragraph 198 of the National Planning Policy Framework ("the Framework"), which requires planning decisions to ensure new development is

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appropriate for its location, taking into account the likely effects of pollution on health and living conditions, avoiding noise giving rise to significant adverse impacts on health and quality of life and limiting the impact of light pollution from artificial light on local amenity.

Other Matters

34. The access road immediately outside the Land is a private road, and the local Highway Authority have not objected on the basis of effects on the public highway. Although the appeal site for Appeal B includes the private road from the Land to the public highway, I am unable to give weight to private matters relating to maintenance of and parking on the private road.
35. The Land is located within Flood Zone 3, but the Environment Agency have confirmed they have no objections to the development.

Conditions

36. Considering the conditions suggested by the Council, I have had regard to the approach in the Framework and the Planning Practice Guidance and have amended them accordingly without altering their fundamental aims.
37. Appeal A relates to the development which has occurred, but in relation to Appeal B it is necessary to specify the plans approved for certainty.
38. No activity has been proposed or any noise effects assessed before 5am or after 7pm. Neither has loading been proposed or any associated noise effects assessed in the early mornings. It is therefore necessary to limit operational hours within the yard in order to protect the living conditions of local residents, without limiting use of the access which also serves a number of commercial and residential uses; a further plan has been provided by the appellant for this purpose.

Conclusion on Appeal A ground (a) and Appeal B

39. In conclusion, subject to conditions, the development would not significantly harm the living conditions of local residents and would accord with the development plan policies read as a whole. There are no material considerations which require a decision to be made other than in accordance with the development plan.

Conclusion on Appeal A

40. For the reasons given above, Appeal A succeeds on ground (a). I shall grant planning permission for the use as described in the notice as corrected. The enforcement notice will be corrected and quashed.
41. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered.

Conclusion on Appeal B

42. For the reasons given above the appeal should be allowed.

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Formal Decisions

Appeal A:

43. It is directed that the enforcement notice is corrected by, in Section 3:

- the deletion of the words, “the change of use of the Land for the storage and distribution of materials and equipment and the stationing and use of vehicles in relation to a ‘scaffolding’ business’ (Use Class B8)”;
- and their substitution with the words, “the material change of use of the Land to storage of scaffolding materials and equipment (Use Class B8)”.

44. Subject to the corrections, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out. Namely the material change of use of the Land to storage of scaffolding materials and equipment (Use Class B8) at Land at The Yard, Beckenham Park Industrial Estate, Otterham Quay Lane, Sittingbourne ME8 7UX as shown on the plan attached to the notice and subject to the following conditions:

1. Loading or unloading of vehicles within the site identified on plan 23_1307A-001 dated 04/09/2025 shall take place only between the hours of 07:00 and 19:00 Monday to Saturday, and not at all on Sundays and Bank or Public Holidays.
2. Vehicle movements within the site identified on plan 23_1307A-001 dated 04/09/2025, shall take place only between the hours of 05:00 and 19:00 Monday to Saturday, and not at all on Sundays and Bank or Public Holidays.

Appeal B:

45. The appeal is allowed and planning permission is granted for the material change of use to storage of scaffolding materials and equipment (Use Class B8), including access at The Yard, Beckenham Park Industrial Estate, Otterham Quay Lane, Sittingbourne, Kent ME8 7UX in accordance with the terms of the application, Ref 23/504597/FULL subject to the following conditions:

1. The development shall be carried out in accordance with the following approved plans:
 - 025.1405.01 - 01 Site Location Plan
 - 025.1405.02 – Existing/Proposed Site Plan
2. Loading or unloading of vehicles within the site identified on plan 23_1307A-001 dated 04/09/2025, shall take place only between the hours of 07:00 and 19:00 Monday to Saturday, and not at all on Sundays and Bank or Public Holidays.
3. Vehicle movements within the site identified on plan 23_1307A-001 dated 04/09/2025, shall take place only between the hours of 05:00 and 19:00 Monday to Saturday, and not at all on Sundays and Bank or Public Holidays.

Peter White

INSPECTOR

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APPEARANCES

FOR THE APPELLANT:

Matthew Green	Agent
Michael Rudd	Barrister
Tim Green	Acoustic Expert
Paul Hancock	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Gambrill	Team Leader
Rebecca Corrigan	Senior Planning Officer



Planning Inspectorate

Costs Decision

Hearing held on 10 September 2025

Site visit made on 10 September 2025

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2025

Costs application in relation to Appeal A Ref: APP/V2255/C/25/3366417

Land at The Yard, Beckenham Park Industrial Estate, Otterham Quay Lane, Sittingbourne ME8 7UX

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Paul Hancock for a full award of costs against Swale Borough Council.
 - The appeal was against an enforcement notice alleging without planning permission, the change of use of the Land for the storage and distribution of materials and equipment and the stationing and use of vehicles in relation to a 'scaffolding' business (use class B8).
-

Costs application in relation to Appeal B Ref: APP/V2255/W/25/3366416

The Yard, Beckenham Park Industrial Estate, Otterham Quay Lane, Sittingbourne, Kent ME8 7UX

- 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 Mr Paul Hancock for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for development described as retrospective application for the change of use of the existing yard to a scaffolders yard (Class B8), including access.
-

Decision

The submissions for Mr Paul Hancock

1. The costs application was submitted in writing.

The response by Swale Borough Council

2. The response was made orally at the hearing.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The appellant's application is made on the basis of a substantive claim, being one which relates to the merits of the appeal. In the event that a full award is not made, the appellant requests that consideration be given to a partial award relating to the costs incurred following submission of the appellant's statement and evidence.

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5. Firstly, the appellant considers the Council acted unreasonably by refusing planning permission on a planning ground capable of being dealt with by conditions, and that the same rationale applied to the need for enforcement action.
6. The appellant's 2023 noise survey and assessment ("the 2023 noise assessment") in part concluded that lorries leaving the yard had a potentially medium noise impact. It advised of potential mitigation measures including an acoustic barrier and a phasing out of older lorry-style vehicles. A Mid Kent Environmental Health officer did not object, on the basis that the mitigations recommended were reasonable "assuming they can be proven to be effective", but also requiring limitations on hours of operation.
7. I note the Council's planning service concluded an acoustic barrier 2m higher than the existing boundary treatment would cause visual and amenity impacts on occupiers of the neighbouring dwelling. Their decision not to grant planning permission with a condition requiring the quieter vehicles was made on the basis that it would be difficult to draft an enforceable condition, that the noise from departures was a combination of that from vehicles and employees and the gate alarm, and that it would be likely to be at a cost which was unviable. On the latter point, the appellant had already replaced the oldest lorry months before the time of the refusal, although I have seen no evidence that this was made known to the Council's planning service.
8. Although the Council were wrong in relation to the viability of replacing the oldest lorry, the response from Environmental Health expected both potential mitigation measures to be carried out to ensure a 'suitable' reduction in noise levels was achieved, with reference to a recommended 5dB(A) below background levels, in addition to limiting hours of operation and requiring testing after mitigation measures were in place. With the Council having concluded an acoustic barrier of 3.8m or higher would not be acceptable and the appellant not accepting the later working hours suggested, it was not unreasonable for the Council to conclude the development could not be made acceptable by the imposition of planning conditions on the basis of the 2023 noise assessment.
9. Secondly, the appellant considers it unreasonable that the Notice was issued on the same basis as the refusal of the application. That the Council did not respond to correspondence, sent around the same time as the Notice was issued. And, that the Council failed to take the opportunity to invite a further application and withdraw the Notice.
10. The appellant's subsequent noise impact assessment of July 2025 ("NIA 2025") was submitted with appeal statements of case. At that stage the appellant reviewed the 2023 noise assessment and came to different conclusions on the noise levels recorded for the 2023 noise assessment and with the change to the newer lorry.
11. But the Council's appeal statements of case were submitted on the basis of the original 2023 noise assessment. In that context it was not unreasonable for the Council to have responded as it did without technical acoustic evidence. The 2023 noise assessment identified a potentially medium noise impact, which the report methodology equates to a Significant Observed Adverse Effect Level, even if the appellant later considered otherwise. The Council's response to its reason for refusal was therefore not unsupported by objective analysis. Neither had the Council prevented or delayed development which should clearly be permitted.

Costs Decisions APP/N2255/C/25/3386417, APP/N2255/W/25/3386418

12. As to whether the Council acted swiftly enough in reviewing the new NIA, it did not provide a 'Final Comments' response to the appellant's new noise information in mid August 2025. It may have been possible for the Council to review its case earlier, even though the two-month period between submission of the new NIA and the date of the Hearing fell during the holiday season.
13. However, as comments had been received by other interested parties and the time for their responses had passed at the time the appellant submitted the NIA 2025, those parties had no opportunity to respond to the new NIA except at the Hearing. For that reason, I determined the Hearing must proceed in any case and, even if the Council had reviewed its case more swiftly after receipt of the new NIA, the Hearing would have occurred in any event.
14. The Council's revised position on noise relied on the imposition of planning conditions to protect the living conditions of local residents. In my appeal decision I also found there to be a need for such conditions, on the basis that an unlimited use, without limited hours of operation, would not have been acceptable in planning terms. It was therefore not unreasonable for the Council not to have withdrawn its enforcement notice. Had it done so, and the appellant had then withdrawn his Section 78 planning appeal, the use would have been left without planning permission and without conditions or limitations.
15. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and neither a full award, nor a partial award, of costs is warranted.

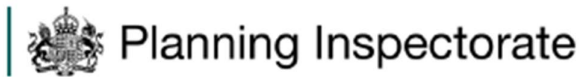
Decisions

16. The applications for awards of costs are refused.

Peter White

INSPECTOR

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Appeal Decision

Site visit made on 1 September 2025

by **SJ Desai BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/V2255/D/25/3369562
91 Chaffes Lane, Upchurch, Kent ME9 7BG

- 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 & Mrs D & A Seal against the decision of Swale Borough Council.
 - The application Ref is 24/505224/FULL.
 - The development proposed is First floor rear extension including utilizing roof space in new extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of 93 Chaffes Lane (No.93), with particular regard to outlook and sense of enclosure.

Reasons

3. The appeal property is a semi-detached dwelling with a single-storey rear extension and a relatively generous garden. Its attached pair, No.93, has a modest rear projection and a considerably shallower rear garden.
4. The proposed first floor rear extension would be built up to the boundary with No.93, project approximately 4 metres in depth and based on the Council's measurements would have a height of 4.86 metres at eaves rising to 7.97 metres at the ridge.
5. Policies DM14 and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan (2017) (SBLP) collectively seek to protect residential amenity. The Council's 'Designing an Extension – a Guide for Householders' Supplementary Planning Guidance (the SPG) advises that first-floor rear extensions should not normally exceed 1.8 metres in depth, in order to safeguard the outlook and amenity of neighbouring occupiers.
6. The proposed extension would markedly exceed the SPG depth guidance and given its significant scale and proximity to the boundary, would present as an imposing and unrelenting mass immediately adjacent to the rear elevation and principal garden area of No.93. From both the ground and first-floor rear facing windows of that property, as well as from its more confined garden, the development would dominate outlook. The resultant sense of enclosure would be

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pronounced and harmful, including diminishing the enjoyment of a private amenity space, creating an overbearing and oppressive relationship that would materially diminish the living conditions of neighbouring occupiers.

7. The harm is not offset by the retained, albeit reduced, availability of longer views across the open countryside from the first-floor windows of No.93, nor by the presence of the existing single-storey extension at the appeal site. The proposed intensification of built form at first-floor level represents a distinct and more intrusive form of development along the shared boundary.
8. The Council has not found an unacceptable loss of daylight or overshadowing and based upon the evidence before me, and my observations on site, I concur. However, the absence of such harm would be a neutral matter in the balance and does not weigh in favour of the appeal proposal, nor does it mitigate or outweigh the harm identified.
9. For the reasons set out above, I conclude that the proposal would unacceptably harm the living conditions of the neighbouring occupiers at No.93, with particular regard to outlook and sense of enclosure. As such, I find conflict with Policies DM14 and DM16 of the SBLP. These require, amongst things, that extensions protect residential amenity. For the same reasons, the proposal would also be contrary to the guidance within the SPG.

Other matters

10. I acknowledge the first-floor rear extension at 89 Chaffes Lane. However, I do not have the full details of the decision-making context that led to this extension being accepted. From the evidence presented it appears the circumstances are materially different, given that the attached pair in that case already benefited from a rear extension and possessed a considerably larger garden than No.93. I therefore cannot be certain that it represents a direct parallel to the proposal before me. I have, in any event, determined the appeal based on its own planning merits and the existence of this other extension does not justify harmful development at the appeal site.
11. The appellant has referred to the application having been determined under delegated powers rather than by committee. 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. Similarly, the absence of objections is not a reason in itself to allow development which would result in harm to the living conditions of current, or future, neighbouring occupiers.
12. From the evidence, my decision has the potential to affect persons with a protected characteristic for the purposes of the Public Sector Equality Duty (PSED) set out under the Equality Act 2010 and the appellant's rights to family life under Article 8 of the Human Rights Act 1998.
13. I have had due regard to the PSED and the appellant's or their family's human rights. However, set against the well-established and legitimate aim of the protection of the public interest, in this case safeguarding the living conditions of neighbouring occupiers, the harm caused by the appeal development outweighs its benefits, including in terms of eliminating discrimination against persons with the protected characteristics of age, advancing equality of opportunity for those persons and fostering good relations between them and others. I conclude that

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there would be no violation of the appellant's or their family's human rights. It is proportionate and necessary to dismiss the appeal.

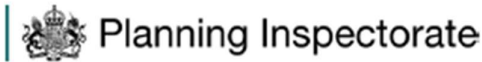
Conclusion

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

SJ Desai

INSPECTOR

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Appeal Decision

Site visit made on 16 September 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2025

Appeal Ref: APP/V2255/D/25/3369424

The Lodge, Hawks Hill Lane, Bredgar, Kent ME9 8HE

- 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 Andrew Holbourn against the decision of Swale Borough Council.
 - The application Ref is 25/501760/FULL.
 - The development proposed is replacement of existing detached asbestos garage and porch with new double garage, with porch link to dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for replacement of existing detached asbestos garage and porch with new double garage, with porch link to dwelling at The Lodge, Hawks Hill Lane, Bredgar, Kent ME9 8HE in accordance with the terms of the application, Ref 25/501760/FULL, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with drawings: HLB-0425-01 Rev A (Site Plan); HLB-0425-01 Rev A (Proposed Floor Plans and Elevations)
 3. The external materials of the extension hereby permitted shall match those used in the existing dwelling.

Preliminary Matter

2. I have taken the description of development from the Council's decision notice as it more accurately describes that for which permission is sought.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the existing building and wider area, including the Kent Downs National Landscape.

Reasons

4. The host property is one of a number of dwellings that form a ribbon of development along this part of Hawks Hill Lane. The surrounding area is rural and verdant and the landscape is one of a gently undulating pastoral character, with fields separated by mature planting and wooded areas. This positively contributes

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to the scenic rural character and appearance of the countryside and the Kent Downs National Landscape (KDNL).

5. The statutory purpose of a National Landscape is to conserve and enhance the natural beauty of the area. The National Planning Policy Framework (the Framework) provides that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes.
6. The appeal property is a modest, single storey dwelling of little architectural merit. It has previously been extended to the rear and includes accommodation within the roof. It is set back within a well sized plot but at a slight angle to the road. The adjacent single storey asbestos garage is a functional building of utilitarian appearance. Neither building is overly prominent within the landscape.
7. The garage and a modest entrance porch to the dwelling would be replaced with a canted extension which would comprise a new porch and double garage. The extension would utilise matching materials and styling to that of the host building. The ridge of the garage roof would be set below that of the main dwelling to give it a sense of subservience.
8. When seen from Hawks Hill Lane, the proposal would clearly extend the width of built form on the site albeit the angled layout would help to mitigate some of the impact. In certain fleeting views it would also be seen in conjunction with the existing rear projection of the house.
9. As a result, the existing dwelling would no longer be seen as a modest bungalow but as part of a larger, more noticeable building. However, it would still be possible to discern the original building, and the new addition would not be so large as to overwhelm the existing building nor be overly prominent in comparison to it.
10. Wider views of the building within the landscape would be limited. Where it could be seen, it would be in the context of an established residential plot, sited within the vicinity of other dwellings of varying sizes. Despite the greater visual prominence, mainly from Hawks Hill Lane, the proposal would not be so intrusive that it would spoil the landscape or visual qualities of the National Landscape. The overall effect on the intrinsic character and scenic beauty of the KDNL would be acceptable and no harm would be caused to other important aspects of this designated area.
11. As a result, I am satisfied that the proposal would not cause harm to the character and appearance of the existing building nor the wider area, including the KDNL. The proposal therefore complies with Policies CP4, DM11, DM14, DM16 and DM24 of the Swale Borough Local Plan 2017. These policies require, amongst other things, that development is of a quality that is appropriate to its surroundings and that extensions are of an appropriate scale, mass and appearance that do not harm the building or wider area.

Conditions

12. In addition to the standard time limit, a condition which lists the approved plans is necessary in the interests of certainty. A condition ensuring the external finishes match those of the existing dwelling is necessary to protect the character and appearance of the building and wider area.

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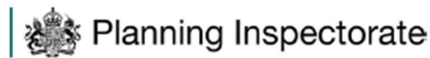
Conclusion

13. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the specified conditions.

Stewart Glassar

INSPECTOR

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Appeal Decision

Site visit made on 16 September 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2025

Appeal Ref: APP/V2255/W/25/3363107

Land rear of 6 Coastguard Cottages, Plough Road, Eastchurch, Sheerness, Kent
ME12 4JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Ms Jackson and Lambourne against the decision of Swale Borough Council.
 - The application Ref is 23/505819/FULL.
 - The development proposed is described as 'proposed change of use of land to provide an additional bungalow with associated amenity space and parking.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the Council's decision notice as it more clearly identifies the land to which the proposal relates.
3. The first reason for refusal refers to Policy CT2 of the Swale Borough Local Plan. The Council has since confirmed that this should have been a reference to Policy CP2. The appellants have referred to Policy CT2 in their appeal statement but addressed the sustainable transport issues set out in Policy CP2. I am therefore satisfied that the appellant has not been prejudiced by the Council's error.

Main Issues

4. The main issues are:
 - a) the effect of the proposed development on the Medway, Thames and Swale Estuary Special Protection Area and Ramsar site; and
 - b) whether the appeal site is an appropriate location for the proposed development having regard to local and national policies for the distribution of housing; the accessibility of the site to services and facilities; and the effect of the proposed development on the character and appearance of the area.

Reasons

Medway, Thames and Swale Estuary Special Protection Area and Ramsar Site

5. The Medway, Thames and Swale Estuary Special Protection Area (SPA) and Ramsar Site provides wetland and important habitat that is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). These areas are easily disturbed by recreational activity

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from people living within a 'zone of influence' of the protected areas. The appellants do not dispute that the appeal site lies within the zone of influence.

6. However, the appellants assert that future residents of the new dwelling would not be inclined to visit these protected areas. However, I cannot be certain that this would be the case and that all future residents would never visit the SPA/Ramsar site. I must therefore proceed on the basis that there is a reasonable likelihood that these areas would be accessed for recreational purposes by future occupiers of the development. While the effects of the development alone would be limited, when considered in combination with other plans or projects additional recreational visitors to the protected areas would be likely to have significant effects.
7. The Habitats Regulations require me to consider any avoidance or mitigation measures that would be capable of addressing the adverse effects and to be certain that they would be effective. I have been provided with information and it appears that the impact on the sensitive areas could be monitored and managed to a satisfactory level through a tariff-based system that would fund various measures which could include awareness raising, on-site wardens, provision of signage and access infrastructure. Natural England, who are the statutory conservation body, agree that such payments can, in this instance, avoid an adverse effect on the integrity of the protected areas.
8. An applicant can either make a direct payment to the Council, in line with the appropriate tariff, or sign a unilateral undertaking to pay the tariff at a later date. I acknowledge that in their appeal statement the appellants indicated a willingness to make the appropriate payment upon planning permission being granted. I am not aware that this position has changed in the interim.
9. While I do not doubt the appellants' intentions, if suitable mitigation has not been secured at the point of decision, the Habitats Regulations state that planning permission should only be granted if there are reasons of overriding public interest and that suitable compensatory measures are secured. As this case does not accord with those requirements, permission cannot be granted.
10. Consequently, I find that the proposed development could result in harm to the integrity of the SPA/Ramsar site and would conflict with both the Habitats Regulations, and Policies ST1, DM14 and DM28 of the Swale Borough Local Plan 2017 (SBLP). These policies, amongst other things, require development to avoid significant harm to, and adequately mitigate the effects upon, biodiversity, and that any adverse effect is only permitted in exceptional circumstances where there are overriding reasons of public interest and damage can be fully compensated.
11. The development would also conflict with the National Planning Policy Framework (the Framework), which requires development to protect and enhance the natural environment and sites of biodiversity value, improve biodiversity, and that where significant harm to biodiversity cannot be adequately mitigated, permission should be refused.

Location

12. The appeal site is located adjacent to a small terrace of cottages. There are buildings to the north of the site and there are nearby leisure/holiday parks. Nevertheless, for the purposes of planning policies, the site is within the open countryside and thus outside a built-up boundary.

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Policies for the Distribution of Housing

13. Policy ST3 of the SBLP is clear in setting out the Swale Settlement Strategy that development will not be permitted outside the built-up boundaries unless supported by national planning policy and is able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting tranquillity and beauty of the countryside, its buildings and the vitality of rural areas.
14. SBLP Policy ST1, which seeks to deliver sustainable development and Policy CP2, which requires new development to minimise the need to travel and facilitate sustainable transport, both require compliance with the settlement strategy as set out in Policy ST3.
15. Overall, the development plan is broadly reflective of the Framework as regards the location and provision of new dwellings and a need to protect the countryside from inappropriate development.
16. However, there is nothing before me to indicate that the proposal meets any of the exceptions set out in the SBLP and so demonstrate that a countryside location is needed for the development. Consequently, the proposal would conflict with the locational requirements of local and national policies which seek to control development in the open countryside.

Accessibility

17. The nearest centres with a range of facilities and services would be either Eastchurch or Minster. Eastchurch village centre is said to be some 1.75km by road from the appeal site and slightly longer by public rights of way. Minster High Street would be approximately 2.5km away. Walking to either centre is not likely to be practicable given the nature of the routes and distances involved. While both Minster and Eastchurch are said to be easily reachable by bike, a return trip to purchase items or other reasons is unlikely to be attractive to many people.
18. There is said to be only an infrequent bus service which travels along Plough Road. As an alternative, it would be possible to walk via the public paths to Court Terrace Drive to get a bus, but I have no details as to the frequency of such services. I am also mindful that while the route to Court Terrace Drive was walkable on the day of my site visit, it is an unlit mown pathway for much of the way and so not necessarily attractive at night or in bad weather. Therefore, given the options for sustainable transport, the reality is that for most day-to-day needs, future residents would rely on the use of a private motor vehicle.
19. A previous appeal decision on a neighbouring site in 2020 similarly noted that residents would be likely to make most of their journeys by car. However, the Inspector acknowledged that opportunities to maximise sustainable transport varies between urban and rural areas and given that the distances to the nearest centres would be short, future residents would have an acceptable level of access to services and facilities. While the Framework has been revised since that decision, the thrust of Chapter 9 and its overall approach to the issue of sustainable transport has not materially changed.
20. The Council suggest that the nature of that appeal development was not comparable to the current proposal as it was for a shared stopping pitch for related

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traveller families, not for permanent residential accommodation. However, the committee report for that proposal noted that the site would be permanently occupied by the applicants. Furthermore, the appeal decision, while limiting occupancy to gypsies and travellers, did not contain any conditions restricting permanent occupancy, only imposing conditions limiting the number of caravans.

21. Therefore, I find the situation set out in the previous appeal to be comparable to the current proposal and consequently the level of access to services and facilities is not a matter which weighs against the scheme.

Character and Appearance

22. The appeal site is amenity land serving No. 6 Coastguard Cottages. It runs along the rear of the whole terrace, separated from the individual rear garden areas by a row of single storey outbuildings. At the time of my visit the site contained amongst other things various outbuildings, vehicle parking and informal seating. The site is enclosed by fencing to Old Billet Lane. To the north of the site is a sizable static caravan with other buildings also further to the north of the site.
23. The fencing along Old Billet Lane largely screens the site's outbuildings and other paraphernalia from wider views. Although the site is evident from Plough Road, it is not highly visible in the landscape and appears as part of a ribbon of development along Old Billet Lane.
24. The nearby static caravan appears as a permanent structure with large areas of hardstanding around it. It has an appearance not dissimilar to that of a lodge or chalet building. Within that prevailing context, the appeal site would be akin to an infill plot, between two established residential sites.
25. The proposed dwelling would be positioned towards the rear of the site. Its single storey nature and roof design would help to limit the extent to which the building would be visible. Landscaping and boundary enclosures would further assist in minimising its visibility.
26. Clearly the nature and use of the site as a separate residential unit would be evident and a change to how it is currently perceived. A new dwelling in this location would reduce the sense of being in the countryside and the inherent tranquillity that comes from minimising development in such areas. However, the site already has a domestic character given its use in relation to the existing cottage and would be sited between existing residential uses. Consequently, the scale of change and resulting adverse visual effect would not be large.

Findings

27. For the reasons set out above, the site's accessibility to services and facilities would be acceptable and any visual harm would not be extensive.
28. Nonetheless, the proposal would still be contrary to the overall thrust of Policy ST3 and the Council's spatial strategy to avoid the proliferation of development in the open countryside. Furthermore, given the requirements of Policies ST1 and CP2 to accord with ST3, there would be conflict with these policies too. There would also be conflict with Policies DM14 and CP4 which, amongst other things seek to ensure that developments reflect the positive characteristics and features of the site and locality and strengthen a sense of place, as well as according with other development plan policies. For similar reasons the proposal would also conflict

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with the Framework's policies for the location of housing and protection of the countryside.

Other Matters

29. A single dwelling would be a small addition to the supply of housing in the area, but this nonetheless still weighs in favour of the scheme given that the Council is unable to demonstrate a five-year supply of housing land.

Planning Balance

30. The site is contrary to the development plan as it is located outside of a settlement. However, future residents would have an acceptable level of access to services and facilities; and the adverse visual effect of the dwelling would not be high. These factors, together with the undersupply of housing in the area, reduce the level of conflict with the development plan.
31. The Council confirmed that it is unable to demonstrate a five-year supply of housing land, with supply having been identified as 4.1 years at the time of the Council's decision on the planning application. Paragraph 11 of the Framework is therefore engaged.
32. The dwelling would be aligned with the objectives of the Framework to boost the supply of homes to meet people's living needs. This is particularly important in an area which is not providing a sufficient supply of housing to meet national policies. The proposal could be built out quickly and even a small dwelling would have some economic benefits both during construction and upon occupation and there may be some social benefits alongside them.
33. On the other hand, the proposal would result in an unjustified proliferation of housing in the countryside and be likely to have significant effects on the Medway, Thames and Swale Estuary Special Protection Area and Ramsar Site. Indeed, the application of policies in the Framework that protect an area of particular importance (in this case the SPA/Ramsar site) provide a strong reason for refusing the proposal.
34. Accordingly, under Paragraph 11(d)(i) of the Framework, planning permission should be refused and, therefore, I do not need to consider or weigh the identified harms, including those conflicts with the development plan, against any of the other identified issues or proclaimed benefits of the proposal.

Conclusion

35. The proposal conflicts with relevant policies of the development plan. There are no other material considerations, including the Framework, to indicate that the decision should be made other than in accordance with the development plan taken as a whole. Consequently, for the reasons given above, the proposal is unacceptable and so the appeal should be dismissed.

Stewart Glassar

INSPECTOR

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Planning Inspectorate

Appeal Decision

Site visit made on 16 September 2025

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2025

Appeal Ref: APP/V2255/W/25/3360939

2 Parsonage Chase, Minster-on-Sea, Kent ME12 3JL

- 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 D Vine against the decision of Swale Borough Council.
 - The application Ref is 24/501360/FULL.
 - The development proposed is the demolition of existing outbuildings. Erection of 2no. detached 2 bedroom bungalows with associated car parking, driveway and access.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Character and Appearance

3. The appeal site comprises a single storey detached dwelling which sits within a large plot that has several sizable outbuildings within the rear garden. It is located within a residential area that comprises a mix of one and two storey dwellings. While there is not a uniform building line, properties in the vicinity of the appeal site are generally set back from the site frontage and there appears to be a reasonable amount of space about the dwellings. This all contributes to a pleasing appearance that positively adds to the character of the street.
4. The proposal would, by virtue of removing the frontage garage, open up views into the rear part of the site. The new access arrangements would be evident as would the southernmost dwelling, being positioned directly adjacent to the new access. Parsonage Chase is not characterised by sub-divided or backland plots nor extensive views into the rear of existing gardens. In this respect the proposal would not be reflective of the predominant layout and prevailing linear pattern of development in the immediate area.
5. The proposed houses would be single storey and have pitched roofs. Their design and appearance would not be out of keeping with the area per se, but the southernmost dwelling would be a highly conspicuous built form. Alongside this, the gardens for the proposed dwellings and the area that would remain for the existing dwelling would be uncharacteristically small when compared to other

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gardens within the street scene in which the proposal would be viewed. I note that the appellant does not directly dispute the Council's contention that although the rear gardens would be usable, they fall below the required depth for such properties.

6. Together with the access and parking arrangements, the above would all contribute to the appearance of a visually cramped development, noticeably at odds with the surrounding area. The discordant effect of all this would be evident from, and on, Parsonage Chase.
7. The existing property has a number of outbuildings in the rear garden which are behind the frontage dwelling and garage. Some of these outbuildings are quite large and sit to the back of the garden. Collectively they have a greater footprint than the proposed houses. They do therefore add some depth to the built form in the vicinity. However, these are ancillary to their host building which, in terms of how they form the character of the area, are fundamentally different to two new dwellings which would have their own access, gardens and parking.
8. There is not a blanket policy restriction on back garden development and I note that the proposed dwellings would accord with the Nationally Described Space Standards and provide sufficient on site parking. However, good quality design should not all be about the mathematics and there is a requirement for development to also have appropriate regard to the local character. In this case I have not found the proposal to be of an overall design that would ensure an appropriate contextual relationship with the prevailing character.
9. For the reasons given, I conclude that the proposal would result in significant harm to the character and appearance of the area. It would therefore conflict with Policies CP3, CP4 and DM14 of the Swale Borough Local Plan 2017 (SBLP) which seek to ensure that, amongst other things, developments are of a design, appearance and detail that is sympathetic and appropriate to its surroundings and location.

Living Conditions – Noise and Disturbance

10. The concerns raised on this main issue relate mainly to increased comings and goings from the proposed dwellings, which would be sited to the rear of the host building and alongside the rear gardens of neighbouring properties.
11. The proposed dwellings each would have two bedrooms. It is therefore not unreasonable to think that each set of occupants may have two cars making daily trips to and from the site. This is likely to be a significant increase compared to the level of activity that the existing single dwelling at No. 2 generates, even allowing for the existing frontage garage permitting access through to the rear part of the site.
12. Due to the location of the access, vehicles would pass close to the rear garden and side elevation of No.6 Parsonage Chase. Although the overall number of vehicle movements from two dwellings would not be substantial, and most movements are likely to be concentrated within short periods in the morning and evening, they would nevertheless be a source of noise that would cause disturbance. For No. 6, I find that the proximity of the access together with the position of car parking adjacent to their rear garden would combine to exacerbate

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the impact on these neighbouring occupants, particularly if occurring at unsociable hours.

13. Reference is also made to noise and disturbance to existing residents from the occupants of the proposed dwellings entering and leaving the new houses. I accept that such activity may be visible and audible, particularly given the compact layout, but it would generally amount to typical low-level residential movements and actions which are characteristic of the area. As such, I do not find additional harm in this respect.
14. However, for the reasons set out, I conclude that the proposal would lead to harmful levels of noise and disturbance for neighbouring occupants at No.6, contrary to the aims of Policies CP4 and DM14 of the SBLP with respect to enriching the existing environment and protecting the amenity of other sensitive uses.

Other Matters

15. Neither of the main parties explicitly states that the Council is unable to demonstrate a five-year supply of deliverable housing land but the officer report on which the Council rely, refers to Paragraph 11 of the Framework, indicating that local policies were deemed to be out of date and that a balance needed to be undertaken. In such a context, this adds weight to the provision of two additional houses, particularly within an established built-up area.
16. The site would be within the zone of influence of at least one Special Protection Area (SPA), which is designated under European legislation for its sensitive habitat and accommodating migratory birds. Although there is some inconsistency between the Officer Report, reason for refusal, appropriate assessment and appeal statement as to exactly which SPA or SPAs would be affected, but there is no dispute between the main parties that likely significant effects upon a protected area would arise, either alone or in combination with other plans or projects. In acknowledgement of this, the appellant has provided a unilateral undertaking (UU) that seeks to provide the mitigation necessary to avoid the scheme affecting the integrity of the SPA(s). The cover sheet of the UU is dated but the undertaking itself is not. I return to the matter of the UU below.
17. The appeal submission was said to be accompanied by a small sites metric to demonstrate the site's Biodiversity Net Gain (BNG) albeit the document as submitted did not show the details. A Biodiversity Gain Plan form, which is usually a requirement of the statutory, post-decision condition was also submitted. It indicated that the gains would be through hedgerow planting but I have not been provided with further details. I have some doubts as to whether the submissions would be sufficient to meet the statutory requirements. However, even if they were to show the development compliant in terms of biodiversity net gain, they would represent only a small benefit given the scale and nature of the proposal.
18. There are various matters such as parking, daylight/sunlight, internal space standards on which the proposal complies with policy requirements. These represent an absence of harm and so do not weigh positively in favour of the scheme.
19. I note that there was some local support for the proposed development. However, this in itself does not mean that the current scheme is acceptable and does not in

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any event absolve me from making an assessment as to its effects in regard to the main issues of the case.

20. The Council is concerned that if this scheme were permitted it would be difficult for them to resist similar proposals in the area. However, each proposal must be considered on its individual merits. Consequently, I have not taken these particular concerns into account in my decision.

Planning Balance

21. The provision of new housing would be aligned with the objectives of the Framework to boost the supply of homes to meet people's living needs. This is particularly important in an area which is not providing a sufficient supply of housing to meet national policies.
22. The site is within the built-up area of Minster and is said to be close to services and facilities as well as there being access to bus services. Smaller sites can make an important contribution to supply and be built out relatively quickly. The proposal would also have economic benefits both during construction and upon occupation and there may also be some social benefits alongside them. I also give some limited weight to the claimed BNG. As a whole, the proposal has a number of benefits that collectively carry considerable positive weight.
23. Conversely, the proposal would cause harm to the character and appearance of the area and the living conditions of neighbours. The need to avoid such harms is perennial and in direct compliance with the Framework. Indeed, there is nothing in the Framework which indicates that the provision of housing should be at the expense of the character and appearance of an area or the living conditions of residents. Accordingly, I ascribe substantial weight to the harms arising from the development.
24. Consequently, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and this indicates permission should not be granted.
25. Had I been minded to grant planning permission, it would have been necessary for me to undertake an Appropriate Assessment for the proposal. This would have been essential in order for me to be able to conclude that the integrity of the SPA was protected from adverse effects. However, as I am dismissing the appeal for other reasons there is no need for me to undertake the Appropriate Assessment or consider the matter of the UU further.

Conclusion

26. I have found that the appeal proposal conflicts with the development plan when taken as a whole. While there are some benefits associated with the scheme, neither they nor any of the other matters before me, including the contribution which the appeal proposal would make to the supply of housing in the local area, outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR



Planning Inspectorate

Appeal Decision

Site visit made on 1 October 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2025

Appeal Ref: APP/V2255/W/25/3362798

Pear Tree House, Otterham Quay Lane, Upchurch, Kent ME8 8QW

- 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 R Parmar against the decision of Swale Borough Council.
 - The application Ref is 24/503019/FULL.
 - The development proposed is demolition of 4no. former agricultural buildings, and erection of 1no. self-build detached dwelling and car port with associated hard and soft landscaping.
-

Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

Character and Appearance

3. This part of Otterham Quay Lane is characterised by open land with some sporadic agricultural buildings and housing. Some open land is part of a golf course and there is also residential development to the west, however this is clearly separated from the site by open fields. Overall, this results in an open, rural character to the surrounding area. The appeal site is part of an Important Local Countryside Gap (ILCG) and the development plan sets out their purposes, including that the ILCG should safeguard the open and undeveloped character of the areas, and prevent its erosion by built development or changes to the rural open character.
4. The appeal site is a collection of farm buildings arranged around a central courtyard and is highly visible from the adjacent public right of way. There are single houses on either side, however, even seen together these are a very small group of buildings within a wider countryside setting. The existing agricultural character of the site with its associated modest built form therefore makes a positive contribution to the rural character of the surroundings and the ILCG.
5. The proposal would be a clearly domestic form of development. The large two storey house would be located centrally within the plot with domestic gardens to the rear. To the front there would be hardstanding for vehicle access and car parking and the detached double garage would also be to the front. The proposed development would result in a clearly residential, urban appearance to the site.

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6. Therefore, even though there would be a reduction in the volume of buildings on the site, the proposed development would encroach into and harmfully erode the rural character of the site and the surrounding area. This would conflict with the purposes of the ICLG as set out above and would be harmful to the intrinsic character and beauty of the countryside. The loss of this important rural character in this locally designated countryside location would be seriously harmful.
7. In 2022 it was determined that prior approval was not required for the conversion of two of the existing buildings to dwellings. Some time has passed since this decision, but there is no reason to conclude that the same decision would not be reached by the Council if a new prior notification application were considered. There is therefore a real prospect that these works would take place.
8. The conversion of two of the existing farm buildings to domestic use is therefore a realistic fallback position. However, under this consent, the scale and location of the buildings would remain largely the same with their existing agricultural appearance broadly retained. As such, even with the retained hardstanding the effect of this permitted development on the character and appearance of the area would be less urbanising than the single, large dwelling proposed. Therefore, the proposed development would have a clearly more harmful effect on character and appearance than the fallback position. Consequently, in this regard it does not justify the development proposed.
9. Therefore, the proposed development would have a harmful effect on the character and appearance of the area and would be contrary to policies CP4, DM14 and DM25 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP). Together these require high quality design which is appropriate to its surroundings and does not undermine the purposes of the ILCG. These are broadly in accordance with the National Planning Policy Framework's (2024) (Framework) requirement to create high quality buildings and places.

Other Matters

10. The Council cannot demonstrate a 5 year supply of deliverable housing sites and the planning officer's report states that there is a 4.1 year supply. The proposed single new dwelling would make an important but modest increase to housing land supply in this area where there is a shortage. The Council also have an identified need for self build properties in this area. The description of development refers to this being self build housing, and if this house were secured as such, a single dwelling would make a positive but small contribution.
11. Together policies ST1, ST3, CP3 and CP4 of the LP set out the settlement strategy for Swale which seeks to focus growth within existing urban areas, minimise the need to travel and facilitate sustainable transport. The proposed development would be accessed via an uneven and unlit track with no pavements. Although there are some services nearby, this would not provide an attractive walking or cycling route to these facilities or to public transport, particularly after dark and for those with young children or mobility issues. As such, the majority of journeys from the proposed dwelling would be likely to be via private car. However, based on the evidence before me, this effect would be similar to that of the realistic fallback position. Consequently, in these circumstances the proposed development would be suitably accessible to local facilities and services.

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12. The development proposes housing outside the built up area boundaries and would be contrary to these policies in this regard. However, taking into account the housing land supply position, and the lack of harm with regard to accessibility to local facilities and services, in this particular case I afford the conflict with policies ST1, ST3, CP3 and CP4 of the LP limited weight.
13. The proposed development would provide one larger four bedroom dwelling with a car port for 2 cars and additional space for parking. Although there is nothing before me to suggest that, although smaller, the two fallback dwellings would not provide appropriate living conditions for future occupiers, or unacceptable parking arrangements. As such any benefit in this regard would be minimal.

Planning Balance

14. The Council does not have a five year housing land supply. Therefore, the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework would be engaged. This requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole having particular regard to key policies.
15. The scheme would provide an increase of one generous four bedroom self build dwelling with parking in an area where there is a shortfall in the delivery of housing and self built housing, along with the associated social and economic benefits of this provision. Nevertheless, taking into account the scale of the development, this results in important, but no more than modest benefits.
16. On the other hand, for the reasons set out above it would not be sympathetic to local character or add to the overall quality of the area and would not secure a well designed place nor would it make an effective use of land in this regard. This harm would be serious. Whilst there is a realistic fallback scheme, this does not justify the development proposed for the reasons set out above and the fallback scheme attracts limited weight in this regard.
17. Therefore, these serious adverse effects would significantly and demonstrably outweigh the modest benefits set out above when assessed against the Framework taken as a whole and having particular regard to key policies. Consequently, the presumption in favour of sustainable development would not apply in this case.

Special Protection Areas (SPA) and Ramsar sites

18. The Swale and Medway Estuary and Marshes SPA and Ramsar sites and the Outer Thames Estuary SPA are habitats sites that have a high level of protection. They are designated for their high plant and invertebrate species diversity and internationally important numbers of overwintering, on-passage and breeding birds of many species. The Council state that the application would result in increased recreational pressure on these areas and has not been able to conclude that, without any mitigation in place, in combination with other plans and projects, there would not be a likely significant effect on the interest features of the site from the proposed development. Notwithstanding this, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

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Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Miles

INSPECTOR