

Agenda

Planning Committee Meeting

Date: Thursday, 4 December 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 6 November 2025 (Minute Nos. to-follow) 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 3 December 2025.

5.	2.1 - 25/501147/REM - Phase 2F, Land at Wises Lane, Borden, ME10 1GD	9 - 34
6.	2.2 - 25/501335/HYBRID - Land at Lady Dane Farm, Love Lane, Faversham, Kent, ME13 8YN	35 - 64
7.	2.3 - The Abbey School, London Road, Faversham, Kent, ME13 8RZ	65 - 96
8.	2.4 - 23/504375/FULL - Former Travelodge Canterbury West, London Road, Dunkirk, Faversham, Kent, ME13 9LL	97 - 140
9.	4.1 24/503658/FULL - Central Park Stadium, Church Road, Sittingbourne, Kent, ME10 3SB	141 - 150

10. Part 5 applications

151 -
210

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

Issued on Tuesday, 25 November 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

4th December 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 – 4th December 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	25/501335/HYBRID	FAVERSHAM	Land At Lady Dane Farm
2.3	25/500115/FULL	FAVERSHAM	The Abbey School
2.4	23/504375/FULL	DUNKIRK	Former Travelodge Canterbury West

PART 4

4.1	24/503658/FULL	SITTINGBOURNE	Central Park Stadium
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PART 5

5.1	25/500162/FULL	BORDEN	Light Industrial Unit (Disused), Land Adjacent to Pebble Court Farm
5.2	24/503740/FULL	HALFWAY	Cowstead Farm, Queenborough Road
5.3	23/502794/LAWPRO	SHEERNESS	89 Victoria Street, ME12 1YF
5.4	20/505877/OUT	OSPRINGE	Brogdale Farm, Brogdale Road
5.5	23/500131/BOC	HARTLIP	Spade Lane, ME9 7TT
5.6	25/500670/FULL	SITTINGBOURNE	20 Park Road, ME10 1DR
5.7	25/500910/PNQCLA	EASTCHURCH	Land at Rides House Farm, Warden Road
5.8	24/505000/FULL	EASTCHURCH	Land adj. Rides House, Warden Road

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PLANNING COMMITTEE – 4th December 2025

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

REFERENCE NO 25/501147/REM		
PROPOSAL 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.		
SITE LOCATION Land at Wises Lane, Borden, Kent, ME10 1GD		
RECOMMENDATION Delegate to the Head of Planning to approve the 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 Borden Parish Council have objected and requested that the application be determined by the Planning Committee on the grounds of highway safety and the open space not being for all.		
Case Officer Carly Stoddart		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Darren Day AGENT DHA Planning
DATE REGISTERED 25.03.2025		TARGET DATE 11.12.2025
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - <u>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. Land At Wises Lane Borden Kent ME10 1GD</u>		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site consists of a large area of land which extends from School Lane to the west, to Wises Lane in the east. The site forms Phase 2F of the 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. This site forms the southern edge of the wider site.
- 1.2. The application site is currently formed of open agricultural land and is located adjacent to the Skylark Mitigation Land which was secured by legal agreement as part of the hybrid planning permission.
- 1.3. Borden-Chestnut Street Conservation Area is located to the south-west of the most north-westerly point of the application site. There are listed buildings located within the Borden-Chestnut Street Conservation Area. Three public rights of way (PROWs) cross the application site ZR117, ZR119 and ZR121.

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. Relevant applications are listed 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 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 April 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 Applications associated with the Hybrid

- 2.17. **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.
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 Phase 2F

- 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 the reserved matters of access, appearance, landscaping, layout and scale for Phase 2F of the wider development approved under reference 17/505711/HYBRID. This phase comprises an area of open space.
- 3.2. A multi-functional area of open space is proposed. The southeastern end of the phase is dedicated to more formal play and sporting use, providing a Neighbourhood Equipped Area of Play (NEAP), activity zone, rugby training pitch and two kickabout areas. Detailed designs for the play area accompany the submission, providing a variety of play equipment, including a zipline, slides and swings.
- 3.3. The rugby training pitch (7,700m²) and kickabout areas (each 1,000m²) match the locations and sizes of the pitches as identified within the hybrid permission and will be available for use by all users.

- 3.4. Throughout the open space a series of formal walking routes are proposed, tying in with existing PROWs ZR117, ZR119 and ZR121. It is proposed that these form a bound gravel footpath for use year-round.
- 3.5. Wildflower planting is proposed along with new tree planting, pockets of woodland and understory woodland wildflower seed. Areas of amenity grassland are proposed in locations throughout the phase, allowing for recreational enjoyment by future users. Benches and picnic areas are also provided at locations, along the proposed footways and overlooking the play areas and sports pitches.
- 3.6. As approved under reserved matters application 24/500856/REM which relates to the earthworks for this phase, an area within the centre of the phase is retained for the established Fiery Clearwing moth habitat. As with the earthworks application, this area is shown in the current plans as a raised bund providing free draining conditions suitable for the habitat. A licence has already been secured to undertake works associated with Fiery Clearwing moth habitat.
- 3.7. Existing trees and hedges are to be retained and incorporated into the design, including the existing established hedge which runs along the northern boundary adjacent to PROW ZR119. An area of fruit tree orchard planting is also incorporated into the design.

4. REPRESENTATIONS

- 4.1. One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. 2 letters of representation objecting to the proposal were received. Concerns/comments were raised in relation to the following matters:

Comments	Report reference
Highway safety – conflict with people and vehicles if balls end up on the highway.	7.11.4 – 7.11.6
Negative impact on wildlife to date – site better used for wildflower meadow.	7.10.3 – 7.10.4
No safe pedestrian route from the application site to Borden Village and its amenities.	7.11.7

- 4.3. **Borden Parish Council** were notified of the application and the submission of amended details. They object to the application on the following grounds:

First Round Comments	Report reference
Should be an open space recreational area for all.	7.15.3

Highway safety issue due to activities undertaken at a higher visual plane being a distraction to drivers of vehicles.	7.11.4 – 7.11.7
Highway safety issue as nothing to contain balls within the kickabout area. Any fencing would harm open countryside and hedging would be insufficient.	7.11.4 – 7.11.7
Highway safety issue for pedestrians crossing road from the Rugby Club to the training ground.	7.11.7
Second Round - Additional Comments	Report reference
The Parish Council requested that the designated area for training pitches and any white lines be removed from the plans and retained as general open space to better serve community needs.	7.6.4 - 7.6.5
Concern that green space is not shifted from Phase 1a to Phase 2F	7.6.3
The Parish Council do not recognise claims of agreement regarding the Wises Lane Monitoring Group (WLMG)	7.14.2
Claims that the Rugby Club will not enter the practice pitch are doubtful	7.6.4

- 4.4. **West Kent Badger Group** 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:

Comments	Report reference
Would like assurance that measures set out in the Ecological Technical Report, TR31 will be implemented.	7.10.8
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.	7.10.7 - 7.10.8
Consideration should be given to how wildlife corridors will be protected and how the development promotes the conservation, restoration and enhancement of ecological networks.	7.10

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** – Two rounds of consultation have been carried out. No objection following receipt of further information regarding boundary treatment around the ‘kick about areas’ subject to the provision of the boundary treatment being conditioned.
- 5.3. **KCC Flood and Water Management** - No comments to make.
- 5.4. **KCC Minerals and Waste**- No land-won minerals or waste management capacity safeguarding objections.
- 5.5. **KCC Ecological Advice Service (KCC EAS)** – Two rounds of consultation have been carried out. There does not appear to be a reduction in open space or habitats to support protected/notable species when compared to the original application. Although there would be some reduction of scrub where it is replaced with wildflower meadow, there is no objection provided that it is suitably managed.
- Fiery clearwing moth habitat is shown but further details will be required regarding the establishment and management of the habitat in the long term.
- A badger survey confirmed no active setts currently present (at the time of survey). This is accepted but a further survey will be required within 6 months prior to commencement of works in accordance with condition 59 of the hybrid permission.
- A precautionary approach towards vegetation clearance will be implemented with regard to reptiles. The is considered satisfactory subject to an area of retained vegetation being clearly demarcated to ensure they are not cleared.
- Satisfied the CEMP discharged under 22/500639/SUB is still valid for this application.
- 5.6. **KCC Archaeology** – A Written Scheme of Investigation has been approved as part of condition 66. Archaeological evaluation has been undertaken within this phase and although not formally submitted pursuant to condition 66, the report has been received by KCC Archaeology. There are significant archaeological finds that are to be preserved in situ. Details of this can be secured under condition 67 of the hybrid permission which requires the implementation of safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation.
- 5.7. **KCC Public Rights of Way (PROW)** - No comment to make. Recommend informatives.
- 5.8. **SBC Greenspaces** – Three rounds of consultation have been carried out. Pleased to see linkages of path with ZR121 to ZR119 and the inclusion of naturalised seasonal

bulbs. The revisions to the equipment within the NEAP have addressed previous concerns that the NEAP did not have the right balance. Timber knee rail is adequate boundary treatment for the NEAP and the inclusion of lower rail weldmesh makes it dog friendly.

The inclusion of litter bins is needed, particularly in the more active zone (play and pitches) and at the intersection with the access onto the site. The soft landscaping is generally acceptable, but the grass pitch specification is very general. It needs to be useable all year round. The Management and Maintenance Plan would need bin emptying included and more detail regarding pitch maintenance.

- 5.9. **SBC Tree Officer** - Two rounds of consultation have been carried out. The general arrangement of landscaping and the overall management plan is generally acceptable. The revised mix of planting now includes longer lived species as requested. The arboricultural method statement appears to provide sufficient protection measures for the retained trees.
- 5.10. **Environment Agency (EA)** - The EA is not a statutory consultee for reserved matters applications so no longer provide comments on these consultations. It has been advised to take account of any planning conditions, informatives or advice and comments provided in the response to the outline application.
- 5.11. **Natural England (NE)** - No comment.
- 5.12. **Active Travel** - Refer to standing advice.
- 5.13. **Lower Medway Internal Drainage Board (LMIDB)** - The site does not impact the Board's interest. No comment to make at this time.
- 5.14. **Southern Water** - Insufficient information regarding drainage. Recommends a condition.
- 5.15. **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.

6. DEVELOPMENT PLAN POLICIES

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

ST1 Delivering sustainable development in swale

ST5 Sittingbourne Area Strategy

MU3 Land at south-west Sittingbourne

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

DM14 General development criteria

DM17 Open space sports and recreation provision

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

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
- Heritage
- Archaeology
- Open Space
- Landscaping
- Ecology
- Transport and Highways
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions of Existing Residents
- 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 which granted the hybrid planning permission that is listed above under reference 17/505711/HYBRID. The site forms Phase 2F of the outline area of the hybrid permission.
- 7.2.4. 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 matter stage. Assessment of the proposal's compliance with relevant conditions and aspects of the s106 is discussed in the sections where relevant 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 has been established and cannot be reviewed.

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*'. The landscape and visual impacts of the overall development scheme was considered at the appeal stage to be acceptable with the harm identified at the time being outweighed by the public benefits.
- 7.3.2. In addition to the above, Policies CP4 and DM14 of the Local Plan seek the creation of attractive places, the strengthening of the sense of place, the conservation and enhancement of the landscape and natural environments through, amongst other things, the use of landscaping design and open space.
- 7.3.3. Further consideration of the impact of this phase of the development on the landscape was considered as part of the reserved matters application for earthworks proposed

within this space as approved under 24/500856/REM. The earthworks proposals were for cut and fill works required to level out the land sufficiently for it to be developed as more user-friendly open space for the purposes of recreation.

- 7.3.4. The larger areas of cut and fill are generally located within the centre of the site with smaller levels of fill located to the edges. The earthworks were for the general levelling of the land, rather than significant rising, or lowering of the entire plot.
- 7.3.5. This current proposal is for the details of the open space provision required by the hybrid permission. Schedule 4 of the s106 agreement and condition 8 of the hybrid permission secures the delivery of the open space within the wider development in accordance with specified plans. Those plans being drawing 2574-315D – Land Budget – Open Space 2 and David Williams Landscape Consultancy Figure 10.8 drawing number L8 Rev E – Indicative Landscape Strategy Plan. These two plans identify the application site for the provision of sports pitches (to the southeastern end of the site) and woodland and landscape buffer for the rest of the site.
- 7.3.6. In terms of uses, the submitted drawings indicate the area to the southeastern end of the site will accommodate two kickabout areas, a rugby training pitch an activity zone area and Neighbourhood Equipped Area of Play (NEAP). Two picnic spaces are also identified to the west of the NEAP close to the entrance and to the south of the easternmost kickabout area. There are benches proposed with this area providing seating.
- 7.3.7. The height of the picnic tables, benches and litter bins associated with the picnic areas will be limited. The only boundary treatment proposed across the phase comprises timber post and rail to 1m high with weldmesh roll to prevent dog access around the NEAP area. Play equipment will be located within the NEAP and the basketball hoop within the basketball activity zone. None of these elements would be of a scale or appearance that would be highly visible or harmful to the character and appearance of the area. Furthermore, the landscaping proposed would provide screening.
- 7.3.8. For the remainder of the site, the proposals primarily involve soft planting with benches along some of the PROW routes. The PROW routes are proposed as self-binding gravel pathways with timber edges.
- 7.3.9. The proposal complies with the approved masterplan and parameter plans. There has been no change to policies in terms of the impact upon the landscape that would result in a different conclusion. The proposal also complies with Policies CP4, DM14 and DM24 of the Local Plan and the NPPF and is considered acceptable with regard to landscape and visual impact.

7.4. **Heritage**

- 7.4.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning

authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

- 7.4.2. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.3. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.4.4. 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.
- 7.4.5. 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.
- 7.4.6. Chestnut Street CA is located to the west of Phase 2F. 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. Phase 2F is located to the southeast at the point where it bends at almost 90 degrees from a southeasterly direction to a south-westerly direction. Phase 2F follows a similar line to the northern edge of School Lane (NW-SE direction).
- 7.4.7. The setting of the CA on the eastern side was considered by the Appeal Inspector to be formed by School Lane, a narrow country lane rising up the valley side, defined by roadside hedgerows. On the north-eastern side are the large modern agricultural buildings surrounded by the paddock, and a field to the south that has a rural appearance.
- 7.4.8. It was acknowledged that views eastwards from the CA would change, with the main impact restricted to views from the area around the junction of Chestnut Street and School Lane. However, it was concluded that given the degree of separation, the

reduction in the degree and appreciation of openness of the agricultural field to the south-east of the agricultural buildings would be negligible.

- 7.4.9. An extension to Chestnut Street 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.
- 7.4.10. At the point where Phase 2F is located at the approx. 90 degree bend in School Lane (near Hook's Hole Cottage), the phase continues in a southeasterly direction away from the extension to the CA and the CA as a whole. Given the presence of the existing large buildings on the site of Hooks Hole Farm interrupting any area between the extension and Phase 2F that could've formed the setting of the CA, and given the proposal for this phase is for open space, it is considered the development of Phase 2F would not have a harmful impact on the setting of the Conservation Area.
- 7.4.11. In terms of listed buildings, there are 4 medieval timber framed houses on the southern side of Chestnut Street which are considered a significant feature of the CA. They are the Hook's Hole – Grade II*, Olde - Grade II, Tudor Rose/Dumbles Cottage - Grade II, and Oldestede - Grade II*. The immediate setting of the LBs is formed by their separate plots, gardens and driveways which face directly on to Chestnut Street. The immediate setting of Hook's Hole also includes the surviving historic farm buildings with which it is associated.
- 7.4.12. In considering the wider setting of these listed buildings, the Appeal Inspector considered that given the positions of Oldestede, Tudor Rose/Dumbles and Olde, the distance to the development site and intervening landscaping features, the development site does not contribute to the setting or significance of these three properties. The wider setting of Oldestede includes land to the south and west.
- 7.4.13. In consideration of the wider setting of Hooks Hole the Appeal Inspector felt that given the position, scale and visual impact of the large agricultural buildings, the open land beyond to the south-east and that part of the development site beyond does not contribute to the setting or significance of Hook's Hole. However, the paddock to east of School Lane does play an incidental element in its significance and a limited contribution to its setting.
- 7.4.14. 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 Chestnut Street Conservation Area and its associated listed building (and Riddles Cottage and Riddles House to the east) 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.

7.4.15. The proposal for Phase 2F of the hybrid permission is in broad accordance with the layout of the masterplan and with drawing 2574-315D – Land Budget – Open Space 2 and David Williams Landscape Consultancy Figure 10.8 drawing number L8 Rev E – Indicative Landscape Strategy Plan. Although the boundary of the Chestnut Street CA has altered since the appeal decision, it is not considered that the changes would result in the Council coming to a conclusion that would differ from that reached by the Inspector and the SoS. The proposal is acceptable and complies with Policies CP8, DM32 and DM33 of the Local Plan and the NPPF.

7.4.16. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

7.5. **Archaeology**

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

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

7.5.3. 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 was approved for this phase on 20.01.2025 under reference 24/504081/SUB.

7.5.4. Archaeological evaluation has been undertaken within this phase and although not formally submitted pursuant to condition 66, the report has been received by KCC Archaeology. There are significant archaeological finds that are to be preserved in situ. KCC Archaeology are satisfied that details of this can be secured and dealt with by condition 67 of the hybrid permission which requires the implementation of safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation before development commences within the phase.

7.5.5. In light of the above, it is considered that the proposal is in accordance with Policy DM34 of the Local Plan and the NPPF.

7.6. **Open Space**

7.6.1. Local Plan Policies CP4 and DM14 and the NPPF attach great importance to the design of the built environment and ensure that design should contribute positively to

making places better for people. Policy DM17 of the Local Plan seeks to secure the provision of multi-use open space on new developments.

- 7.6.2. Whilst layout was a reserved matter Schedule 4 of the s106 agreement and condition 8 of the hybrid permission secures the delivery of the open space within the wider development in accordance with specified plans. Those plans being drawing 2574-315D – Land Budget – Open Space 2 and David Williams Landscape Consultancy Figure 10.8 drawing number L8 Rev E – Indicative Landscape Strategy Plan. These two plans identify the application site for the provision of sports pitches (to the southeastern end of the site) and woodland and landscape buffer for the rest of the site.
- 7.6.3. In addition, a non-material amendment (that affects the layout) was granted on 25 April 2025 under reference 25/501148/NMAMD which required the relocation of the NEAP from Phase 1A. The change in open space on Phase 1A was mitigated by providing an uplift in open space area in Phase 2F, whilst the NEAP is also to be delivered in Phase 2F as per these proposals. The strip of open space on Phase 1A is now to be provided with a trim trail and footpath connecting with Phase 2F.
- 7.6.4. Taking account of the non-material amendments and the plans secured by condition 8 of the hybrid permission, the layout of this application site shows the southeastern end of the phase is dedicated to more formal play and sporting use, providing a NEAP, activity zone, rugby training pitch and two kickabout areas. Schedule 4 of the s106 Agreement requires the NEAP 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 NEAP. The Strategy also explains the difference between a NEAP and a Local Standard Play Area (LSPA). The main difference being that a NEAP park area also has an area for kickabout soccer which is usually designed to be a MUGA multi use games area.
- 7.6.5. Having been reviewed by the Council's Greenspaces Manager, the revised design of the NEAP is considered to have the right balance of equipment. The timber knee rail boundary treatment is adequate for the NEAP and the lower rail weldmesh makes it dog safe. The sporting provision is also considered acceptable with the inclusion of a condition to ensure details are submitted for the specification of the pitches.
- 7.6.6. Within the remainder of the site, the open space is laid out with planting comprising a mix of wildflower, woodland, orchard and amenity grassland with a series of formal walking routes that link to existing PROWs ZR117, ZR119 and ZR121.
- 7.6.7. Benches and picnic areas are also provided at locations, along the proposed footways and overlooking the play areas and sports pitches. It is considered that litter bins should be provided with the open space particularly in the more active zone (play and pitches) and at intersection with access onto site.
- 7.6.8. Within the centre of the phase is an area retained for the established Fiery Clearwing moth habitat.

7.6.9. Overall, the scale and appearance of the development on the site and the layout of the open space in terms of the uses, along with the distribution of the planting types throughout and the native species proposed, is in accordance with the parameters set by the masterplan and drawings 2574-315D – Land Budget – Open Space 2 and David Williams Landscape Consultancy Figure 10.8 drawing number L8 Rev E – Indicative Landscape Strategy Plan of the hybrid permission and is considered acceptable. The proposal complies with Policies CP4, DM14 and DM17 of the Local Plan and the NPPF.

7.6.10. The delivery of the open space and the timing of that is secured by Schedule 4 of the s106 Agreement.

7.7. **Landscaping**

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

7.7.2. 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.

7.7.3. Landscape general arrangement drawings and a hard landscape and boundary treatment drawing have been submitted along with a Landscape Design Statement, Landscape Maintenance and Management Plan, Soft landscape Specification and Detailed Planting Plans. The general arrangement drawings show the southeastern end of the phase to be dedicated to more formal play and sporting use, providing a Neighbourhood Equipped Area of Play (NEAP), activity zone, rugby training pitch and two kickabout areas. A detailed drawing of the NEAP is also provided.

7.7.4. The more active eastern area of the phase is predominantly proposed as grass comprising a playing field grass seed mix and general-purpose meadow mix elsewhere. Woodland planting and understory mix of woodland wildflower seed treatment is proposed to be located along the northern and eastern boundaries of this sports and recreation area at a width of approx. 8m and 4m respectively. It is also proposed to the western side of this area, forming a small soft landscaped buffer within the site between this more active recreational zone and the rest of the open space. Three log piles are proposed to be dotted about this space.

7.7.5. Transitioning towards the central and western side of the open space, the proposals show grassed areas comprising flowering lawn mix, general purpose meadow mix and proposed wildflower mix. There is also woodland planting and understory mix of woodland wildflower seed treatment to either end an area of established habitat for fiery clearwing moth. Further grassed area and woodland planting and understory mix

is proposed to the western end. There are two areas of hibernacula and a further three log piles. At the request of the Greenspaces Manager, native bulb planting is proposed along part of the footpaths within the central and western end of the site.

- 7.7.6. There is a 15m landscape buffer along the southern edge of the site approved as advanced planting as required by condition 41 of the hybrid permission. This forms a buffer with the Skylark Mitigation Land to the south beyond the site boundary and there are no changes proposed to what has previously been approved.
- 7.8. The landscaping proposals have been reviewed by the Council's SBC 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. The revised planting mix shows a higher percentage of longer-lived species such as English Oak and Beech added to the mix of native planting and there is no objection to the proposals as set out.
- 7.9. The Council's Greenspace Manager has reviewed the proposals and considers the grass pitch specification to be very general and given that it needs to be useable all year round, it is recommended that further details be secured by condition. A further condition is proposed to secure an updated Management and Maintenance Plan which would need to include litter bin emptying and more detail regarding pitch maintenance.
- 7.9.1. 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 to 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.
- 7.9.2. With the conditions attached to the hybrid permission and the suggested additional conditions, the proposal is 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.
- 7.10. **Ecology**
- 7.10.1. 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.
- 7.10.2. 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 Phase 2F.

7.10.3. KCC EAS have reviewed the 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 proposal has not resulted in a reduction in open space or habitats to support protected/notable species.

7.10.4. A reduction of scrub within the western part of the site is noted where it has been replaced with wildflower meadow. However, provided the meadow areas are managed as detailed within the submitted management plan it is considered that the area can benefit biodiversity.

7.10.5. Fiery Clearwing moth has been recorded within the site and as a result a Fiery Clearwing moth habitat bank is clearly shown on the planting plans. The submitted technical note confirms that this area will be planted/seeded with docks to create suitable habitat. However other than referencing the presence of the Fiery Clearwing moth no details of how this habitat will be established or managed long term has been provided within the landscape management plan. The applicant has confirmed that the LEMP required to be updated via condition 62 of the hybrid will be updated to include details of how the habitat will be established and managed in the long term.

7.10.6. The ecological report has detailed that in addition to the Fiery Clearwing moth the site has the following constraints:

- The hedgerow and young woodland planting provide potential Dormouse habitat, albeit these are to be fully retained under the proposals.
- The area provides opportunities for breeding birds, with the open arable field and grassland area providing potential habitat for ground nesting species such as Skylark, whilst the hedgerow and young woodland planting could support other nesting species.
- Small numbers of Slow worm have been recorded from the northern verge of Wises Lane adjacent to the application area.

7.10.7. A badger survey has been submitted and it has confirmed that no badger setts are currently present on site however (at the time of the survey) inactive badgers setts are present to the south of this phase. In addition, a mammal hole (not badger at the time

of the survey) was recorded in the NW corner of the site. 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.

- 7.10.8. As detailed within the Ecology Technical Note (Badgers) an updated badger survey must 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. As required by condition 59 of the hybrid permission, an updated survey will also need to be undertaken within 6 months of commencement of development for each Phase. The most recent survey was undertaken in March.
- 7.10.9. 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, but it is advised that areas of retained vegetation must be demarcated to ensure that they are not cleared during the landscaping works. A condition is recommended to secure the method and implementation of demarcation during clearance works.
- 7.10.10. 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 a further condition proposed, the application is considered acceptable and the proposal is in accordance with Policy DM28 of the Local Plan and the NPPF
- 7.10.11. This is a reserved matters application related to a hybrid permission that was submitted 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.

7.11. **Transport and Highways**

- 7.11.1. Local Plan Policies CP2 and DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.11.2. 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.”

- 7.11.3. 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.
- 7.11.4. KCC Highways have reviewed the application and requested clarification of the proposed boundary treatment for the proposed kickabout areas. It was recommended that the boundary comprise dense scrub or similar to reduce the risk of playing equipment from entering the highway onto Wises Lane.
- 7.11.5. The applicant provided a response which confirmed that the buffer is proposed to comprise woodland planting with understory mix. The northern woodland buffer cover 760m² in area and is approx. 8m in width. The eastern buffer covers 140m² in area and is approx. 4m in width. In addition, there is a further approx. 4m distance between the edge of the pitch and the buffer areas (to both the northern and eastern boundaries).
- 7.11.6. In reviewing the application following the submission of this clarification, KCC Highways are satisfied with the proposals and raise no objection subject to the boundary treatment being secured by condition.
- 7.11.7. KCC Highways have not expressed concern with the location of the pitches being a distraction to drivers nor have they raised an issue with pedestrian safety. Connectivity of the wider development site and the surrounding area was considered as part of the hybrid application. On this basis, taking account of the landscaping proposed, the details in term of the layout are considered acceptable and in compliance with Policies CP2 and DM6 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. Impacts in terms of drainage and any flooding was considered as part of the hybrid permission.
- 7.12.2. Southern Water have stated in their consultation response that there is insufficient information with regard to drainage. The hybrid application considered matters to do with flood risk, drainage and surface water and the permission secured conditions to ensure each phase within the overall development site is subject to a detailed drainage strategy which is to be submitted and approved before works commence (Condition 49) and ongoing maintenance prior to use/occupation (Condition 50).
- 7.12.3. As this application is for the consideration of reserved matters of layout, scale, appearance and landscaping, the information referred to by Southern Water is not required at this stage.

7.13. Living Conditions of 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 proposed use as recreational open space has the potential to impact on the living conditions of any nearby residents, primarily in terms of noise. However, there are no existing residential properties within close proximity to the open space, particularly to the southeastern end which contains the play space, pitches and activity zone that would be detrimentally impacted by the proposal. In addition, the impact of the wider development has already been considered by the Inspector 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 proposal is considered to be in accordance with Policy DM14 of the Local Plan and the NPPF.

7.14. Other matters

- 7.14.1. In their response Kent Police advised that, if approved, site security is required for the construction phase. Condition 20 of the hybrid planning permission requires the submission of a construction management plan which lists details of the erection and maintenance of security hoarding during construction of a phase.
- 7.14.2. The Parish Council have stated that they do not recognise claims of agreement regarding the Wises Lane Monitoring Group (WLMG). This is a matter between the Parish Council and the applicant. The applicant has responded to this comment in their submission 'Response to Consultee Comments August 2025'.

7.15. Conclusion

- 7.15.1. 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.
- 7.15.2. 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
- 7.15.3. The proposal is for a large area of open space to serve the wider development site and the existing community beyond. 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 open space in terms of layout, scale, appearance

and landscaping 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.

7.16. Recommendation

7.16.1. Grant subject to conditions.

7.17. Conditions

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

Received 12 November 2025

15006 Rev F – Sittingbourne NEAP

Received 21 October 2025

PJC.1338.001 Rev H – Landscape General Arrangement Plan: Overview

PJC.1338.001 Rev H – Landscape General Arrangement Plan: Sheet 1 of 2

PJC.1338.001 Rev H – Landscape General Arrangement Plan: Sheet 2 of 2

PJC.1338.002 Rev C – Hard Landscape & Boundary Treatment Plan Sheet 1 of 2

PJC.1338.002 Rev C – Hard Landscape & Boundary Treatment Plan Sheet 2 of 2

PJC.1338.003 Rev B – Soft Landscape Detailed Planting Plan Sheet 1 of 3

PJC.1338.003 Rev B – Soft Landscape Detailed Planting Plan Sheet 2 of 3

PJC.1338.003 Rev B – Soft Landscape Detailed Planting Plan Sheet 3 of 3

Received 25 March 2025

PJC.1338.011 Rev A – Phase 2F Site Location Plan

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

2. Prior to any site clearance details of the method and implementation of demarcation of areas of vegetation to be retained during clearance works shall be submitted to and approved in writing by the Local Planning Authority. The clearance shall thereafter be carried out in accordance with the approved details.

Reason: To provide a precautionary approach to site clearance in relation to reptiles ensuring areas of retained vegetation are not cleared during the landscaping works.

3. Prior to any site clearance, a timetable for implementation of the soft landscape planting proposals herein approved shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall thereafter be implemented in accordance with the approved timetable and Soft Landscape Specification reference PJC.1338.004 Rev A, dated 10 October 2025.

Reason: To ensure the approved landscape details are implemented on site in a timely manner.

4. Notwithstanding the submitted details and prior to implementation of the soft landscape planting proposals herein approved, details of a revised pitch specification shall be submitted to and approved in writing by the Local Planning Authority. The pitches shall be implemented in accordance with the approved details and shall be maintained thereafter.

Reason: To ensure the pitch is suitable for use all year round.

5. Prior to implementation of the soft landscape planting proposals herein approved, details of the design, number and location of litter bins to be provided throughout the site and a timetable for their installation shall be submitted to and approved in writing by the Local Planning Authority. The litter bins shall be provided in accordance with the approved details and the approved timetable and shall be maintained thereafter.

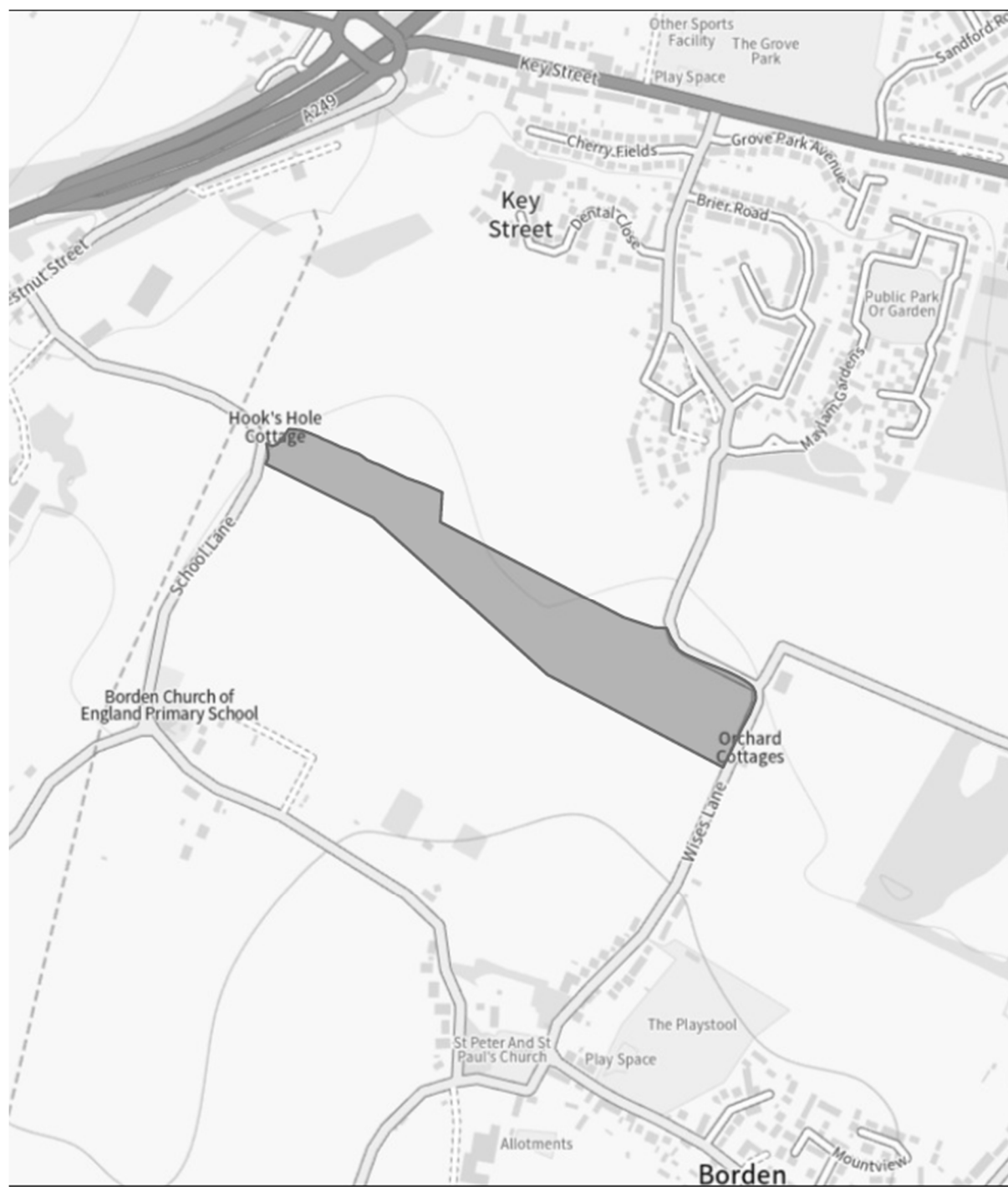
Reason: To ensure adequate provision for litter is provide throughout the site.

6. Prior to implementation of the soft landscape planting proposals herein approved, an updated Detailed Landscape Maintenance and Management Plan (LMMP) shall be submitted to and approved in writing by the Local Planning Authority. The updated LMMP shall incorporate updated details of the maintenance and management of the grass pitches and details of the emptying and maintenance of litter bins. The LMMP shall thereafter be implemented in accordance with the approved details.

Reason: To ensure the Maintenance and Management Plan adequately incorporates maintenance and management of the grass pitch and litter bin emptying.

7. Prior to any site clearance, a timetable for implementation of the Neighbourhood Equipped Area of Play (NEAP), the hard surface basketball area, the grass pitches and all associated boundary treatments and ancillary features shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and maintained thereafter.

Reason: To ensure the delivery of appropriate play and recreational space for the amenity of surrounding residents.



2.2 REFERENCE NO 25/501335/HYBRID		
PROPOSAL Section 73 Application for amendments to conditions 6 and 7 (to enable the relevant plans to be updated to allow for the relocation of the pumping station on the site, updated drainage basins, sub-station relocation and 2 additional parking spaces) pursuant to planning permission ref: 23/504707/HYBRID.		
SITE LOCATION Land At Lady Dane Farm Love Lane Faversham Kent ME13 8YN		
RECOMMENDATION Approve		
APPLICATION TYPE Section 73 – amendments to parent Hybrid planning permission		
REASON FOR REFERRAL TO COMMITTEE Faversham Town Council have objected to the application and requested that the application be determined by the Swale Borough Council Planning Committee.		
CASE OFFICER – Ben Oates		
WARD Watling	PARISH / TOWN COUNCIL Faversham Town Council	APPLICANT Fernham Homes Operations Limited AGENT DHA Planning
DATE REGISTERED 04/06/2025		TARGET DATE 10/12/2025
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=STUEV0TYJMO00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is located to the eastern side of Faversham. It forms part of a wider development site, referred to as Phase 3 of the Lady Dane Farm redevelopment, whereby hybrid consent was originally granted in May 2023 (23/500867/HYBRID) for a mixed-use redevelopment of the site.
- 1.2 The site is within the Local Plan defined Built-Up Area Boundary and forms part of the site allocation MU6 (Land at Lady Dane Farm). The north-western part of the overall site is located close to the Faversham Cemetery, which is located approximately to the north-west of the site, and is located within the Faversham Town Conservation Area.
- 1.3 The site is designated as a safeguarded area for Brickearth and within an area of identified archaeological interest. The site is also within a Site of Special Scientific

Interest Impact Risk Zone, and within 2km of the Swale Ramsar and Special Protection Area.

- 1.4 The application site is surrounded by a residential development under construction and farmland to the east and farmland to the south. The western boundary is formed by Love Lane with post-war housing at Buttermere/Windemere to the west of that. To the north is the recently completed Phase 1 of the Lady Dane Farm redevelopment.

2. PLANNING HISTORY

- 2.1 24/505130/SUB - Submission of details pursuant to Condition 49 Parts A and B (only) - Archaeology Evaluation Report and Written Scheme of Investigation subject to planning permission ref: 23/504707/HYBRID

Approved Decision Date: 18.06.2025

- 2.2 24/503927/SUB - Submission of details pursuant to condition 47 - External Lighting, Subject to 23/504707/HYBRID

Approved Decision Date: 05.11.2024

- 2.3 24/503921/SUB - Submission of details pursuant to condition 31 - Timetable of Soft Landscaping, Subject to 23/504707/HYBRID

Approved Decision Date: 09.09.2025

- 2.4 24/503909/SUB - Submission of details pursuant to condition 29 - Refuse Tracking, Subject to 23/504707/HYBRID

Approved Decision Date: 02.12.2024

- 2.5 24/503898/SUB - Submission of details pursuant to condition 25 - Public Footpath, Subject to 23/504707/HYBRID

Approved Decision Date: 08.01.2025

- 2.6 24/502678/SUB - Submission of details pursuant to condition 49 (Archaeological Evaluation Scheme) of application 23/504707/HYBRID.

Approved Decision Date: 13.09.2024

- 2.7 24/502004/SUB - Submission of details to discharge conditions 34 - Drainage Scheme and 36 - Surface Water Management, Subject to 23/500857/HYBRID

Approved Decision Date: 14.02.2025

- 2.8 24/500622/SUB - Submission of details pursuant to conditions 45 (ecological mitigation and enhancement strategy) and 46 (habitat creation, management and monitoring plan), of application 23/504707/HYBRID.

Approved Decision Date: 20.06.2024

- 2.9 23/504909/REM - Approval of Reserved Matters of access, appearance, landscaping, layout and scale for the erection of a 67-bed care home, pursuant to hybrid application 23/500857/HYBRID for - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all

matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 29.11.2024

- 2.10 23/504754/REM - Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale being sought) for the Phase 1 Open Space area pursuant to application 23/500857/HYBRID for - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 30.10.2024

- 2.11 23/505661/SUB - Submission of details to discharge condition 15 - Materials, Subject to 23/504707/HYBRID

Approved Decision Date: 13.06.2024

- 2.12 24/502001/SUB - Submission of details to discharge condition 12 - Engineering Layout, Subject to 23/500857/HYBRID

Approved Decision Date: 13.09.2024

- 2.13 24/502585/SUB - Submission of details application to discharge (in full) conditions 2 (Phasing Plan), condition 8 (Housing and Wastewater Infrastructure), condition 10 (Water Consumption), condition 13 (Telecommunications), and condition 28 (Temporary Vehicle Turning Head) in relation to the planning permission 23/504707/HYBRID. The application also seeks to partially discharge condition 9 (Sustainable Construction Techniques), condition 14 (Crime Prevention), condition 18 (Construction Management Plan), condition 38 (Contamination) and condition 43 (Construction Method Statement) in relation to planning permission ref: 23/504707/HYBRID.

Approved Decision Date: 12.08.2024

- 2.14 24/502500/NMAMD - Non Material Amendment to application 23/504707/HYBRID: To amend the wording of condition 49 on decision notice issued for 23/504707/HYBRID.

Approved Decision Date: 21.06.2024

- 2.15 23/504707/HYBRID - Section 73 - Application for minor material amendment to approved plans condition 6 (To improve quality of amenity space, security and safety. To increase in the amount of independently accessible parking spaces. To revise the arrangement and distribution of house sizes and types, and to amend the design of Blocks A and B) pursuant to 23/500857/HYBRID for - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 28.05.2024

- 2.16 23/503742/SUB - Submission of details pursuant to conditions 2 (phasing plan), 8 (wastewater infrastructure), 13 (fixed telecommunication infrastructure), 28 (temporary turning head), and 38 (contaminated land) of application 23/500857/HYBRID.

Approved Decision Date: 22.11.2023

- 2.17 23/503743/SUB - Submission of details pursuant to condition 9 (sustainable construction techniques) of application 23/500857/HYBRID (part discharge relating to residential full and residential outline phases only).

Approved Decision Date: 12.10.2023

- 2.18 23/500857/HYBRID - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 26.05.2023

3. PROPOSED DEVELOPMENT

- 3.1 The application proposes the relocation of a foul water pumping station along with other minor changes to the approved layout. The proposed new location for the pumping station is in the northwestern corner of the site close to the junction of Love Lane and Kings Drive, and would gain access from the new internal access road serving Phase 3. The pumping station will be located mostly below the ground level, with new hardstanding installed around it to provide a servicing area. The proposed pumping station enclosure covers an area of approximately 40sqm and will be surrounded by 1.8m high close boarded timber fencing. The applicant advised during the application that the proposed access ground covering would consist of Grass Crete.
- 3.2 The previous location for the pumping station within Phase 3 was located adjoining the car park to the south-east of the residential block containing units 33-40 and to the rear of Plot 32. By relocating the pumping station, the developer can increase the soft landscaping and improve the area around the parking court and also improve emergency access to the pumping station. There is also a cordon sanitaire around foul pumping stations which is 15m to habitable rooms and no development can be within this zone. The development previously had areas that were close to or just inside this zone so relocating it will ensure the relevant regulations are met.
- 3.3 The other proposed minor amendments include updated drainage basins/swales to accommodate the relocated pumping station, moving the sub-station (which previously adjoined the pumping station) within the car park to the west to adjoin the cycle parking shelter, and the addition of 2 additional parking spaces.
- 3.4 Further information was provided during the course of the application in regard to the proposed access surfacing to demonstrate it would consist of a permeable paving

system. The initially proposed adjustments to the footpath alignment within the open space area have been omitted as this area is located in the part of the site subject to the outline permission, and therefore the final alignment of the footpaths will be dealt with through Reserved Matters applications.

4. **REPRESENTATIONS**

4.1 **Public Consultation**

4.1.1 One round of public consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

4.1.2 During the consultation six letters of representation objecting to the proposal were received. Concerns / comments were raised in relation to the following matters:

Comments	Response / Report Reference
Inappropriate location: sited near existing homes rather than the new development it serves.	The proposed location is within the site boundary of the development it serves. Neighbouring amenity is discussed in section 7.5.
Noise pollution: 24/7 operation with no acoustic survey or mitigation measures provided.	Neighbouring amenity is discussed in section 7.5.
Odour and maintenance concerns: doubts about long-term management and potential for nuisance.	Neighbouring amenity is discussed in section 7.5.
Safety risks: inadequate fencing and lack of crash protection near a main road.	This is discussed at section 7.8.
Unclear adoption: no confirmation from Southern Water regarding infrastructure responsibility.	The Southern Water response is discussed at section 7.6.
Engineering concerns: questions about sewer capacity and risk of downstream flooding.	The Southern Water response is discussed at section 7.6.
Failure to enforce Section 106 agreement: open space/cricket pitch not delivered as promised.	These comments relate to a S.106 for a separate application and are therefore not material to this application.
Loss of privacy and visual impact: a mound has been created that allows direct views into homes, compromising residential amenity.	The site is undergoing development for the extant permission and officers understand that a mound of earth was moved temporarily to allow for those works. The site levels have also been approved under a separate application. Notwithstanding these points, this issue is not relevant to this particular

	application for the amendments described above.
Developer began construction of the pumping station and land alterations without planning permission, breaching planning control.	It is the case that works to the pumping station have commenced. Legislation allows for planning applications to be made retrospectively and so, whilst the comments are noted, this factor is not a sound ground to refuse the application. Allegations of breaches of planning control in respect of other matters at the wider site have been and can continue to be reported to the Council's Planning Investigations Team. They are not, however, material to the assessment of this application. Officers are already in contact with Planning Enforcement in regard to this site.

4.2 **Faversham Town Council Response**

- 4.2.1 Faversham Town Council object to the application on the following grounds and request that the application be considered by SBC Planning Committee:

First Round Comments	Officer response
1) The proposed position of the pumping station as detailed in this application is in the countryside gap.	The site is part of a wider site allocated for development and not within a designated countryside gap.
2) The proposed sports pitches are absent from the proposal.	The sports pitches are shown in the masterplan layout. (an extract was provided to FTC to demonstrate this).
3) There is no cross section of levels across the site which have been raised impacting on privacy for the residents of Marsh Lane.	The site is undergoing development for the extant permission and officers understand that a mound of earth was moved temporarily to allow for those works. The site levels have also been approved under a separate application. Notwithstanding these points, this issue is not relevant to this particular application works as described above.
4) If approved the pumping station will be closer to residential properties impacting residents with noise pollution.	The application was previously submitted as a full application and Environmental Health advised that they have no objection – 'Pumping stations are not normally that noisy as the pumps themselves are submerged below the water line of the tank. In this respect, there are not usually any issues.' Environmental Health have been consulted

	on this application and continue to raise no objection.
5) The BNG for the site as proposed is below the NPPF guideline.	This point is discussed in section 7.7.
General Comment: 1) It was noted with disappointment by members that the construction of the pumping station in the relocated position had already commenced.	It is the case that works to the pumping station have commenced. Legislation allows for planning applications to be made retrospectively and so, whilst the comments are noted, this factor is not a sound ground to refuse the application.

- 4.2.2 The case officer sought to address the concerns raised as above, and asked the Town Council to reconsider their call-in request. Faversham Town Council responded raising the following matters and continue to request the application be determined by the Planning Committee:

Second Round Comments	Officer response
The position of the pumping station near houses may not be a problem but that is not what was considered or approved.	The purpose of this application is to consider this matter. A developer does not have to be bound by an initial planning permission.
The area is in the countryside gap as per the local plan.	As previously advised, it is not a countryside gap, it is allocated for development under the adopted Local Plan.
The Town Council reiterates its comments already submitted.	These have been addressed above.
Work has commenced and was undertaken on Sunday 12th October in contravention on hours of work approved in the planning permission.	The Planning Investigations Team have been made aware of this. Construction activity and an alleged breach of condition would not be a sound ground to refuse this application.

5. **CONSULTATIONS**

- 5.1 **Southern Water** – No objections.
- 5.2 **Local Lead Flood Authority (KCC Flood and Water Management)** – No comments to make on this application.
- 5.3 **UK Power Networks** – No objections.
- 5.4 **KCC Highways** – No objections
- 5.5 **KCC Ecological Advice Service** – Note that the proposal is located within an area of open space previously proposed as grassland, which may result in the BNG for the site dropping below the 10% achieved in the original Hybrid permission. However, BNG details have not been submitted with the application so KCC Ecology are unable to advise on the extent of the drop in BNG value. The site will still provide habitat to

support protected/notable species but SBC must be satisfied that the proposed development will not achieve a 10% BNG.

- 5.6 **SBC Urban Design** – Initially requested the proposed fence surrounding the pump station be revised to be more transparent and/or painted, however it was clarified that the proposed landscaping as part of the Reserved Matters submission for the open space area would screen the pump station and the fencing would blend into the vegetation. As such, the request for revisions was withdrawn.
- 5.7 **Mid-Kent Environmental Services** – No objection – the pumping station is enclosed by concrete, earth and hardstanding.
- 5.8 **Swale Footpaths Group** – The masterplan layout should show existing PROWs.

6. **DEVELOPMENT PLAN POLICIES**

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

ST 1 Delivering sustainable development in Swale

ST 3 The Swale settlement strategy

ST 7 The Faversham area and Kent Downs strategy

CP 4 Requiring good design

CP 8 Conserving and enhancing the historic environment

MU 6 Land at Lady Dane Farm, east of Love Lane

DM 6 Managing transport demand and impact

DM 7 Vehicle parking

DM 14 General development criteria

DM 17 Open space, sports and recreation provision

DM 21 Water, flooding and drainage

DM 28 Biodiversity and geological conservation

DM 33 Development affecting a conservation area

Neighbourhood Plan

Faversham Neighbourhood Plan – Note this was not adopted at the time that planning permission was granted for the original hybrid application.

FAV2 Housing Development

FAV7 Natural Environment and Landscape

FAV8 Flooding and Surface Water

FAV10 Sustainable Design and Character

FAV11 Heritage

Supplementary Planning Guidance / Documents (SPG / SPD)

SBC Parking SPD

National Planning Policy Framework (NPPF)**National Planning Practice Guidance (NPPG)****Kent Minerals and Waste Local Plan 2024-39 (2025)****7. ASSESSMENT**

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

- Principle
- Landscape, character and appearance
- Heritage
- Neighbouring amenity
- Flood risk and drainage
- Ecology
- 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.

7.2.3 The principle of the overall proposed development on this site has been established as being acceptable through the Hybrid planning permission (ref: 23/500857/HYBRID and subsequently via 23/504707/HYBRID). The current application submitted under s73 does not propose any amendments to the development that would result in a different conclusion on the principle of development to that already established. Furthermore, the site is part of a wider site allocation for development supported by Local Plan policy MU6.

7.3 Landscape, Character and Appearance

7.3.1 The National Planning Policy Framework (NPPF) requires decisions to ensure that development is 'sympathetic to... landscape setting'. The NPPF also attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. Policy DM14 of the Local Plan reinforces this requirement. Policy MU6 sets out the specific objectives for the allocated development site "Land at Lady Dane Farm, east of Love Lane". It seeks to achieve a built design and layout which responds to the context of the site and its landform to achieve an attractive new semi urban edge to Faversham that respects the surrounding agricultural landscape.

7.3.2 The proposed pumping station would be a low set structure concealed behind a 1.8m high close board timber fence. Whilst it would have a utilitarian appearance on its own,

it will be concealed by surrounding landscaping treatment, which will come forward as part of subsequent Reserved Matters applications, and given its relatively small scale it is unlikely to have an adverse impact on the character and appearance of surrounding area. The Grass Crete surfacing of the proposed access would also blend in well with the surrounding future landscaping. A condition is included to secure the proposed Grass Crete surfacing to the access.

- 7.3.3 The proposed changes to the drainage basins reflect their detailed design and layout approved via details to discharge the relevant conditions. Furthermore, the effect of the proposed changes on the appearance of the development will be minimal.
- 7.3.4 The proposed relocation of the substation retains this structure within the carpark and consolidates it with the approved cycle parking shelter. The proposed revision makes more efficient use of the space, resulting in 2 additional parking spaces being provided. These proposed amendments are also minor and would generally retain the appearance and character of the approved development.
- 7.3.5 The proposed development is therefore acceptable in design terms in accordance with policies MU6 and DM14 of the Local Plan and policy FAV10 of the Faversham Neighbourhood Plan.

7.4 Heritage

- 7.4.1 Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, with respect to any buildings or other land in a conservation area, that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.2 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise.
- 7.4.3 SBLP Policy DM33 sets out that development proposals within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area's special character or appearance. Policy FAV11 of the Faversham Neighbourhood Plan requires development proposals to preserve or enhance conservation areas.
- 7.4.4 The Faversham Town Conservation Area (CA) is located nearby to the west of the proposed development, the boundary of the conservation area being formed by the wall surrounding the Faversham Cemetery. The Conservation Area includes a concentration of listed buildings, historic townscape and other features spanning several centuries and including considerable survival of medieval Faversham. This, together with the Creek and other landscape features, creates an area of considerable significance, quality and distinctiveness. The Faversham Conservation Area Appraisal and Management Plan sets out further details of the special interest and character of the CA and its management.

- 7.4.5 Due to the small scale of the proposed pumping station and fencing, and its separation from the nearest part of the CA, officers consider that the proposal would not be harmful to the setting of the CA. As such, the proposal accords with policy DM33 of the Local Plan and policy FAV11 of the Faversham Neighbourhood Plan.

7.5 Neighbouring Amenity

- 7.5.1 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Policy FAV10 of the Faversham Neighbourhood Plan seeks development proposals to avoid adverse impacts on residential properties from lighting.
- 7.5.2 Due to the small scale and nature of the proposal and its significant separation distance to any nearby properties, it would not result in any harmful loss of light, outlook, privacy or odour impacts on nearby properties. Pumping stations are not normally noisy as the pumps themselves are submerged below the water line of the tank. As such, it is not anticipated that any noise impacts would be caused to nearby properties. Concerns were raised in public responses in regard to odours, however the operation of the pump station would not create adverse odour emissions to an extent that they would be unacceptably harmful to living conditions within the locality.
- 7.5.3 The proposed amendments to the drainage basins, substation and parking spaces would not impact on the amenity of the neighbouring properties given the nature of the structures and their separation to adjoining properties.
- 7.5.4 The proposal would therefore cause no harm to the amenity of surrounding properties in accordance with policy DM14 of the Local Plan and policy FAV10 of the Faversham Neighbourhood Plan.

7.6 Flood Risk and Drainage

- 7.6.1 Due to the nature of the proposal there is no envisaged worsening of flood risk to the area. The EA and Local Lead Flood Authority have not raised any objections to the application.
- 7.6.2 Southern Water advise that they can facilitate foul sewerage disposal to service the proposed development as confirmed by the capacity check completed in 2023 for planning ref: 23/500857/HYBRID. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer, however this falls outside of the planning process and as such is not secured in this application. No further issues were raised.
- 7.6.3 Concern was raised in an objection regarding sewer capacity and risk of downstream flooding. However, a pumping station has been approved at the site before and there would be a connection at the site whether it is in the proposed location or in the previously approved position.
- 7.6.4 The proposed changes to the drainage basins reflect the details approved through conditions that have been subject to a detailed assessment by the KCC Flood and Water Management team, who have raised no objections to this application.

- 7.6.5 On the basis of the above the scheme continues to comply with policy DM21 of the Local Plan and policy FAV8 of the Faversham Neighbourhood Plan which requires development to have no significant adverse impact on flooding.

7.7 Ecology

- 7.7.1 From February 2024, minor developments are required to provide at least 10% Biodiversity Net Gain (BNG). Applications submitted prior to this are not subject to this requirement, including where amendments to the approved development are made through subsequent applications made under s73 of the Act. The original hybrid permission was granted prior to the statutory BNG requirement of 10% and prior to the adoption of the Faversham Neighbourhood Plan under policy FAV7, which also sets minimum targets for on-site BNG of 20% for major development on greenfield sites. The original hybrid permission achieved on-site BNG of 10%, however this was not secured by condition.
- 7.7.2 In terms of considering this matter now, the NPPG states that *“in deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.”* The NPPG goes on to state that *“In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission.”* The Faversham Neighbourhood Plan has been adopted in the time since the determination of the previous application, and it is noted that this would have required the development to achieve a BNG of 20%, if it had been in place at the time that the original application was determined. However, as it was not in place at the time of the original determination, it would not have been possible to have imposed a condition requiring that standard to be met. Such a condition would not have met the test of necessity as, at that time, there was not a policy requirement to achieve that standard. Having regard to the fallback position that exists of undertaking a very similar development without being required to comply with this standard, it is considered that it would not be “reasonable in all other respects” to require this Section 73 application to achieve an uplift of BNG relative to that which was previously proposed.

7.8 Other Matters

- 7.8.1 Concerns were raised that the proposal lacks safety features and crash prevention barriers, however the proposal is surrounded by bollards and a timber fence and landscaping and is not within a location at risk of impact.
- 7.8.2 The proposal would occupy a small part of a future area of open space secured to serve the new development. It is contained to north-western corner, which will have minimal disruption to the remainder of the open space area, which will continue to provide sufficient passive and active recreational opportunities to serve the emerging community.

- 7.8.3 The proposed addition of 2 car parking spaces are minor changes that slightly improve the parking provision within the development. Therefore, the proposal continues to comply with policy DM7 of the Local Plan.
- 7.8.4 Concern was also raised in an objection about the reason for relocating the pumping station. The applicant has clarified that the pumping station was relocated due to issues with the safety and feasibility of the previous location, which would require drainage features being 5-6m deep to enable the previous location to work. The new location addresses this issue whilst also meeting cordon sanitaire requirements.

7.9 Conclusion

- 7.9.1 The proposed amendments are acceptable in accordance with the relevant Local and Neighbourhood Plan policies and the National Planning Policy Framework as set out above. As such, it is recommended that planning permission is granted.
- 7.9.2 Should this s73 application be approved, it is necessary to reimpose the conditions secured by the hybrid planning permission to which this application relates as originally worded, or, revised where details have been approved through discharge of conditions applications. These are set out below.
- 7.9.3 The covenants and provisions of the s106 legal agreement pursuant to the original planning permission continue to apply to any section 73 planning permission, which includes this application. Therefore, a deed of variation to link this application to the s106 agreement will not be required.
- 7.9.4 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.

8. CONDITIONS

- 1) The detailed element of the development to which this permission relates shall be begun before 26 May 2026.

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 shall be carried out in accordance with the Phasing Plan, Dwg. No 031 002_P1 approved under application reference 24/502585/SUB (or other such subsequent phasing to be agreed pursuant to this condition).

Reason: In the interests of ensuring that the development is carried out in a co-ordinated manner.

- 3) Details relating to the layout, scale, and appearance of the proposed building(s) (if any) within a relevant phase (other than the detailed element), and the landscaping of the site within that phase, shall be submitted to and approved by the Local Planning Authority before any development within that phase is commenced.

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

4) Applications for approval of reserved matters referred to in Condition (3) above must be made no later than 26 May 2028.

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

5) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

6) The detailed element of the development shall be carried out in accordance with the following approved plans:

1000 PL B	Site Location Plan
1002 PL A	Existing Site Plan
A-2001-PL-A	Planning Areas Plan
A-2005-PL-C	Site Layout (B&W)
C-2005-PL-C	Site Layout (Coloured)
2010-PL-B	Street Scenes A-A and B-B
2011-PL-B	Street Scenes C-C and D-D
A-2105-PL-C	Masterplan Site Layout (B&W)
C-2105-PL-C	Masterplan Site Layout (Coloured)
2700-PL-B	Refuse Plan
2701-PL-B	Parking Plan
2702-PL-B	Tenure Plan
2703-PL-B	Materials Plan
2704-PL-B	Fire Strategy Plan
2710-PL-C	Extent of Adoption Plan

Note: for the above drawings only the information within the orange dashed line is to be approved in detail. All other information is for illustrative purposes only.

5000-PL-B	Apartment Block B Floor Plans and Elevations
5005-PL-B	Apartment Block A Floor Plans
5006-PL-B	Apartment Block A Elevations
5010-PL-A	Plots 30-31,79-80,83-84 Plans & Elevations
5011-PL-A	Plot 32 Plans & Elevations

5015-PL-A	Plots 56-57 Plans & Elevations
5025-PL-A	Plots 50, 70 Plans & Elevations
5030-PL-A	Plot 69 Plans & Elevations
5035-PL-A	Plot 45 Plans & Elevations
5036-PL-A	Plot 47 Plans & Elevations
5040-PL-A	Plots 33-40 Plans & Elevations
5045-PL-A	Plot 71 Plans & Elevations
5056-PL-A	Plots 29, 48, 72 Plans & Elevations
5060-PL-A	Plots 51, 78 Plans & Elevations
5061-PL-A	Plots 41-43 Plans
5062-PL-A	Plots 41-43 Elevations
5065-PL-A	Plots 63, 73 Plans & Elevations
5070-PL-B	Plots 54-55,59-60,64-65,66-67 Plans & Elevations
5080-PL-A	Plots 52-53,61-62,74-75,76-77 Plans & Elevations
5081-PL-A	Plots 23-26 Plans
5082-PL-A	Plots 23-26 Elevations
5090-PL-A	Plot 49 Plans & Elevations
5091-PL-A	Plots 46, 68 Plans & Elevations
5095-PL-A	Plot 44 Plans & Elevations
5100-PL-A	Plots 27-28, 81-82 Plans & Elevations
5105-PL-B	Plot 58 Plans & Elevations
5400-PL-A	Garages & Stores Plans & Elevations
LDF-EDL-XX—XX-DR-L-0100-R2	20 February 2023 Illustrated Masterplan
2101 P06	Drainage Strategy Sheet 1 of 13
2102 P06	Drainage Strategy Sheet 2 of 13
2103 P06	Drainage Strategy Sheet 3 of 13
2104 P06	Drainage Strategy Sheet 4 of 13
2105 P06	Drainage Strategy Sheet 5 of 13
2106 P06	Drainage Strategy Sheet 6 of 13
2107 P06	Drainage Strategy Sheet 7 of 13
2108 P06	Drainage Strategy Sheet 8 of 13
2109 P06	Drainage Strategy Sheet 9 of 13
2110 P06	Drainage Strategy Sheet 10 of 13

2111 P06	Drainage Strategy Sheet 11 of 13
2112 P06	Drainage Strategy Sheet 12 of 13
2113 P06	Drainage Strategy Sheet 13 of 13
2101 PTPP	Nov 2021 Preliminary Tree Protection Plan
15536-H-01 Rev P3 01/06/22	Northern Site Access
15536-H-02 Rev P3 01/06/22	Southern Site Access
15536-H-03 Rev P3 04/04/22	Love Lane Design
15536-H-04 Rev P1 09/05/22	Pedestrian Crossing
15536-T-01 Rev P3 09/05/22	Northern Site Access Tracking
15536-T-02 Rev P3 09/05/22	Southern Site Access Tracking
15536-T-03 Rev P1 09/05/22	Refuse
15536-T-04 Rev P1 09/05/22	Pantechnicon
15536-T-05 Rev P1 09/05/22	Fire Tender
15536-T-06 Rev P1 09/05/22	Estate Care
4000 S0 C01	Pumping Station Compound Layout
15536-T-08 Rev P2 31/05/22	Articulated Lorry
15536-T-09 Rev P1 09/05/22	Crest Nicholson Access Tracking
15536-T-10 Rev P1 09/05/22	Private Access Tracking

Reason: To accord with the terms of the application and in the interests of proper planning.

7) The reserved matters details submitted pursuant to condition (3) shall accord with the Land Use Parameter Plan, which for the avoidance of doubt are as listed below:

A-2710-PL-B Land Use Parameter Plan

Reason: To accord with the terms of the application and in the interests of proper planning.

Housing and wastewater infrastructure plan: detailed and outline elements

8) The development shall be carried out in accordance with the Wastewater Infrastructure Phasing Plan approved under application reference 24/502585/SUB, unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that phasing is aligned to improvements to off-site wastewater infrastructure.

Sustainable Construction Techniques

9) No development shall take place above slab level in relation to phases: Employment 1, Employment 2, Care Home, and Day Nursery as shown on Phasing Plan, Dwg. No 031 002_P1 approved under application reference 24/502585/SUB (or

other subsequent phasing to be agreed pursuant to condition 2) until details have been submitted to and approved in writing by the Local Planning Authority, which set out what measures will be taken to ensure that the development in that phase incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the potential inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development of the phase of development in question as approved and retained as such in perpetuity.

For the Residential Full and Residential Outline phases as shown on Phasing Plan, Dwg. No 031 002_P1 (or other subsequent phasing to be agreed pursuant to condition 2), the details approved under application reference 24/502585/SUB shall be incorporated into the development and retained as such in perpetuity.

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

Water consumption

10) The development shall be carried out in accordance with the details (Water Consumption) approved under application reference 24/502585/SUB.

Reason: In the interests of water conservation and sustainability

BREEAM or equivalent

11) The non-residential buildings shall be constructed to a minimum of BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

Site Levels

12) No development shall take place in a particular phase until details of the existing site levels, proposed site levels (including any levels changes to areas to be used as open space, landscaped buffer areas and highways), and proposed finished floor levels for buildings (if there are buildings in that phase) in that phase have been submitted to and approved in writing by the Local Planning Authority and the development of that phase shall be completed strictly in accordance with the approved levels. The development of the Residential (Full) phase shall be carried out in accordance with the site levels details approved under application reference: 24/502001/SUB.

Reason: To secure a satisfactory form of development having regard to the topography of the site.

High Speed Fibre

13) The development shall be carried out in accordance with the details (Fixed Telecommunication Infrastructure) approved under application reference 24/502585/SUB.

Reason: In the interests of residential amenity.

Minimisation of risk of crime

14) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place above slab level in phases Residential Outline, Landscape 1, Landscape 2, Employment 1, Employment 2, Care Home, and Day Nursery as shown on Phasing Plan, Dwg. No 031 002_P1 approved under 23/503742/SUB (or other subsequent phasing to be agreed pursuant to condition 2) until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) to follow the guidance set out in the SBD Homes 2019 and SBD Commercial 2015 (as amended), for that relevant phase have been submitted to and approved in writing by the Local Planning Authority. The approved measures for the relevant dwelling or building shall be implemented before the relevant dwelling or building is occupied and thereafter retained.

For the Residential Full phase as shown on Phasing Plan, Dwg. No 031 002_P1, the details approved under application reference 24/502585/SUB shall be incorporated into the development as approved and implemented before the relevant dwelling or building is occupied and thereafter retained.

Reasons: In the interest of Security, Crime Prevention and Community Safety

15) No development beyond the construction of foundations shall take place in a particular phase until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority for that phase. The development of the Residential (Full) phase shall be carried out in accordance with the materials details approved under application reference: 23/505661/SUB.

Reason: To ensure a satisfactory appearance to the development.

Removal of permitted development rights

16) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls, or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway, unless specifically shown on the approved plans.

Reason: In the interests of visual amenity.

Older and accessible/adaptable housing

17) The reserved matters details submitted pursuant to condition (3) shall include measures to demonstrate how the proposals will meet the needs of specific housing groups, including older and disabled persons.

Reason: To ensure that the development of this large strategic sites makes provision for different housing needs.

Construction

18) No development within the following phases: Residential Outline, Landscape 1, Landscape 2, Employment 1, Employment 2, Care Home, and Day Nursery as shown

on Phasing Plan, Dwg. No 031 002_P1 approved under 24/502585/SUB (or other subsequent phasing to be agreed pursuant to condition 2) shall take place, including any works of demolition, until a Construction Management Plan (CMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall be implemented and adhered to throughout the entire construction period of that phase. The CMP shall provide details of:

- (a) Routing of construction and delivery vehicles
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage
- (f) Any requirements for temporary construction access

For the Residential Full phase as shown on Phasing Plan, Dwg. No 031 002_P1, the construction phase shall be implemented in accordance with details approved under application reference 24/502585/SUB.

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

19) No construction work (for the avoidance of doubt to include piling) in connection with the development shall take place on any Sunday or Public Holiday, nor on any other day except between the following times:

Monday to Friday 0700 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Highways

20) No occupation of any phase shall take place until the highways works to provide pedestrian crossings on Love Lane, as indicatively shown on drawing 15536 H-02 Rev P3, have been completed in accordance with a Section 278 agreement with the Highway Authority, unless otherwise agreed in writing by the Highway Authority.

Reason: In the interests of Highways safety

21) No greater than 50 occupations of dwellings shall take place until the highway works providing the northern access and Love Lane highway improvement scheme as indicatively shown on drawings 15536 H-01 Rev P3 and 15536 H 03 Rev P3 have been completed in accordance with a Section 278 agreement with the Highway Authority, unless otherwise agreed in writing by the Highway Authority.

Reason: In the interests of highways safety and to ensure early delivery of part of the spine road.

22) Any application submitted for the approval of Reserved Matters shall include details of areas for the parking and manoeuvring of vehicles in the development in accordance with the Council's adopted parking standards. The parking areas shall be provided in accordance with such details as approved prior to the occupation of each dwelling or building to which they relate and retained thereafter.

Reason: To ensure a satisfactory parking arrangement and in the interests of highways safety.

23) Prior to the occupation of any dwelling or other building, secure, covered cycle parking facilities shall be provided for the dwelling or building in accordance with the Council's adopted parking standards and submitted plan 3021 A 1701 PL Rev F, and the facilities retained thereafter.

Reason: To ensure a satisfactory cycle parking arrangement and in the interests of highways safety.

24) Prior to the occupation of any dwelling or other building, the following works between the dwelling or building and the adopted highway shall be provided:

(a) Footways and/or footpaths, except for the wearing course.

(b) Carriageways, except for the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highways safety.

25) The improvements to the width, surfacing and public rights for Public Footpath ZF28 shall be carried out in accordance with the details approved under application reference: 24/503898/SUB (or other such subsequent details to be agreed pursuant to this condition) and shall be implemented and open and available to the public prior to the occupation of the 50th dwelling.

Reason: In the interests of enhancing the usage of the public footpath network.

26) No greater than 50 occupations of dwellings shall take place until Highways works to include the provision of a puffin crossing at the East St/The Crescent Road junction have been completed in accordance with a Section 278 agreement with the Highway Authority, unless otherwise agreed in writing by the Highway Authority.

Reason: In the interests of pedestrian and highways safety.

27) Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the occupation of each dwelling or building to which they relate and retained thereafter.

Reason: For the avoidance of doubt, and to ensure proper parking provision.

28) Prior to occupation of any dwelling, a temporary vehicle turning head shall be provided for the spine road in accordance with details approved under application reference: 24/502585/SUB (or other such subsequent details to be agreed pursuant to this condition) and shall be kept available for use until such time as a permanent turning facilities are provided by development approved in subsequent Reserved Matters applications.

Reason: In the interests of highways safety

29) Prior to the occupation of plots 73 to 78, the emergency vehicle route serving these dwellings shown on drawing 3021-A-1704-PL Revision E shall be surfaced and access controlled in accordance with the details approved under application reference: 24/503909/SUB (or other such subsequent details to be agreed pursuant to this condition).

Reason: In the interests of highways safety

30) For the purposes of the Residential Full phase as shown on Phasing Plan, Dwg. No 031 002_P1, the area shown on the approved plans as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

Landscaping

31) No development shall take place above slab level for any phase until a detailed scheme and timetable of soft landscaping for that phase has been submitted to and approved in writing by the Local Planning Authority, and such planting shall be completed on the site in accordance with the approved details and timetable. The soft landscaping scheme shall include proposed trees, shrubs, and other features, planting schedules of plants (which shall include indigenous species and of a type that will encourage wildlife and biodiversity), noting species, plant sizes and numbers where appropriate, measures to prevent tree vandalism, and measures to protect the advance planting from construction on the remainder of the site for the duration of such works. The works shall be carried out in accordance with the broad parameters as set out in Figure 5 Mitigation and Enhancement Plan dated November 2021 contained within the Ecological Appraisal by Bakerwell. The relevant phases shall be carried out in accordance with the details approved under application reference: 24/503921/SUB (or other such subsequent details to be agreed pursuant to this condition).

Reason: To accord with the terms of the application and the requirements of Policy MU 6 of the Swale Borough Local Plan - Bearing Fruits 2031. To ensure the early delivery of part of the strategic landscaping to the site, in the interests of visual amenity and wider landscape objectives.

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

Reason: To ensure the retention and maintenance of strategic landscaping, in the interests of visual amenity.

33) For the Residential Full phase as shown on Phasing Plan, Dwg. No 031 002_P1 the areas shown on the approved drawings as open space and play areas shall be reserved for the general amenity of the area. Play spaces shall be surfaced and equipped with play equipment, in accordance with a schedule and timetable for delivery to be submitted to and agreed in writing by the Local Planning Authority before the first dwelling is occupied. The open space and play area within the Residential Full phase as shown on Phasing Plan, Dwg. No 031 002_P1 (or other such subsequent details to be agreed pursuant to this condition) shall be provided prior to the occupation of no more than 40 dwellings. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that these areas are made available in the interests of the residential amenities of the area.

Drainage

34) No development shall take place above slab level within a phase until a detailed sustainable surface water drainage scheme for that phase has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Drainage Strategy dated 12th November 2021 and shall demonstrate that the surface water generated by the relevant phase of the development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

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

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

The Residential Full phase as shown on Phasing Plan, Dwg. No 031 002_P1 (or other subsequent phasing to be agreed pursuant to condition 2), shall be carried out in accordance with the details approved under application reference: 24/502004/SUB (or other such subsequent details to be agreed pursuant to this condition).

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

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

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

36) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details. The Residential Full phase as shown on Phasing Plan, Dwg. No 031 002_P1 (or other subsequent phasing to be agreed pursuant to condition 2), shall be carried out in accordance with the details approved under application reference: 24/502004/SUB (or other such subsequent details to be agreed pursuant to this condition).

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

37) With the exception of that element of the development hereby granted full planning permission no development shall take place in a particular phase until the details required by Condition 3 demonstrates that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm can be accommodated within the proposed development layout for that phase.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

Contamination

38) No development of the following phases: Residential Outline, Landscape 1, Landscape 2, Employment 1, Employment 2, Care Home and Day Nursery as shown on Phasing Plan, Dwg. No 031 002_P1 approved under application reference 24/502585/SUB (or other subsequent phasing to be agreed pursuant to condition 2), shall commence prior to a contaminated land assessment (and associated remediation strategy if relevant) being submitted to and approved in writing by the Local Planning Authority, comprising:

- a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the District Planning Authority prior to any intrusive investigations commencing on site.
- b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.
- d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

For the Residential Full phase (as shown on the Phasing Plan, Dwg. No 031 002_P1) the details approved under application reference 24/502585/SUB shall be incorporated into the development as approved.

Reason: to ensure land contamination is adequately dealt with, and to ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution

39) Before any part of an agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full for that phase on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed, and an appropriate remediation scheme agreed with the Local Planning Authority.

Reason: to ensure land contamination is adequately dealt with, and to ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution

40) Prior to any part of the permitted development in a particular phase being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation for that phase shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with

the approved verification plan to demonstrate that the site remediation criteria have been met.

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

41) If, during development, contamination not previously identified is found to be present at the site then no further development within that phase (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 on that phase has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

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

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

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

43) No development shall take place in the following phases: Residential Outline, Landscape 1, Landscape 2, Employment 1, Employment 2, Care Home and Day Nursery as shown on Phasing Plan, Dwg. No 031 002_P1 P1 approved under application reference 24/502585/SUB (or other subsequent phasing to be agreed pursuant to condition 2) until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The construction of the development shall then be carried out in accordance with the approved methodology.

For the Residential Full phase, as shown on Phasing Plan, Dwg. No 031 002_P1, the details approved under application reference 24/502585/SUB shall be incorporated into the development as approved and implemented throughout the entire construction period of the phase.

Reason: To safeguard residential amenity.

44) In relation to the commercial element of this proposal, details of any mechanical ventilation system that will be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a

manner which prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: To safeguard residential amenity.

Ecology

45) No development shall take place within a phase until a detailed ecological mitigation and enhancement strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. It must be based on the information within the Ecological Assessment; (Bakerwell; Nov 2021) The mitigation and enhancement strategy must include the following information:

- Aim and objectives of the strategy
- Maps demonstrating the areas where mitigation is required.
- Maps showing the areas of habitat creation and ecological enhancements
- Detailed methodology to implement mitigation
- Timings of works.
- Interim management plan for the areas of habitat creation.
- Details of who will be carrying out the works.

The strategy must be implemented in accordance with the approved details. The development shall be carried out in accordance with the details approved under application reference: 24/500622/SUB (or other such subsequent details to be agreed pursuant to this condition).

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

46) No works shall take place in relation to the open space within a phase of the development until a habitat creation, management and monitoring plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The management plan must provide the following information:

- Map showing areas of habitats to be created and managed
- Aims and objectives of the plan
- Overview of habitat creation and management to be carried out
- Detailed methodology to create the habitats
- Management prescriptions and timetable for the works
- Details of on-going monitoring
- Details of management plan reviews.
- Details of who will be carrying out the management and funding mechanisms.

The plan must be implemented in accordance with the approved details. The development shall be carried out in accordance with the details approved under application reference: 24/500622/SUB (or other such subsequent details to be agreed pursuant to this condition).

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

47) No external lighting shall be installed within a phase of the development until a lighting design strategy and plan (to include the dark sky area shown on Figure 5 Mitigation and Enhancement Plan (Ecological Appraisal; Bakerwell; November 2021) and follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals) to mitigate the impact on biodiversity has been submitted to and approved in writing by the Local Planning Authority detailing how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb bats. All external lighting shall be installed in accordance with the approved details. The Residential Full phase shall be carried out in accordance with the details approved under application reference: 24/503927/SUB (or other such subsequent details to be agreed pursuant to this condition).

Reason: In the interests of protected species.

48) Within six months of the final occupation of the development, the 6no temporary car parking spaces as shown on 2701_PL_B_Parking_Plan shall be removed and the area reinstated with landscaping in accordance with the details to be approved pursuant to condition 31.

Reason: In the interests of visual amenity and to maximise urban greening.

Archaeology

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

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

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

D) Within 9 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the Local Planning Authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
- b. a technical note outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
- c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

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

The details pursuant to Parts A and B of this condition have been approved under application references 24/502678/SUB and 24/505130/SUB.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with policies in the Local Plan and the National Planning Policy Framework.



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2.3 REFERENCE NO – 25/500115/FULL		
PROPOSAL Construction of a synthetic turf pitch including spectator area, goal storage, storage container for maintenance equipment, and associated fencing, installation of LED floodlighting, and extension of the existing car park to create 89no. new spaces.		
SITE LOCATION The Abbey School, London Road, Faversham, Kent ME13 8RZ		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and securing or payment of the BNG monitoring fee.		
APPLICATION TYPE Full Planning Application		
REASON FOR REFERRAL TO COMMITTEE Cllr Ben Martin has requested that the application be determined by the Planning Committee due to the high level of public interest and number of comments both supporting and objecting to the proposal.		
CASE OFFICER – Ben Oates		
WARD Watling	PARISH / TOWN COUNCIL Faversham Town Council	APPLICANT Mr Kyle Taylor AGENT Labosport Ltd
DATE REGISTERED 10/02/2025		TARGET DATE 31/07/2025
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=SPTW8KTYFFQ00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site forms part of The Abbey School, which is located on the southern side of London Road within the settlement boundaries of Faversham. The site includes playing fields and open space areas adjoining the existing synthetic sports pitch and one of the sports centre buildings. The site boundary also includes the existing vehicular access off London Road and parking areas associated with the school.
- 1.2 The site is bound by Brogdale Road to the west and areas and areas of open space, playing fields and facilities associated with The Abbey School to the south and east. A single 2-storey dwelling is located nearby the site to the south. Adjoining the site to the

west on the opposite side of Brogdale Road and to the north on the opposite side of London Road are 2-storey dwellings.

- 1.3 The vehicular access is also a designated Public Right of Way (PROW) whilst the trees lining the field and adjoining Brogdale Road to the west are subject to Tree Protection Orders (TPOs). The site is not within a conservation area and does not contain any listed buildings, however part of the Faversham Town Conservation Area is located nearby on the opposite side of Brogdale Road, which includes the grade II listed Chapel House. The grade II listed Malthouse and Oasthouse at Perry Court Farm is also located nearby to the south of the site.

2. PLANNING HISTORY

- 2.1 The Abbey School has an extensive planning history of applications primarily associated with the school buildings and facilities, which are outside of the subject site boundary. The applications considered relevant to this application are provided below:
- 2.2 SW/10/0545 – Construction of a 3G synthetic training pitch with fencing and floodlights, dimensions 106 x 70m and goal storage recesses. Extension to the car park to the front of the sports centre.
Approved (KCC) – 13/12/2010
- 2.3 SW/04/0215 – Provision of a four-court sports hall, complete with changing facilities stores etc. Rationalisation and extension of existing parking facility to accommodate 33 car spaces.
Approved (KCC) – 05/04/2004

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the construction of a Synthetic Turf Pitch (STP) including a storage container for maintenance equipment, associated fencing, installation of LED floodlighting. The proposal also includes an extension to the existing car park and landscaping to supplement the existing vegetated area to the northern part of the site.
- 3.2 The proposed STP would cover a total area of 106m x 70m (7,420sqm), which includes a full-size football pitch with additional FA recommended 3m safety run off to achieve FA Guidelines for 11-per-side play, with additional cross play line markings for smaller games. The STP is surrounded by 4.5m high dark green fencing, which extends out to the eastern side to accommodate a spectator area and is separated from the pitch by a 1.2m fence. The main fence also extends out slightly at the northern and southern ends to accommodate goal storage areas.
- 3.3 A storage container is also proposed within the spectator area to accommodate maintenance equipment, which is 2.5m wide, 2.6m tall and 6.2m long. Six new 15m tall columns are proposed surrounding the STP to accommodate an LED floodlighting system. A 3m tall acoustic fence is also proposed along the southern side of the STP.
- 3.4 The proposed extension of the existing car park to the south of the existing sports centre would create 89no. new parking spaces and includes associated landscaping

and four 8m tall lighting columns. It is also proposed to install four lighting columns to light the existing car park.

- 3.5 The proposal was revised during the course of the application to provide additional planting to the car park extension and along the northern boundary of the site, addressing comments from KCC Ecology and the SBC Urban Design officer. Additional cycle parking spaces were also provided to address comments from the SBC Climate Change officer. Clarification was also provided to address comments made by KCC Highways.

4. REPRESENTATIONS

4.1 Public Consultation

- 4.1.1 One round of public consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.1.2 During the consultation 70 letters of representation were received, including 18 objections, 52 letters in support of the proposal.
- 4.1.3 The letters of objection raised the following:

Comments	Report Reference
Existing pitch already causes excessive noise (whistles, shouting, ball strikes) and impacts adjoining residential properties.	Noise impacts are discussed in section 7.6 of this report.
Noise report deemed inaccurate and not representative of actual usage.	Noise impacts are discussed in section 7.6 of this report.
Concerns about late-night use (until 10pm) impacting sleep and enjoyment of gardens.	Noise impacts are discussed in section 7.6 of this report.
Floodlights cause glare into homes and disrupt wildlife (e.g., bats).	Light impacts are discussed in section 7.6 of this report.
Extended hours of use intensify light disturbance.	Light impacts are discussed in section 7.6 of this report.
Loss of green space and natural habitat (birds, foxes, badgers, etc.).	Ecology impacts are discussed in section 7.7 of this report.
Concerns about microplastics and chemical leaching from synthetic turf.	Contamination is discussed in section 7.9 of this report.
Increased surface water runoff and drainage issues.	Drainage is discussed in section 7.10 of this report.
Increased congestion at A2 junction and surrounding roads.	Highways impacts are discussed in section 7.8 of this report.

Overflow parking in residential streets causing safety hazards.	Highways impacts are discussed in section 7.8 of this report.
Lack of safe pedestrian crossings for mobility-impaired users.	Highways impacts are discussed in section 7.8 of this report.
Other pitches already approved or planned (Salters Lane, Duchy development).	The principle of development is discussed in section 7.1 of this report.
Suggestion that the Abbey School is not the right location for another pitch.	The principle of development is discussed in section 7.1 of this report.

4.1.4 CPRE Kent (The Countryside Charity) also object to the application on the following grounds:

Comments	Report Reference
Artificial lighting disrupts nocturnal animals, birds, and insects.	Ecology impacts are discussed in section 7.7 of this report.
The area is sensitive to increased light pollution; 15m floodlights would worsen sky glow and result in further loss of dark skies.	Light impacts are discussed in section 7.6 and 7.7 of this report.
Nearby residents already experience disruption from existing floodlighting.	Light impacts are discussed in section 7.6 of this report.
The development would increase traffic near the A2 and surrounding roads, worsening existing congestion.	Highways impacts are discussed in section 7.8 of this report.
Risks to motorists and pedestrians would rise.	Highways impacts are discussed in section 7.8 of this report.
Lack of clarity on transport mitigation measures and promotion of sustainable modes of transport.	Highways impacts are discussed in section 7.8 of this report.
The development would erode the visual and functional link between Faversham and its rural surroundings.	Visual impacts are discussed in section 7.3 of this report.
Floodlights, fencing, and hardstanding would alter the character of open playing fields.	Visual impacts are discussed in section 7.3 of this report.
Existing facilities already cause noise disruption to nearby residents; the new pitch would intensify this impact.	Noise impacts are discussed in section 7.6 of this report.
The submitted noise report does not reflect actual impacts.	Noise impacts are discussed in section 7.6 of this report.

4.1.5 The letters received in support of the application are summarised below:

Comments in support
Over 250 children on sport waiting lists; new pitch would alleviate pressure.
Supports inclusive football: SEND teams, Kent Disability League, women & girls' football.
Promotes physical activity, teamwork, discipline, and mental health.
Provides year-round access due to all-weather surface.
Enhances opportunities for youth development and social inclusion.
Current facilities are at full capacity; expansion is essential for continued growth.
Rugby club also supports the development due to limited training space.
Aligns with Local Football Facility Plan and Draft Playing Pitch Strategy.
LED floodlighting designed to reduce light pollution.
Biodiversity Net Gain and EV charging points included.
Other suggested sites (Perry Court, Love Lane, QE School) are unsuitable or years away.
Reduces antisocial behaviour by engaging youth in positive activities.
Builds community cohesion and pride.
Offers safe space for vulnerable groups, including neurodivergent children.

4.2 Faversham Town Council Response

4.2.1 The Faversham Town Council support the application on the following grounds:

Comments	Response / Report Reference
1) There is a clear need for the facility for both the school and community use in Faversham providing inclusive sport provision	Duly noted.
2) NPPF December 2024 (187(d)) refers to the protection and preservation of bats. The council believes there are bats on the edge of the pitch on the Brogdale Road. Has this been assessed?	Ecology impacts are discussed in section 7.7 of this report.
3) The Town Council would like to see modelling of the flood light impact on local residents, traffic on the M2 and the bat colony	Ecology, neighbouring amenity and highways impacts are discussed in sections 7.7, 7.6 and 7.8 (respectively) of this report.
4) The Town Council notes that the Acoustic Barrier is only on one side. Will all neighbours be protected?	Noise impacts are discussed in section 7.6 of this report.
5) The Town Council noted the request from Kent Police that the Designing Out	Designing out crime matters are discussed in section 7.13 of this report.

Crime Officers should be consulted and supported this request.	
6) Active Travel to the school should be encouraged whenever possible. The Town Council would like to see more cycle racks provided and improved access over the A2.	Cycle parking is discussed in section 7.8 of this report.

5. **CONSULTATIONS**

- 5.1 **Environment Agency** – No objections subject to conditions regarding contamination.
- 5.2 **Sport England** – No objection subject to conditions securing a Community Use Agreement and Management and Maintenance Scheme. The proposals are considered to accord with exceptions 3, 4 and 5 of the Sport England Playing Fields Policy and paragraph 104 of the NPPF.
- 5.3 **Active Travel England** – No comment.
- 5.4 **KCC Flood and Water Management** – No objection in principle. Set out requirements for more detailed surface water drainage details and a verification report, which can be secured by conditions.
- 5.5 **UK Power Network** – No objections raised but note there are LV underground cables on the site running within close proximity to the proposed development. Advise the developer to contact UK Power for accurate records prior to commencement of work, which should be undertaken with due regard to Health & Safety Guidance notes HS(G)47 (Avoiding Danger from Underground services).
- 5.6 **KCC Highways** – Three rounds of consultation have been carried out. Initially requested further information regarding hours of operation to establish if it will be used during peak hours to determine effects of traffic and parking. Following the provision of minor revisions and further information, KCC Highways confirmed that the amended site layout / car parking arrangements are acceptable and raise no further objections subject to conditions securing a construction management plan, parking provision, electric vehicle charging and cycle parking. Further minor amendments to the parking layout to address design comments were also confirmed to be acceptable subject to the same conditions.
- 5.7 **KCC Minerals and Waste** – No comments to make on this matter.
- 5.8 **KCC Ecological Advice Service** – Two rounds of consultation have been carried out. Initially raised concerns with the proposal's ability to achieve the proposed biodiversity net gain (BNG). Further discussions were held directly between the applicant and KCC Ecology to arrive at an agreed solution. A revised site plan and BNG information was submitted by the applicant along with clarification of the site area.

KCC Ecology confirm that the revised information is sufficient for the assessment of the application, but that the on-site BNG would fall below the 10% requirement and as such off-site gains will need to be secured. The applicant is directed towards the Kent BNG Site Register to secure this through the statutory BNG condition. Another condition is also included to ensure the BNG Plan is prepared in accordance with the

BNG details submitted in this application. The on-site gains are also categorised as 'significant' and therefore a BNG monitoring fee will need to be secured prior to permission being granted. Conditions are also recommended to secure a habitat management and monitoring plan and details of ecological enhancement measures.

No concerns were raised in regard to impacts on protected species, including bats, subject to the recommended conditions to control external lighting. A condition is also recommended for a Construction Environmental Management Plan (CEMP).

- 5.9 **KCC Archaeology** – Disagrees with the submitted desk-based assessment, concluding that the site has a high potential for significant archaeological remains, including possible Roman road features, roadside activity, settlement, and burials. Previous investigations nearby have revealed rich archaeological landscapes, and the projected alignment of an Iron Age/Roman trackway may cross the site. The proposed development involves groundworks that could disturb these remains. However, the impacts can be managed through a condition requiring a staged programme of archaeological assessment, evaluation, and mitigation, with further measures if high-significance remains are encountered. On this basis, KCC Archaeology are satisfied that the potential impacts of the scheme on archaeology can be appropriately addressed through further assessment secured through the recommended conditions.
- 5.10 **KCC Public Rights of Way (PROW)** – No comments to make.
- 5.11 **SBC Urban Design** – Two rounds of consultation have been carried out. Initially raised no objections but advised that further landscaping treatment should be provided to the car parking area and suggested additional landscaping to the northern boundary of the site as screening and to improve air quality within the site.
- Revisions were provided and confirmed to be acceptable, noting that the additional and soft landscaping along the A2 frontage and to the car parking area are welcomed to help soften and screen the proposals and enhance biodiversity.
- 5.12 **SBC Greenspaces** – No objections.
- 5.13 **SBC Tree Officer** – No objections - the significant line of mature Beech trees that flank the western boundary of the playing field adjacent Brogdale Road are all subject to TPO No 1 of 2020. Looking at the position of the new sports pitch, it will be located some distance from these trees, so will have no direct impact. Further more detailed planting (such as species, sizes and numbers) are to be secured by condition.
- 5.14 **SBC Climate Change** – Two rounds of consultation have been carried out. Initially requested that secure cycle parking be provided to encourage sustainable modes of transport. Revisions were provided and confirmed to address the concern raised. The provision of electric vehicle charging points in the parking area is also welcomed.
- 5.15 **Mid-Kent Environmental Protection** – No objections subject to conditions to secure a construction management plan, contaminated land watching brief and noise management plan.
- 5.16 **Lower Medway Internal Drainage Board (LMIDB)** – No comment.
- 5.17 **Kent Police** – No objection raised, the applicant is encouraged to contact Kent Police for further advice to incorporate Secure By Design measures.

6. DEVELOPMENT PLAN POLICIES**Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the ‘Local Plan’):**

ST 1	Delivering sustainable development in Swale
ST 3	The Swale settlement strategy
ST 7	The Faversham area and Kent Downs strategy
CP 2	Promoting sustainable transport
CP 4	Requiring good design
CP 5	Health and wellbeing
CP 6	Community facilities and services to meet local needs
CP 7	Conserving and enhancing the natural environment - providing for green infrastructure
CP 8	Conserving and enhancing the historic environment
DM 6	Managing transport demand and impact
DM 7	Vehicle parking
DM 14	General development criteria
DM 17	Open space, sports and recreation provision
DM 18	Local green spaces
DM 19	Sustainable design and construction
DM 20	Renewable and low carbon energy
DM 21	Water, flooding and drainage
DM 28	Biodiversity and geological conservation
DM 29	Woodlands, trees and hedges
DM 32	Development involving listed buildings
DM 33	Development affecting a conservation area
DM 34	Scheduled Monuments and archaeological sites
IMP 1	Implementation and Delivery Plan

Neighbourhood Plans

Faversham Neighbourhood Plan

FAV4	Mobility and Sustainable Transport
FAV6	Public Rights of Way, National Trails, Promoted Routes and Cycleways
FAV7	Natural Environment and Landscape
FAV8	Flooding and Surface Water

FAV9	Air Quality
FAV10	Sustainable Design and Character
FAV11	Heritage
FAV12	Community Facilities

Supplementary Planning Guidance / Documents (SPG / SPD)

Parking Standards SPD (2020)

Faversham Conservation Area Character Appraisal & Management Plan Public Consultation Draft August 2023 (V3.1)

National Planning Policy Framework (NPPF)**National Planning Practice Guidance (NPPG)****Kent Minerals and Waste Local Plan 2024-39 (2025)****7. ASSESSMENT**

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

- Principle
- Character and appearance
- Heritage
- Archaeology
- Living conditions
- Ecology & Trees
- Transport and highways
- Public Rights of Way
- Contamination
- Flood risk and drainage
- Sustainability / Energy
- Secure by design
- Community infrastructure
- 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 NPPF paragraph 103 acknowledges that access to opportunities for sport and physical activity is important for the health and well-being of communities. This is reflected in policy CP5 of the Local Plan, which supports the provision of sport and recreation facilities in accordance with policy DM17.
- 7.2.4 Policy FAV12 of the Faversham Neighbourhood Plan supports improved community facilities where there are existing clusters of community facilities and are in easy walking distance of existing housing.
- 7.2.5 The site forms part of the Abbey School playing fields and adjoins existing sports facilities, including a Synthetic Turf Pitch (STP), that are operated and managed by the school. The wider school site benefits from other playing fields to the south and east and is generally within close proximity to existing residential areas and the town centre and therefore complies with policy FAV12.
- 7.2.6 The proposed additional STP would provide enhanced opportunities for year-round sports and recreation at the site and would complement their current sports offering with a high-quality, multifunctional sports pitch. Whilst the proposal would occupy existing playing fields, it would enhance the overall sports offering at the site whilst retaining a generous amount of playing fields within the wider school site.
- 7.2.7 Sport England have reviewed the application and raise no objection subject to conditions for a community use agreement to secure well managed safe community access to the sports facility and a Management and Maintenance Scheme to ensure the facility remains fit for purpose. These conditions are included below.
- 7.2.8 In order to support the wider community usage of the additional STP, an extension to the existing car park is proposed. The proposed car park would occupy a small area of managed grassland adjoining the existing car park. This area is contained by the existing sports hall and STP and only offers limited recreation opportunity compared to the surrounding playing fields and facilities. As such, the loss of this space would be more than compensated for by the proposed facilities and would not have any adverse impact on the overall sport and recreation provision within the wider Abbey School site.
- 7.2.9 The principle of the proposed development is therefore acceptable subject to the recommended conditions in accordance with Local Plan policies CP5 and DM17, FAV12 of the Faversham Neighbourhood Plan and the NPPF.

7.3 Character and appearance

- 7.3.1 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. The Faversham Neighbourhood Plan sets out that development must complement the existing townscape character of the surrounding area in terms of scale, massing and height.
- 7.3.2 NPPF paragraph 105 seeks to protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails. This is reinforced through the Local Plan under Policies CP4 and CP7.

- 7.3.3 The site forms part of the playing fields within the grounds of The Abbey School and adjoins their existing sports facilities, including an existing STP. This part of the school grounds is well established for its sports and recreation offering at the school. It is also well contained and screened from both London Road to the north and Brogdale Road to the west by the existing mature trees that line these boundaries. Vegetation, school buildings and other playing fields generally intervene the site's visibility from the south and west. However, it is acknowledged that views are gained intermittently between trees along the boundaries and from a public right of way (PROW) which runs through the school site from London Road in the north to Tettenhall Road to the south.
- 7.3.4 The school site generally adjoins established residential development on all sides and the site is within the built-up-area boundaries. As such, the visual effects of the proposal are largely contained within the site or to the immediate adjoining roads / properties.
- 7.3.5 The proposed STP would be similar in appearance to the existing facility on the site, with the surrounding fencing and lighting the elements that would be most visible from wider vantage points. Whilst the STP is utilitarian in appearance, it would not be out of place with its context given the adjoining established sports facilities and sports pitch. Furthermore, the combined visual effect of the two sports pitches together would be minimal. The proposed STP is also well contained in the site and the associated lighting would largely be screened by the existing mature trees around the site boundaries. Additional planting was included along the northern boundary of the site to further screen the proposal and soften its appearance from the public realm. The storage container proposed is modest in scale and would be seen in the context of the STP development as a whole.
- 7.3.6 The proposed car park also has a utilitarian design but has been further softened with additional landscaping at the request of officers. It is centrally located within the school site and contained by intervening structures and therefore would not be discernible from external areas. Whilst it would be visible from the PROW, it would be visually compatible with the existing car park and would not visually detract from the character of the area. Furthermore, the PROW officer has not raised any objection to the proposal.
- 7.3.7 The proposed landscaping and planting would supplement the existing boundary treatment and would further screen the proposed and existing sports facilities from the public realm. A condition is included to secure the details of the landscaping improvements to ensure these are appropriate to the context of the site and wider area.
- 7.3.8 Officers consider that the proposal is appropriate to the context of the site given its established use for sports and recreation within a well contained part of the school site, subject to securing the delivery of the proposed supplementary landscaping. The proposal would therefore have an acceptable effect on the character and appearance of the area, subject to the recommended conditions, in accordance with Policies ST7, CP4 and DM14 of the Local Plan, policies FAV6, FAV7 and FAV10 of the Faversham Neighbourhood Plan and the NPPF, in so far as they have regard to matters of layout, design and character.

7.4 Heritage

- 7.4.1 Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.4.2 A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.3 The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.4.4 Local Plan Policy CP8 states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Local Plan Policy DM32 sets out that development proposals affecting a listed building, including its setting, will be permitted provided that the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved. Policy DM33 of the Local Plan seeks development within, affecting the setting of, or views into and out of a conservation area, to preserve or enhance all features that contribute positively to the area's special character or appearance. The Faversham Neighbourhood Plan applies similar requirements, seeking to preserve the setting of conservation areas and preserve listed buildings and their setting.
- 7.4.5 The site is not within a conservation area and does not contain any listed buildings, however part of the Faversham Town Conservation Area is located nearby on the opposite side of Brogdale Road, which includes the Grade II listed Chapel House. The Grade II listed Malthouse and Oasthouse at Perry Court Farm is also located nearby to the south of the site.
- 7.4.6 The Faversham Town Conservation Area (FTCA) includes a concentration of listed buildings, historic townscape and other features spanning several centuries and including considerable survival of medieval Faversham. The FCA Character Appraisal (2023) states that the heritage significance of Faversham derives from its development from Saxon times to the present day, as a port settlement focussed on the Creek, with each phase of development evident in the town's plan and built form.
- 7.4.7 Only a small part of the FTCA adjoins the site where it encompasses the property on the opposite corner of London Road and Brogdale Road to the west of the site. This contains Chapel House, which is a Grade II listed building, although it is not mentioned within the 2023 FCA Character Appraisal. Its official listing states that it is an C18 house altered in the early C19 and notes its architectural detailing.

- 7.4.8 The Brogdale Road frontage of both the application site and Chapel House is densely vegetated and includes mature trees, which limits the intervisibility between these sites. Chapel House is best appreciated within the public realm from the London Road frontage where there is an opening in the trees leading to the house frontage. The tree screening along Brogdale Road prevents visibility of the property from this frontage.
- 7.4.9 The proposed STP with its associated lighting and fencing would be well screened in this direction. Furthermore, the site is already used as playing fields and adjoins an existing STP with associated lighting and fencing such that it would not result in a significant change of character as it would be perceived in this context. As such, the proposal would preserve the setting of the listed Chapel House. Given the existing context and the separation distance of the proposed STP from the Faversham Town Conservation Area, the proposals would also preserve the setting of that designated heritage asset.
- 7.4.10 The Grade II listed Malthouse and Oasthouse at Perry Court Farm is approximately 120m to the south of the site. The official listing states it is a fine building of its kind, dating from 1904 and notes its architectural detailing. The listed Malthouse and Oasthouse is best appreciated from within its own site boundary, particularly from the open space area to the south of the building, although this is private land and not readily accessible. The building can also be appreciated from the public realm in views from Winter Gem Lane to the south, particularly with its distinctive white cowls above the oast houses at each end.
- 7.4.11 This listed building is visible from the site. However, the proposed STP would be further away from the listed building than the existing STP, and there is more intervening vegetation and a dwelling between the proposals and heritage asset that would further reduce the intervisibility between the proposal and the listed building. Given the existing presence of an STP on the site and the separation from the Grade II listed Malthouse and Oasthouse, the proposals would not result in any harmful impact to the setting of that designation. Due to the positioning of the proposed car park and its scale and nature, it likewise would not be harmful to its setting.
- 7.4.12 The proposed development therefore preserves the setting of the identified listed buildings and the setting of the Faversham Town Conservation Area. As such, the proposed development complies with policies CP8, DM32 and DM33 of the Local Plan and policy FAV11 of the Faversham Neighbourhood Plan.

7.5 Archaeology

- 7.5.1 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.5.2 Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.

- 7.5.3 An Archaeological Desk-Based Assessment was submitted with the application, which states there is low potential for any archaeological remains to be present and these would likely be of low significance. Remains of prehistoric to Romano-British date could comprise stray finds and features while remains dating to the post-medieval period would be to agricultural practices. It is unlikely that there are any remains dating to the early medieval or medieval period. Any remains would have been impacted by any ploughing or levelling undertaken on the Site during the post-medieval, twentieth century and modern periods.
- 7.5.4 KCC Archaeology has reviewed the application and disagrees with the submitted desk-based assessment, concluding that the site has a high potential for significant archaeological remains, including possible Roman road features, roadside activity, settlement, and burials. Previous investigations nearby to the south have revealed rich archaeological landscapes, and the projected alignment of an Iron Age/Roman trackway may cross the site. The proposed development involves groundworks that could disturb these remains. However, KCC Archaeology confirms that impacts can be managed through a condition requiring a staged programme of archaeological assessment, evaluation, and mitigation, with further measures if high-significance remains are encountered. On this basis, the proposal is considered acceptable subject to the recommended condition in accordance with Policy DM34 of the Local Plan and the NPPF.

7.6 Living Conditions

- 7.6.1 The NPPF and Policy DM14 of the Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. The FNP policy FAV10 sets out that development should avoid any adverse impact on residential properties through intrusive, excessive or poorly designed lighting.
- 7.6.2 Given the nature of the proposal and separation to adjoining properties, it would not result in any unacceptable loss of light, outlook, or privacy impacts and would not lead to an increased sense of enclosure.
- 7.6.3 Concerns were raised in objections in regard to light pollution and noise emissions, which have been assessed by the Council's Environmental Health team.
- 7.6.4 The proposed hours of use are 08:00-22:00 Monday to Friday, and 08:00-18:00 Saturday and Sunday, which generally aligns with the current hours of use of the existing STP except for commencing 1hr earlier on weekends and bank holidays and extending weekdays by finishing 30min later. The effects of this on neighbouring properties from noise and lighting are discussed below. A 3m tall acoustic fence is proposed to the south of the proposed STP to mitigate noise impacts to the dwelling in proximity to the south (Greenways).
- 7.6.5 The Noise Impact Assessment (NIA) by Acoustic Consultants Ltd shows the noise levels generated by the development at nearby sensitive uses will be below the WHO limits for community noise. The events used for the assessment will be similar to those already taking place, and SBC has no record of noise disturbance from the sports activities held at the school. The Council's Environmental Health advisor confirms that the noise effects on neighbouring properties would be acceptable.

- 7.6.6 The NIA also mentions that a Noise Management Plan (NMP) should be drawn up to show the expected controls for noise, with details of mitigation measures. The Council's advisor agrees with the NIA conclusions and recommends a condition for further details of the NMP to be submitted for approval.
- 7.6.7 The LED Floodlighting system and the height of the floodlight masts have been designed to maximise efficiency whilst also minimising light spillage. The Lighting Report for the Floodlighting shows that the light spill will not reach the neighbouring properties and should pose minimal risk for light pollution. The Council's advisor confirmed that the proposed system is acceptable provided it is installed as presented in the proposal. A condition is included to secure details of lighting for ecological reasons as set out below, which will also cover neighbouring amenity.
- 7.6.8 Subject to the inclusion of the recommended conditions, the proposal would not give rise to any unacceptable amenity impacts to nearby residents from noise, vibration, lighting, outlook, privacy or loss of light in accordance with Policy DM14 of the Local Plan, policy FAV10 of the FNP and the NPPF.

7.7 Ecology and trees

- 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.
- 7.7.2 National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. 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. The Faversham Neighbourhood Plan seeks to ensure that development has no adverse impact on ecology.

Protected Species and Habitats

- 7.7.3 The sports field is surrounded by boundaries made of hedgerows, scattered trees and semi-improved grassland, which could provide suitable opportunities for protected species. These habitats have been assessed in the preliminary ecological appraisal (PEA) as not being affected by the construction area, which is within the amenity grassland, sports field.
- 7.7.4 Whilst there are protected mature Beech trees lining the western boundary of the site, the proposed development is well separated from these and as such would not have any direct impact on them. Ground level tree assessments have been carried out for bats and as the trees are to be unaffected no further action is required.
- 7.7.5 Great crested newts (GCN) have been considered within the PEA as there are at least three waterbodies within 250 m of the survey area, the closest of these is situated 30m east of the site. There are no GCN ponds on the application site, but foraging and shelter opportunities exist within the boundary vegetation for GCN. The PEA has

stated that further surveys are required to provide a habitat suitability assessment of these ponds for GCN and therefore understand the potential impacts and proposed precautionary mitigation is provided within a construction environmental management plan (CEMP).

- 7.7.6 KCC Ecology have reviewed the information regarding the amenity grassland for the construction areas and consider that as it is within heavily modified grassland, with a high disturbance, it would provide sub optimal habitat for GCN. KCC Ecology confirm that a precautionary approach within a CEMP would be sufficient in this case for GCN and therefore do not require further surveys for GCN. A CEMP condition is recommended accordingly.

Lighting

- 7.7.7 Nocturnal animals (including bats) are likely to be using the site and surrounding area for foraging and commuting and any lighting associated with the proposal may have a negative impact, especially any light spill to hedgerow boundaries and trees on the site.
- 7.7.8 Lighting assessments have been provided which details the lux levels around the proposed sports pitch and car park extension. KCC Ecology confirm that the proposed lighting will not impact the boundary vegetation, which provides potential habitat for bats. KCC Ecology note that the car park lighting plan shows downward facing light fittings are proposed, which is supported. However, further information is required as to whether the light fittings for the sports pitch are downfacing or have cowls on to reduce upward light spill and the cumulative effects of both areas of lighting together. KCC Ecology are satisfied that lighting impacts for the whole site, including any footpath lighting, can be managed through a condition to secure the required details.
- 7.7.9 KCC Ecology also recommend that a condition be included to secure a curfew where lighting is only used when pitches are in use and an overnight curfew period is provided.

Biodiversity Net Gain

- 7.7.10 Development is required to deliver at least a 10% biodiversity net gain (BNG) under the Environment Act 2021 and the Town and Country Planning Act 1990 (as amended). Policy FAV7 of the Faversham Neighbourhood Plan requires major development proposals to achieve 20% BNG for greenfield sites, which applies to this site. Significant gains will need to be secured for at least 30 years.
- 7.7.11 The Statutory Biodiversity Metric was revised during the application to address concerns raised by KCC Ecology, who confirm the latest version is acceptable. The baseline area habitats include developed land sealed surface, urban trees, modified grassland, bramble scrub and bare ground. The hedgerow habitats are native hedgerow and native hedgerow with trees. KCC Ecology consider the baseline is representative for the purposes of determination. Additional planting has been provided within the proposal to supplement existing vegetation and boost the on-site BNG. The table below indicates the BNG achieved by the proposal.

Baseline Habitat units	7.8	
Baseline Hedgerow units	1.68	
Proposed Habitat units	8.12	
Proposed Hedgerow units	1.86	
Net Change Habitat units	0.31	4.03%
Net Change Hedgerow units	0.17	10.31%

7.7.12 The proposal would fall below the 20% BNG requirement in the Faversham Neighbourhood Plan for both habitat and hedgerow units. Due to the use of the site for sports and playing fields there are limited opportunities for additional BNG and as such off-site gains will need to be secured. This unit deficit must be made up prior to commencement of any development, so a condition has been included below to ensure the Biodiversity Gain Plan is prepared in accordance with the established habitat baseline and to achieve an overall 20% net gain.

7.7.13 A Habitat Management and Monitoring Plan (HMMP) condition is recommended by KCC Ecology to secure the long-term management of onsite biodiversity gains and is included accordingly. These onsite gains are considered significant and will be subject to a monitoring fee, which are required for significant onsite gains as these will be subject to 30 years of monitoring reports which will need to be reviewed by the LPA, which comes at a cost. The monitoring fee is confirmed to be £7,868.71, which shall be paid prior to the decision being issued or secured by s106 legal agreement so that it is paid prior to the commencement of the development.

Ecological Enhancement

7.7.14 KCC Ecology advise that an enhancement plan should be secured by condition that includes the actions proposed and the ownership and responsibilities for future management. Suggested biodiversity enhancements include the provision of durable bird/bat boxes, native tree/shrub planting, sowing of an appropriate wildflower mix, the creation of artificial refugia for reptiles/amphibians, the creation of 'hedgehog highways' (13×13cm gaps in closed board fencing) and/or creation of bug hotels/bee bricks for invertebrates. The recommended condition is included below.

7.7.15 Subject to the conditions above being secured, the proposal would have an acceptable impact on ecology and biodiversity in accordance with Policies CP7 and DM28 of the Local Plan, policy FAV7 of the FNP and the NPPF.

7.8 Transport and Highways

7.8.1 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

- 7.8.2 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.”

- 7.8.3 The site has good access to public transport with bus stops nearby along London Road and Faversham Train Station a 10min walk away. The proposal includes an extension to the existing car park, providing 89 total car parking spaces, which is a net increase of 82 due to the removal of 7 existing spaces to facilitate access.
- 7.8.4 The application is supported by a Transport Assessment, which has been reviewed by KCC Highways. The applicant has also responded to comments in relation to the anticipated use of the pitches and confirmed that this is to only be used internally by the school during school hours and will not be leased out externally during school hours. The pitch will be open for public use in evenings, weekends and bank holidays. This confirms that there will be no conflict of movements and therefore would not have an adverse impact on the local highway network.
- 7.8.5 KCC Highways confirm that the amended site layout / car parking arrangements are acceptable and recommend conditions to secure further details of construction management, and secure parking, electric vehicle charging and cycle parking.
- 7.8.6 Subject to the recommended conditions, the proposal would not result in a harmful impact on highway safety, nor would the residual cumulative impacts on the local road network would be severe. The proposal is considered acceptable in terms of the impact on the local highway and in accordance with Policies DM6 and DM26 of the Local Plan, the FNP and the NPPF.

7.9 Contamination

- 7.9.1 Policy ST1 of the Local Plan states that development proposals shall conserve and enhance the natural environment by applying national planning policy in respect of pollution, despoiled, degraded, derelict, contaminated, unstable and previously developed land. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 7.9.2 A Contamination Site Investigation Report has been submitted with the application, which has been reviewed by Mid Kent Environmental Health (EH) who note that no significant pollutants were found. The site is not in a known area of land contamination, however EH recommend a watching brief condition in the eventuality that any evidence of localised contamination is found during works.
- 7.9.3 Concern was raised in an objection in regard to microplastics leaching from the synthetic turf pitch into the environment. In this regard it is noted that the Environment Agency and Mid-Kent Environmental Health were both consulted and have not indicated that the proposal would be unacceptable in terms of its environmental

effect. In the absence of an objection from the specialist consultees, it is considered that no objection should be raised on this ground.

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

7.10 Flood Risk, Drainage and Surface Water

- 7.10.1 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. Policy FAV8 of the FNP seeks to ensure, amongst other things, that development does not lead to significant adverse impacts from flooding.
- 7.10.2 The site is located within Flood Zone 1 and therefore has a low risk of fluvial and tidal flooding. The majority of the proposed pitch is recorded to be at very low risk of surface water flooding with discrete patches of low risk in the south and adjacent to the north west. The proposed car park is located has a very low risk of surface water flooding.
- 7.10.3 The Drainage Strategy proposes that the surface water for the site is to be managed through the use of infiltration through two geocellular soakaways, one for the car parking area and one serving the pitch. The Strategy highlights that further infiltration tests will be undertaken within the location of the proposed infiltration features with the location of the soakaway serving the car park to be confirmed subject to this further testing.
- 7.10.4 KCC Flood and Water Management have reviewed the submitted Flood Risk Assessment and Drainage Strategy and raise no objections. It is recommended that soakage tests be compliant with BRE 365, notably the requirement to fill the test pit several times. Detailed design should utilise a modified infiltrate rate and demonstrate that any soakaway will have an appropriate half drain time.
- 7.10.5 Whilst the more detailed and up-to date FEH 2022 dataset should have been utilised in the micro-drainage calculations for the site, KCC have not raised any objection subject to a condition securing a detailed Surface Water Drainage Scheme prior to commencement of the development.
- 7.10.6 The site is also located in Groundwater Source Protection Zone 2. The Environment Agency raised no objections to the proposal subject to conditions for further details to be submitted for approval to prevent contamination. The conditions are included accordingly.
- 7.10.7 Subject to the recommended conditions being attached to any forthcoming planning permission, the proposal is considered acceptable and in accordance with Policy DM21 of the Local Plan, policy FAV8 of the FNP and the NPPF.

7.11 Community Infrastructure

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

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

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

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

Requirement	Obligation	Reason
BNG monitoring	£7,868.71 – BNG monitoring fee	Due to significant onsite biodiversity gains, which will be subject to 30 years of monitoring reports and will need to be reviewed by the LPA, which comes at a cost.

7.11.4 Subject to the above planning obligations being secured in a legal agreement associated with any planning permission or paid prior to the decision being issued, the proposals would mitigate impacts and make the development acceptable in planning terms and comply with Local Plan Policy DM28 and the NPPF.

7.12 Sustainability / Energy

7.12.1 Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. The FNP seeks cycle storage and electric charging points for new development.

7.12.2 The proposed car park includes 9 active electric vehicle charging spaces with cabling and infrastructure linked to all spaces to allow for suitable future conversion to 100% EV charging spaces. This meets the Parking SPD requirement for 10% provision of EV charging spaces and 100% passive provision and will be secured by condition.

7.12.3 The proposal was revised during the application to increase the number of cycle parking spaces to now include 18 cycle parking spaces located near to the car park to promote sustainable modes of transport. The SBC Climate Change officer has confirmed this addresses their concerns, and KCC Highways have also confirmed this is acceptable. Cycle parking details will be secured by condition.

7.12.4 Subject to the recommended conditions the proposal would support reduced carbon emissions, in accordance with policies CP2 and DM19 of the Local Plan and the FNP.

7.13 Designing Out Crime

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

7.13.2 The proposed sports pitch and car park include lighting and will operate at similar times to the existing facility. Kent Police have raised no objections to the application and set

out recommendations of measures to further reduce the risk of crime. The applicant is encouraged to contact Kent Police for further advice to incorporate Secure By Design measures, which will be added as an informative to the decision notice.

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

7.14 Planning Balance

- 7.14.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 7.14.2 In this case the application accords with the Local Plan and Faversham Neighbourhood Plan and no other material considerations indicate that a different conclusion should be reached.

7.15 Conclusion

- 7.15.1 The proposed Synthetic Turf Pitch would provide enhanced opportunities for year-round sports and recreation at the site and would complement their current sports offering with a high-quality, multifunctional sports pitch. Whilst the proposal would occupy existing playing fields, it is considered to enhance the overall sports offering at the site whilst retaining a generous amount of playing fields within the wider school site.
- 7.15.2 Officers consider that the proposal is appropriate to the context of the site given its established use for sports and recreation within a well contained part of the school site, subject to securing the delivery of the proposed supplementary landscaping. The proposal would therefore have an acceptable effect on the character and appearance of the area and preserves the setting of the identified listed buildings and the setting of the Faversham Town Conservation Area.
- 7.15.3 Noise emissions and light pollution have been subject to detailed assessment and subject to the mitigation measures proposed and secured by conditions, the proposal would not result in unacceptable impacts on the nearby residential properties. Ecological impacts are also acceptable subject to securing the necessary mitigation measures. Furthermore, the highways assessment confirms that there will be no conflict of movements with existing school traffic and therefore the proposal would not have an unacceptable impact on the local highway network.
- 7.15.4 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 (Local Plan and Faversham Neighbourhood 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 Recommendation

- 7.16.1 Grant planning permission subject to the conditions set out below and securing or payment of the BNG monitoring fee.

CONDITIONS

1. Time Limit

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

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

2. Drawings

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

- | | |
|---------------------------------|------------------------------------|
| • 24-0316 (G-224120) 02 Rev 07 | Site Plan |
| • 24-0316 (G-224120) 03 Rev 04 | Pitch Layout |
| • 24-0316 (G-224120) 07 Rev 04 | Car Park Development Layout |
| • 24-0316 (G-224120) 05A Rev 01 | Elevations A |
| • 24-0316 (G-224120) 05B Rev 01 | Elevations C |
| • 24-0316 (G-224120) 10 Rev 01 | Proposed Site Levels Cross Section |
| • 24-0316 (G-224120) 11 Rev 04 | Cut and Fill Calculations |

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

3. Code Of Construction Practice

Prior to the commencement of the development a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003).

The code shall include:

- An indicative programme for carrying out the works.
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off-road parking for all site operatives

- Measures to prevent the transfer of mud and extraneous material onto the public highway.
- Measures to manage the production of waste and to maximise the re-use of materials.
- Measures to minimise the potential for pollution of groundwater and surface water.
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works.
- The arrangements for public consultation and liaison during the construction works.

Reason: To ensure the development does not prejudice conditions of residential amenity and local ecology through adverse levels of noise, dust and disturbance during construction.

4. Construction and Environmental Management Plan (CEMP)

Prior to the commencement of the development hereby approved (including any ground works, site or vegetation clearance), a site-wide Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following details:

- a) Highways details
 - i. Routing of construction and delivery vehicles to / from site.
 - ii. Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
 - iii. Timing of deliveries, avoiding network and school peaks where possible.
 - iv. Provision of wheel washing facilities.
 - v. Measures to prevent the discharge of surface water onto the highway.
 - vi. Temporary traffic management / signage.
- b) Ecology details:
 - i. Risk assessment of potentially damaging construction activities;
 - ii. Identification of 'biodiversity protection zones';
 - iii. Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during construction for bats, breeding birds, badgers, reptiles, hedgehog and great crested newts (may be provided as a set of species or habitat-specific method statements);
 - iv. The location and timing of sensitive works to avoid harm to biodiversity features;
 - v. The times during prior to and during construction when specialist ecologists need to be present on site to conduct surveys or oversee works;
 - vi. Responsible persons and lines of communication;
 - vii. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person, and;
 - viii. Use of protective fences, exclusion barriers and warning signs.

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

Reason: To ensure the development does not adversely impact on highway safety and convenience during construction and ensure the development does not harm local ecology during construction.

5. Land Contamination

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

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

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

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

6. Sustainable surface water drainage scheme

Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Drainage Strategy prepared by JPP Consulting Limited dated 30.09.24. The submitted scheme shall demonstrate compliance with the required technical standards at the time of submission and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site.

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

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

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

Reason:

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

7. SUDS Verification Report:

Prior to the use of the development commencing, a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason:

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

8. Infiltration:

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

Reason:

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

9. Noise Management Plan

Prior to the use of the development, a Noise Management Plan covering the entirety of the operation shall be submitted to and approved in writing by the local planning authority. The plan shall include but not be limited to measures to control excessive noise from external activities and details of a point of contact for noise complaints.

The development shall only be used in full accordance with the approved Noise Management Plan.

Reason: In the interests of residential amenity.

10. Community use agreement

Prior to the first use of the development hereby approved, a community use agreement shall have been submitted to and approved in writing by the Local Planning Authority. The agreement shall apply to outdoor sports facilities, changing and car parking and include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport.

11. Management and Maintenance Scheme

Prior to the first use of the development hereby approved, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority. This shall include measures to ensure the replacement of the Artificial Grass Pitch within the manufacture's specified period. It should also include the required testing to comply with FIFA Quality certification. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the 3G artificial grass pitch.

Reason: To ensure that a new facility is capable of being managed and maintained to deliver a facility which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport.

12. Parking

Prior to the operation of the development hereby approved the vehicle parking spaces shown on approved drawing ref: 24-0316 (G-224120) 07 shall be provided and permanently retained thereafter.

Reason: In the interest of highway safety and amenity.

13. Electric Vehicle chargers

Prior to the first use of the development hereby approved, the electric vehicle charging points shown on approved plan ref: 24-0316 (G-224120) 07 shall be installed and permanently retained thereafter. The electric vehicle charging points shall be provided to Mode 3 standard (providing a 7kw output) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme

approved	charge	point	model	list:
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<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

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

14. Cycle Parking

Prior to the first use of the development hereby approved, the cycle parking facilities shall be installed in full accordance with the approved plan ref: 24-0316 (G-224120) 07 and thereafter permanently retained.

Reason: In the interests of encouraging sustainable modes of transport.

15. External lighting

Prior to the installation of any external lighting, and notwithstanding the lighting details shown in the approved plans, details of external lighting shall be submitted to and approved in writing by the LPA. The details shall demonstrate the following requirements:

- Plan showing location of all external lighting, light fitting type (downward facing) and light spill
- Operational hours and curfew times
- Follow the recommendations within Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night

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

Reason: To ensure that any adverse ecological impacts of the development are suitably mitigated and in the interests of safeguarding residential amenity.

16. Biodiversity Gain Plan

The Biodiversity Gain Plan shall be prepared in accordance with the baseline information within the Biodiversity Statement and Metric Assessment report, for Abbey School Faversham, dated October 2025 and prepared by Middlemarch Environmental Ltd. The Biodiversity Gain Plan shall demonstrate how the development achieves an overall biodiversity net gain of 20%.

Reason: To ensure the proposals are in accordance with details submitted and considered as part of the planning application and to comply with Faversham Neighbourhood Plan policy FAV7.

17. Habitat Management and Monitoring Plan

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

- (a) a non-technical summary;
- (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;

- (c) the planned habitat retention, creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- (e) the monitoring methodology and frequency in respect of the retained, created or enhanced habitat to be submitted to the local planning authority.

The retained, created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

Reason: To enhance biodiversity in accordance with the National Planning Policy Framework.

18. Ecological Enhancement

Prior to the first use of the development hereby approved, a scheme of ecological enhancements shall be fully implemented in accordance with a scheme that shall have first been submitted to and approved in writing by the local planning authority. This shall include a detailed plan with biodiversity enhancement features with detail on ownership and responsibilities for any management measures.

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

19. Soft Landscaping

Prior to the first use of the development full details of soft landscape works shall be submitted to and approved by the Local Planning Authority. These details shall include existing trees, shrubs and other features, proposed planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate and an implementation programme. The works shall be carried out in accordance with the approved details and in accordance with the programme agreed in writing with the Local Planning Authority.

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

20. Planting retention

Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

21. Acoustic Fence

Prior to the first use of the development hereby approved, the 3m high acoustic fence shown on the approved plans shall be constructed in full and retained thereafter for the lifetime of the development.

Reason: In the interests of residential amenity.

22. Archaeological Evaluation and Mitigation

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

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

Reason: To ensure that due regard is had to the preservation in situ of important archaeological remains.

23. Archaeological Safeguarding

No development shall take place until details of foundations designs and any other proposals involving below ground excavation have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation in situ of important archaeological remains.

24. Hours of Use

The use of the development hereby permitted shall be limited to between the hours of 07.00 to 21.30 on Mondays to Fridays, between 09.00 and 18.00 on Saturdays, and between 10.00 and 18.00 Sundays and Bank Holidays.

All floodlighting on site must be extinguished by 21.30 Monday to Friday and by 18.00 on Saturdays, Sundays and Bank Holidays, or within 15 minutes after last use of the facility, whichever is the sooner.

The floodlighting hereby permitted shall be completely extinguished when the facilities are not in use, and/or within 15 minutes of its last use.

Reason: In the interests of the amenities of the locality.



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2.4 REFERENCE NO - 23/504375/FULL		
PROPOSAL: Demolition of vacant hotel and the erection of a freestanding restaurant with drive thru facility, car parking, landscaping and associated works, including customer order display (COD)		
SITE LOCATION: Former Travelodge Canterbury West, London Road, Dunkirk, Faversham, Kent, ME13 9LL		
RECOMMENDATION: Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE: Minor		
REASON FOR REFERRAL TO COMMITTEE: The application was originally reported to the Planning Committee meeting on 22 May 2025 as the recommendation was contrary to Dunkirk Parish Council's objection to the application, and the Parish Council requested that the application be presented to the planning committee. On the day of the committee meeting further highway related information was submitted, which only came to the attention of Officers after the meeting. As such, the application is being reported back to the Planning Committee to ensure that this, and any other material considerations raised can be considered.		
Case Officer: Paul Gregory		
WARD: Boughton and Courtenay	PARISH/TOWN COUNCIL: Dunkirk	APPLICANT: McDonald's Restaurants Limited AGENT: Planware Ltd
DATE REGISTERED: 22/09/2023		TARGET DATE: 15/03/2024
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted pursuant to the above application are available via the link below: - <u>23/504375/FULL Demolition of vacant hotel and the erection of a freestanding Restaurant with drive thru facility, car parking, landscaping and associated works, including Customer Order Displays (COD). Former Travelodge Canterbury West London Road Dunkirk Faversham Kent ME13 9LL</u>		

1. INTRODUCTION

1.1 This application was originally reported to Planning Committee on 22 May 2025, with a recommendation that planning permission be granted. The original committee report is attached at Appendix A. This includes sections related to a description of the site, details of the proposal and relevant policies. These details are not repeated here in the interests of brevity.

1.2 At the Planning Committee meeting Members resolved to grant planning permission as follows:

“Resolved: That application 23/504375/FULL be granted as per the recommendation in the report and the amendments to conditions (8), (11) and (21) and the alterations to the trigger point of conditions (12), (13), (17) and (19) to ‘prior to any further development being carried out’, rather than ‘prior to the commencement of development’.”

1.3 During the Planning Committee meeting, reference was made by a speaking member of the public to a third party highway review submitted in relation to the application. Members queried this with Officers during the meeting, as referenced in the Planning Committee Minutes (attached as Appendix 2). Officers confirmed that they were not aware of, and had not seen the highway review. As a result, on this basis the Chairman confirmed that Members could not consider the comments.

1.4 Subsequent to the Planning Committee meeting, it has come to light that the third party highway comments referred to were sent to the Council on the afternoon of 22 May 2025 (the day of the Planning Committee meeting). They were sent to an email address managed by Mid Kent Planning Services, who provide the Council’s Planning administrative services. Noting that Officers and in turn the Planning Committee were not aware of the submissions that were referred to by the speaker, in these very specific circumstances, it is considered appropriate for the Planning Committee to be given opportunity to consider the application in light of that additional information. As a result, this report will firstly set out the points contained within this highway review. The report will then detail the applicant’s highway consultant’s response, further consultee comments that have been obtained as a result and a conclusion. The report will also deal with other matters that have been raised since the original reporting of the application to the Planning Committee.

1.5 The third party highway comments raised the following points:

- The Transport Assessment could have underestimated the amount of trips caused by the development that would be new to the network. This is because existing trips in the Assessment could be new to the local network, having diverted from elsewhere. This could mean an additional 79% of trips on Fridays and 68% on Saturdays could be new to this section of the A2;

- The above scenario suggests that decisions made by KCC Highways and National Highways not to object and SBC's Environmental Health Team not to require an air quality assessment may be because of a misinterpretation of the data;
- The proximity of the Dunkirk and Upper Harbledown junctions east and west of the site make it easy for drivers to divert to the facility and return the way they came;
- Servicing arrangements require car parking spaces to be kept free. The majority of staff would need parking spaces and the parking provision is 4 short of standards. Therefore, it has not been demonstrated that deliveries can be made without disrupting access. It has also not been demonstrated how refuse collection and the removal of waste cooking fat can be safely achieved;
- The site has extremely poor access by sustainable modes and would not be possible by bus or cyclists.
- A single lane on the A2 provides both the westbound on-slip from the services and the westbound off-slip for the Dunkirk junction. This arrangement does not comply with standard Design Manual for Roads and Bridges in that merging and diverging movements are combined over a short distance. A significant increase in the use of the on-slip could as a result lead to adverse highway safety impacts. This issue is related to the point regarding how many of the trips would be new to the local highway network.

1.6 In response to the above, the applicant's highway consultant has provided comments as follows:

- The proposed restaurant is located on land which forms part of an existing roadside facility serving motorists travelling westbound on the A2 (dual carriageway). If a vehicle was travelling eastbound and diverted at Upper Harbledown, and then on exiting the site travelled via Dunkirk to head back eastbound it would incur a 6.98km roundtrip. It is highly unlikely that motorists would do this. If motorists travelling eastbound required food then facilities in Canterbury would incur either a shorter or similar journeys whilst continuing in the direction of intended travel;
- On the basis of the above National Highways interpretation of the data is correct;

- The servicing of restaurants run by the applicant whilst they are open is common practice. There are typically three deliveries per week scheduled for quieter trading periods. In this location overnight deliveries could be undertaken. The proposed parking provision of 42 spaces is sufficient to accommodate peak levels of demand. 12 spaces would be coned off prior to the arrival of the delivery vehicle. Once the vehicle is in place 2 spaces can be released. The impact on parking would be that 30-32 spaces would be available, which is sufficient for off peak periods;
- Refuse collection is undertaken 3 times per week using a 9.6m refuse vehicle. Tracking information is provided to demonstrate this vehicle can access the site and not overrun any spaces;
- As previously outlined, the delivery vehicle takes away waste oil for recycling, the waste oil container is taken to the vehicle and pumped on board;
- A delivery management plan could be secured by condition if required;
- Council parking standards are advisory rather than mandatory and the proposed provision is only slightly below advisory standards. As previously demonstrated, based on surveys with a comparable facility the proposed parking spaces would be sufficient. There is no justification to provide more parking and KCC Highways are satisfied with the parking proposals;
- The majority of trips would be existing on the A2 westbound. There would be an uplift of traffic exiting the Services but a decrease in through traffic on the A2 westbound from the pass by trips and some trips would be shared with the Petrol Filling Station. The overall net effect at the Services egress slip road is 10 vehicles during the AM/PM peaks and 34 vehicles during the Saturday peak. This does not represent a 'significant' impact.

2.0 CONSULTATIONS

- 2.1 As a result of the above, National Highways, KCC Highways and SBC Environmental Health have been re-consulted on the application. Their latest comments are as follows:
- 2.2 **National Highways** – No Objection - Commented that they are content to rely on their response of 29 December 2023 (uploaded on 2 January 2024) which recommended a condition (Construction Traffic Management Plan) be attached to any planning permission that may be granted.
- 2.3 **KCC Highways** – No objection - The applicant's response to the third party highway review is considered to be reasonable and proportionate. The likelihood

of vehicles diverting to the facility in the way suggested is unlikely. This supports the applicants position that the likelihood of significant new trips being generated in this way is low. Deliveries will be outside of peak operational hours, which is standard practice. The parking provision is based upon a parking survey from a comparable facility. To ensure this is managed appropriately a delivery management plan is recommended to be secured by condition.

- 2.4 **SBC Environmental Health** – No objection – The response received by the applicant's highway consultant in respect of the likelihood of trips seems appropriate. The development would not generate the level of traffic to require an air quality assessment.

3.0 APPRAISAL

- 3.1 The original committee report attached at Appendix A deals with 'Transport and Highways' at paragraphs 7.5.1 – 7.5.10 and concluded that subject to conditions, the proposal would be in accordance with Policies CP2, DM6, DM7 and DM14 of the Local Plan, Policies T1, T2 and T3 of the Boughton and Dunkirk Neighbourhood Plan as well as the Council's Parking SPD and the NPPF.
- 3.2 As set out earlier in this report, a third party highway review was submitted after the previous report had been drafted and without the knowledge of Officers when the application was previously reported to the Planning Committee. As such, the assessment that is required to be undertaken is whether the most recently submitted information alters the above conclusions on 'Transport and Highways' matters.
- 3.3 To summarise the above, concern has been raised by the third party highway review that the amount of new trips on the local highway network may have been underestimated; that deliveries / servicing arrangements may not be adequate; there is an under provision of car parking spaces; it has not been demonstrated that waste collection can be safely achieved; access by sustainable transport modes is poor; an air quality assessment should be provided; and that increase usage of the slip road could lead to highway safety concerns.
- 3.4 The applicant's highway consultant has provided a response to these points as set out above. In addition, National Highways, KCC Highways and SBC Environmental Health have been consulted on the most up to date information received. In summary, based upon the updated consultee comments, it is not considered that driver behaviour as suggested by the third party highway review is likely to occur, due to the distance of the diversion that would be involved and the amount of alternative facilities that are available. The parking provision is based upon satisfactory evidence from a comparable facility and deliveries as outlined are standard practice that can be appropriately managed by a Delivery Management Plan secured through a condition.
- 3.5 Both National Highways and KCC Highways continue to raise no objection to the proposals subject to conditions which have been recommended. As such, based upon the information received and the updated consultee comments, the

conclusions, in that the scheme complies with the highway and transport related policies as set out above, remains the case.

- 3.6 The third party highway review also raised concern that as in their view the number of new traffic movements on the local highway network had been underestimated, that the assessment as to not request an Air Quality Assessment could be flawed. However, based upon the views of National Highways and KCC Highways, the evidence does not suggest that traffic movements would be likely to be different than was originally assessed. On this basis, as confirmed by SBC Environmental Health, the application does not meet the threshold for requiring an Air Quality Assessment and therefore as per their previous advice, one is not necessary.

Other Matters

- 3.7 Since the 22 May 2025 Planning Committee a further neighbour objection has also been received from a member of the public regarding the lack of capacity at the Faversham Wastewater Treatment Works. The objection requests that foul flow calculations are provided and that Southern Water provides details of infrastructure upgrades to improve sewage capacity.
- 3.8 The matter of foul drainage was dealt with in section 7.9 of the original committee report (attached at Appendix A). This sets out that foul sewage will be discharged via a sewerage pipe that runs through the service area. The original committee report concluded that the application complied with Policy DM21 of the Local Plan and the NPPF. In terms of these matters, the issue of capacity and infrastructure upgrades is something that Southern Water are required to address under separate legislation. Furthermore, ensuring that the development can adequately deal with foul sewerage will be required to be dealt with under Building Regulations, which falls outside of the planning process.
- 3.9 In addition to the above, points have been raised via a solicitor acting on behalf of a local resident that the guidance in the Councils' Statement of Community Involvement (SCI) has not been followed by the applicant in respect of involving the community prior to determining the application. This letter also refers to this being a relevant matter as the site is sensitive due to the adjacent ancient woodland and traffic impacts.
- 3.10 The Council's SCI refers to both processes that must be adhered to when submitting and determining a planning application, i.e. legislation, and also provides a series of guidance regarding what applicants can do to involve the community in their proposals. The SCI was adopted in 2018 and the document sets out that it is part of Swale's Development Plan. The Local Plan in referencing the SCI states *"The Council also has an adopted Statement of Community Involvement (SCI). The SCI is a statement about our policy on the involvement of people who have an interest in matters relating to development in their area."*
- 3.11 In this case, as this is a minor development, the SCI states the following in respect of what applicants need to do:

- *“Consider the need for pre-submission community consultation depending on the nature, scale, and location of the proposed development;*
- *May need to provide a statement with the application describing the actions taken to involve the community and what their views were.”*

3.12 A response to the above points has been requested from the applicant’s agent. They have commented that no pre-submission consultation was carried out for this application and they understand there is no statutory requirement to do so for minor applications. They have commented that the site is in an existing service area off the A2, not in close proximity to any sensitive community neighbours, such as residents or community uses which would warrant pre-submission consultation. The agent goes on to state that matters relating to the adjacent woodland and traffic have been assessed via consultation with statutory consultees and the proximity to ancient woodland is not a reason to carry out a pre application consultation. In addition, the agent states that the public have had the opportunity to comment during the planning application process and at the Planning Committee meeting. Finally, the agent does not believe that any pre-application consultation was undertaken in respect of the previous application on the site under ref. 20/501601/FULL for a coffee shop / drive-through.

3.13 In respect of the above, it is firstly noted that the SCI requires applicants to consider the need for pre-submission community consultation. The applicant’s agent has set out that they do not believe pre-submission community consultation to have been necessary in this case. This is primarily due to the specific location of the site, in terms of being in a roadside service area and not in close proximity to sensitive neighbours. This is considered to be an accurate assessment of the context of the site. Overall, the applicant in considering but deciding against pre-application consultation is reasonable in this case and their actions are not contrary to the guidance in the SCI.

3.14 Secondly, the SCI states that applicants may need to provide a statement. Due to the above reasons set out by the agent, which are considered to be accurate and reasonable points a statement was not provided with the application.

3.15 In assessing this matter, the SCI requires the applicant to consider the need for pre application consultation and may need to provide a statement. Neither of these matters are unequivocally required in all scenarios and the applicant’s reasons for not doing so does not render the proposals unacceptable. In addition, the Council has fulfilled its statutory duty in advertising the application in accordance with the relevant legislation and therefore interested parties have had the opportunity to view and comment on the application, including at the Planning Committee Meeting.

Conclusion

3.16 Having considered the further highway related information received, along with the applicant’s highway consultant’s response to this and responses from technical consultees, it is concluded that the application remains acceptable and

in accordance with the relevant related transport, highway and air quality related policies. In addition, the points raised regarding the Council's SCI do not result in matters that could be considered to make the proposals unacceptable. The points raised regarding foul drainage have also been satisfactorily dealt with.

- 3.17 As per the resolution of the 22 May 2025 Planning Committee meeting the conditions below have been amended accordingly, and an additional condition has been added relating to a Delivery Management Plan, as per the recommendation of KCC Highways. Accordingly, it is recommended that planning permission should be granted for the proposed development subject to the conditions below and the completion of a legal agreement to secure off-site BNG units as discussed in the original committee report.

CONDITIONS

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

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

- 2) The development hereby permitted shall be carried out in accordance with the approved plans:

Block Plan (8516-SA-2139-P002 D),
Site Layout Plan as Proposed (8516-SA-2139-P004 C),
Biodiversity Enhancement Plan V6 (A6100.01J),
Landscaping Scheme (A6100 01 J),
Proposed Elevations and Section (8516-SA-2139-P005),
Ground Floor and Roof Plans (8516-SA-2139-P006),
Proposed Lighting Layout (DWG 01),
LIAS Design Notes & Luminaire Schedule (DWG 00)

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

- 3) The development hereby approved shall not commence above slab level until details of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

- 4) The approved details of the parking/turning, loading and unloading areas as detailed on drawing 8516-SA-2139-P004 C shall be completed before the

commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use.

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

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

Reason: In the interests of visual amenity.

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

Reason: In the interests of residential amenity.

- 7) The development hereby approved shall be carried out in accordance with the recommendations set out within Section 6.0 of the Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan, produced by Hayden's Arboricultural Consultants (dated 10.05.32023).

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

- 8) Prior to the development first being brought into use, the landscape scheme shall be implemented as per the Landscape Scheme, 01 Rev J, Encon Nov 2023 and Biodiversity Enhancement Plan V6, Practical Ecology, Nov 2024. The landscaping shall thereafter be managed in accordance with the Landscape Management Plan reference number A6100 Revision E, dated 12 November 2024.

Reason: In the interests of enhancing biodiversity

- 9) Any tree planted in accordance with the conditions attached to this permission, or in replacement for such a tree, which within a period of five years from the date of the planting is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species and size as that originally planted, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season.

Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

- 10) From commencement of development (including site clearance) and for the duration of works through to the first use, to avoid impacts to protected and priority species, the precautionary working measures detailed in the Enhancements and recommendations section of the Bat Survey Letter and the recommendations section of the Dormouse Survey Report (both carried out by Practical Ecology), associated with the planning application shall be adhered to.

Reason: In order to protect protected species.

- 11) Prior to the development first being brought into use, biodiversity enhancement shall be implemented as per the Biodiversity Enhancement Plan V6, Practical Ecology, Nov 24 or later versions, approved by submission pursuant to this condition to the Local Planning Authority. The approved measures shall be implemented and retained thereafter.

Reason: In the interests of enhancing biodiversity

- 12) Prior to any further development being carried out a biodiversity gain plan (which demonstrates a biodiversity net gain of a minimum 10% against the baseline) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development delivers a biodiversity net gain.

- 13) Prior to any further development being carried out a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved on-site biodiversity gain plan and including:

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

shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure the development delivers a biodiversity net gain.

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

Reason: To ensure the development delivers a biodiversity net gain.

- 15) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.
- Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
 - Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
 - Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

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

Reason: To reduce risk to controlled waters.

- 16) The development hereby approved shall not commence above slab level until, details of hard landscape works (including materials) have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first use of the building(s) or land. The new areas of hard surfacing shall be constructed from either permeable materials or incorporate drainage channels to prevent surface water runoff onto the highway.

Reason: To ensure a satisfactory appearance to the development, in the interests of highways convenience and to prevent surface water runoff.

- 17) Prior to any further development being carried out a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A2, including the Boughton Bypass). The plan shall include as a minimum:

- Construction phasing;
- Construction routing plans;
- Permitted construction traffic arrival and departure times.

Thereafter all construction activity in respect of the development shall be undertaken in full accordance with such approved details.

Reason: To mitigate any adverse impact from the development on the A2 (including the Boughton Bypass) in accordance with the Department for Transport (DfT) Circular 01/2022. This is required prior to the commencement of development to ensure that a programme and method of works are agreed that will not cause an obstruction to the safe functioning of the highway network.

- 18) The development hereby approved shall not be brought into use until a management plan for the collection of litter within the site has been submitted to and approved in writing by the Local Planning Authority. Once approved the management plan shall be adhered to throughout the lifetime of the development.

Reason: In the interest of public health and the visual amenities of the area.

- 19) Prior to any further development being carried out the applicant, or their agents, or successor in title, shall have secured the implementation of a programme of archaeological works in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 20) The building hereby approved shall be constructed to achieve a minimum of BREEAM 'Good' rating and prior to the use of the building commencing the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

- 21) Prior to the first use of the development hereby approved details, including the number and specific locations of publicly accessible electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging points as approved shall be installed prior to the development coming into operational use, and shall thereafter be retained and maintained in accordance with the approved details.

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

- 22) The recommendations contained in the document entitled Odour Control Assessment shall be adhered to throughout the use of the premises hereby approved.

Reason: In the interest of residential amenities.

- 23) Prior to the first use of the development hereby approved, a Delivery Management Plan, which shall include details of the frequency and timings of deliveries, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall operate in accordance with the approved details.

Reason: In the interests of highway safety and convenience.



APPENDIX A**PLANNING COMMITTEE – 22nd May 2025****PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO: 23/504375/FULL		
PROPOSAL: Demolition of vacant hotel and the erection of a freestanding restaurant with drive thru facility, car parking, landscaping and associated works, including customer order display (COD)		
SITE LOCATION: Former Travelodge Canterbury West, London Road, Dunkirk, Faversham, Kent, ME13 9LL		
RECOMMENDATION: Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE: Minor		
REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to Dunkirk Parish Council's objection to the application, and the Parish Council has requested that the application is presented to the planning committee.		
Case Officer: Luke Simpson		
WARD: Boughton and Courtenay	PARISH/TOWN COUNCIL: Dunkirk	APPLICANT: McDonald's Restaurants Limited AGENT: Planware Ltd
DATE REGISTERED: 22/09/2023		TARGET DATE: 15/03/2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - • Acoustic Assessment • Biodiversity Enhancement Plan V6 (A6100.01J) • Odour Control Assessment • Drainage Maintenance Plan (4230167/CR/003) • Drainage Statement (MD4230167/HG/001) • Lighting Impact Assessment Report • LiAS Design Notes & Luminaire Schedule		

APPENDIX A

- Ecological Lighting Review Letter (dated 24.05.24)
- Sequential Test
- Dormouse Survey Report V2
- Bat Survey Letter (dated 24.05.24)
- Arial Tree Inspection Report (dated 09.09.24)
- Landscape Management Plan Rev E
- Construction Ecological Management Plan V 1:2
- Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement & Tree Protection Plan in Accordance with BS 5837:2012 (10191)
- Travel Plan (ADL/CC/5648/31A)
- All representations received.

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

<https://pa.midkent.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site comprises the former Travelodge hotel building and surrounding land, including an open hard surfaced area that in the past has been used as a lorry park and as parking for the Travelodge. The site is located to the rear (south side) of the petrol filling station at the Gate Service Area, Dunkirk; adjacent to the A2 (westbound side), between Faversham and Canterbury. It is situated in the defined countryside, within the Blean Woods South Local Wildlife Site (LWS) and the surrounding woodland is protected ancient woodland and covered by Tree Preservation Orders.
- 1.2 The service area also includes the former Gate Inn, which is a Grade II listed building previously used as a diner, and now in use as a café (Costa Coffee). This property fronts onto the A2 slip road to the east of the petrol filling station forecourt.
- 1.3 The petrol filling station has a shop and is clearly signed from the A2. Access and egress to the A2 is provided by a dedicated slip road extending off the westbound carriageway. This slip road also provides access to a pair of semi-detached dwellings situated to the east of the filling station site, and to Brotherhood Woodyard, which lies to the west of the filling station. There is no access to the site from the eastbound carriageway, nor from any other roads.
- 1.4 The site is currently screened from the filling station by fencing and oak trees to the north. Screening is provided along the remaining boundaries by overgrown, mostly non-native vegetation. The large hardstanding of the former parking area for the hotel is overgrown with unmanaged vegetation.

APPENDIX A**2. PLANNING HISTORY****2.1 24/500452/SUB**

Submission of details to discharge condition 3 – Details of Site Restoration, Subject to 23/504251/DEMREQ.

Approved Decision Date: 18.03.2024

2.2 23/504251/DEMREQ

Prior notification for the proposed demolition of existing hotel (Ex-travellodge) building.

Prior Approval Granted Decision Date: 17.10.2023

2.3 22/504735/FULL

Reinstatement of car park to rear of Gate Service Station, including new footpath to hotel with associated lighting, fencing and works.

Approved Decision Date: 14.04.2023

2.4 20/501601/FULL

Full planning permission for the erection of a new coffee shop (Use Class A1/A3) including drive-thru facility with associated car parking, cycle parking, motorcycle parking, landscaping and associated works. As amended by drawings received on 14th September 2020.

Approved Decision Date: 13.11.2020

3. PROPOSED DEVELOPMENT

3.1 This application seeks planning permission for the construction of a new restaurant (Class E Use) with takeaway drive-thru facility, associated landscaping and parking, following the demolition of the existing hotel building.

3.2 The new restaurant would be located on the existing area of hardstanding to the south of the petrol station, with the location of the former hotel building being utilised for parking and landscaping. It would be accessed through the existing service area by the creation of a new access road that would lead to the new parking area, and the drive-thru facility. The new access road is arranged to circulate around the filling station with vehicles entering the site on its eastern side and existing on its western side. Overall, 37 car parking spaces would be provided in addition to 2 disability bays and 4 motorcycle spaces. 4 of these spaces would provide EV charging facilities.

3.3 The scheme also includes a small outside seating area to the eastern side of the building, and an enclosed storage and delivery area projecting from the side (southern) elevation of the restaurant building.

3.4 The building is of a contemporary flat roofed design and measures approx. 33.02m in width by approx. 14.17m in depth and approx. 5.83m in height. It would be finished with grp roofing and grey and yellow fibre and timber cladding, with the yellow elements arranged in the shape of the applicant's (McDonalds) logo.

APPENDIX A

- 3.5 An extensive landscaping scheme is proposed, which includes the planting of a significant number of native species along the southern and western edges of the site. A landscaped strip is proposed along the northern boundary to retain a vegetated screen with the filling station. A large area of scrub is also proposed along the eastern boundary of the site. This landscaping scheme forms part of a biodiversity enhancement plan that when combined with the purchasing of 1.63 habitat units for off-site habitat contributions would provide a 10% biodiversity net gain overall.
- 3.6 An electricity kiosk is proposed within the south-eastern corner of the site that measures 2.0m in width by 1.0m in depth and 2.26m in height, and an electric vehicle charging point feeder pillar is proposed towards the north-western corner of the site, measuring 1.75m wide by 0.85m deep and 2.32m high. Both of these structures would comprise green enclosed boxes.
- 3.7 The scheme would result in the loss of 11 category C trees and 1 category B tree from the site. A landscaping scheme has been provided that shows replacement trees and vegetation along the northern, southern and western boundaries of the site.

4. CONSULTATION

- 4.1 One round of public consultation has been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2 2 letters of representation were received in objection to the proposal. Comments were raised in relation to the following summarised matters (full comments are available online):

Comment	Report reference
The proposal will result in additional noise, lighting, odour and nuisance that will have a detrimental impact on neighbouring residential amenity.	Paragraph 7.6.1 – 7.6.12
The proposal will encourage littering, vermin and antisocial behaviour.	Paragraph 7.6.10 7.6.11
The proposed use of the site for 24 hours will disturb neighbouring occupiers.	Paragraph 7.6.5
The proposal will exacerbate vehicular congestion and highway safety concerns.	Paragraph 7.5.1 – 7.5.10
The proposal will lower property prices.	Paragraph 7.13.1

- 4.3 Dunkirk Parish Council objected to the proposed development on the following grounds:

APPENDIX A

Comment	Report reference
The proposal will result in highway safety issues related to additional traffic in the surrounding area and traffic flow around the service area.	Paragraph 7.5.1 – 7.5.10
The proposal would have an adverse impact on the environment, nature conservation interests and biodiversity.	Paragraph 7.7.1 – 7.7.9
There is no cycle parking provision.	Paragraph 7.13.1
Proposal would give rise to possibility of pedestrians attempting to cross the dual carriageway.	Paragraph 7.13.1
The proposal would damage protected trees and an area of ancient woodland.	Paragraph 7.8.1 – 7.8.6
A full noise / lighting assessment should be carried out.	Paragraph 7.6.3
The proposal would have a detrimental impact upon air quality within this part of the Parish.	Paragraph 7.6.9
The proposal would lead to littering within and around the site, as well as on the A2.	Paragraph 7.6.11
The proposed landscaping plan, in particular the parking area fails to comply with Policy E10 of the Boughton & Dunkirk Neighbourhood Plan.	Paragraph 7.3.6 – 7.3.7
If permission is granted conditions requiring: 1) A Traffic Regulation Order regarding speed and parking along the slip road and consideration given to a restriction to traffic from Brotherhood Woodyard entering the site in conflict with traffic leaving the site; 2) All packaging from the drive through to be printed with a car registration to enable Parish / Borough Council's to identify culprits of littering; 3) Requirement for a discussion with the Parish Council and Officers regarding a S.106 to include benefits to the community.	Paragraph 7.6.11 and 7.13.1

5. REPRESENTATIONS

- 5.1 KCC Biodiversity Officer** – No objection subject to conditions to secure the implementation of recommendations set out within the Preliminary Ecological Appraisal, a habitat management and monitoring plan (offsite) and a landscape management plan (on site).
- 5.2 SBC Environmental Protection** – No objections subject to conditions to secure a remediation plan if any contamination is found during construction.

APPENDIX A

- 5.3 **KCC Highways** – No objection subject to conditions to secure a construction management plan, the provision and permanent retention of vehicular parking, the installation of electric vehicle charging, and the provision and retention of vehicle loading/unloading and turning facilities.
- 5.4 **SBC Heritage** – No objections raised on heritage grounds.
- 5.5 **Tree Officer** – The current scheme makes best use of the site whilst providing habitat gains and improved woodland buffers. No objections subject to suitable conditions requiring compliance with the arboricultural report and landscape details.
- 5.6 **Forestry Commission** – Referred to Standing advice, advising of National Policy Guidance that should be followed.
- 5.7 **Natural England** – No objection. Natural England considers that the proposed development will not have a significant adverse impact on statutorily protected nature conservation sites or landscapes.
- 5.8 **National Highways** – No objection subject to conditions to secure a traffic management plan.
- 5.9 **KCC Archaeology** – No objection subject to a condition to secure a programme of archaeological works.
- 5.10 **SBC Planning Policy** – No objection. Whilst it is acknowledged that proposal relates to a town centre use, restaurants with drive-through's are also common and appropriate uses for roadside service locations such as this.

6. **DEVELOPMENT PLAN POLICIES**

- 6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)**
- ST1 Delivering sustainable development in Swale
 - ST3 The Swale settlement strategy
 - CP1 Building a strong, competitive economy
 - CP2 Promoting sustainable transport
 - CP4 Requiring good design
 - CP8 Conserving and enhancing the historic environment
 - DM2 Proposals for main town centre uses
 - 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
 - DM28 Biodiversity and geological conservation
 - DM29 Woodlands, trees and hedges
 - DM32 Development involving listed buildings

APPENDIX A

- DM34 Scheduled Monuments and archaeological sites

6.2 Boughton and Dunkirk Neighbourhood Plan

- Traffic and Transport Policies T1, T2 & T3
- Business and Employment Policies BE1, BE2, BE3
- Environment, Landscape Character and Design Policies E1, E2, E4, E5, E6, E8, E9, E10
- Blean Woods West Policy AS5

7. ASSESSMENT

7.1 This application is reported to the Committee because Dunkirk Parish Council have objected to the proposal and requested it be reported to Committee. The main considerations involved in the assessment are:

- Principle of development
- Character and appearance
- Heritage
- Transport and Highways
- Living conditions
- Ecology
- Trees
- Flood Risk, Drainage and Surface Water
- Sustainable design and construction
- Contamination
- Archaeology

7.2 Principle of development

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

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

7.2.3 The site lies outside of the Borough's built-up areas and within the countryside as designated by Policy ST3 of the Local Plan, which sets out that in such locations development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

7.2.4 Notwithstanding the countryside location, it must be recognised that the site has been part of a roadside service area since 1976 and has for many years provided

APPENDIX A

parking and services for the former Travelodge Hotel, petrol filling station and a restaurant / cafe. It has also previously been granted planning permission in 2020 for the construction of a new coffee shop with drive-thru (under application 20/501601/FULL), so has been used for commercial purposes for some time.

- 7.2.5 Taking the proposed demolition of the hotel first, policy CP1(9) of the Local Plan sets out that development proposals should safeguard or enhance Swale's 'Principal Tourist Assets', which include hotel accommodation; however, the hotel has not been in operation since early 2023, and a prior approval application for demolition has been granted under application 23/504251/DEMREQ. Subsequently, demolition of the hotel has commenced, and whilst requiring the removal of the former hotel in its entirety, the proposal would not result in the loss of an active or functional tourist asset. The proposal would therefore not be contrary to the aims of Policy CP1.
- 7.2.6 Further to the above, Policy DM3 of the Local Plan sets out that planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area, particularly where it would result in the appropriate development of previously developed land. This is subject to the proposals being of a design and scale that is sympathetic to the rural location, not resulting in harm to the historical, architectural, biodiversity, landscape, or rural character of the area, and avoiding scales of traffic generation that are incompatible with the area. These matters are discussed in detail in the following sections.
- 7.2.7 Policy BE1 of the Boughton and Dunkirk Neighbourhood Plan also sets out that support will be given for proposals for the redevelopment of previously developed sites and also those that provide opportunities for local employment and training, provided they reflect the overall development strategy of the plan and conform with relevant policies concerning location, building design and environmental impacts.
- 7.2.8 The NPPF at paragraph 85 states that *"decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."* In terms of the rural economy, the NPPF at paragraph 88 a) states that planning decisions *"should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings."* In addition, paragraph 89 states *"Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist."*

APPENDIX A

7.2.9 The supporting information sets out that the proposal would create 30 full time jobs and 90 part time jobs (62 full time equivalent). As set out by the above paragraphs, the expansion of business and economic growth should be given significant weight. There is also specific support for economic growth in the rural areas subject to matters such as the impact on the surroundings of the development and the highway which are considered further below.

7.2.10 In addition to the above, consideration needs to be given to policy DM2 of the Local Plan, which seeks to ensure that main town centre uses (such as restaurants) should be provided within existing centres, and only elsewhere if they can satisfy a sequential test to demonstrate that alternative locations within such areas are not available. In this instance, whilst fast food restaurants / takeaways would ordinarily be provided within town centres of built-up areas, the applicant has provided a sequential test which sets out that roadside service locations form an important part of their business as they provide a service and reach a customer base that town centre locations do not. An assessment of alternative town centre and roadside sites within the borough has been carried out and it has been concluded that the Gate service area site is the most viable and appropriate for this particular development. The Council's Planning Policy Officer has reviewed the sequential test and raises no objection in this regard. The proposal complies with the requirements of policy DM2 of the Local Plan.

7.2.11 Mindful of the above, and that the policy position has not changed significantly since 2020 (when planning permission was granted for a new coffee shop), it is considered that the principle of providing a café / restaurant on the site has been established and that in land use terms the proposal is acceptable, subject to satisfying all other material considerations, which are discussed in the following sections.

7.3 Character and appearance

7.3.1 The National Planning Policy Framework attaches great importance to the design of the built environment and states that design should contribute positively to making places better for people. The Local Plan reinforces this requirement through policy CP4, which requires development proposals to be of high-quality design and to be in keeping with the character of the area. Further to this, policy DM14 of the Local Plan sets out that development proposals should be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.

7.3.2 Policies E1 and E2 of the Boughton and Dunkirk Neighbourhood Plan mirrors the principles set out within policies CP4 and DM14 of the Local Plan, but more specifically emphasises that development proposals should respect and enhance the tranquility, local landscape, character, environmental quality and amenity value of the Parish.

7.3.3 The proposal seeks a comprehensive redevelopment of the site by removing the existing hotel building, large areas of hardstanding, and constructing a new restaurant towards the western side of the site with associated storage / delivery area, parking and installations, including electricity meter boxes, EV charger

APPENDIX A

units and illuminated display boxes, in addition to a detailed landscaping scheme.

- 7.3.4 The proposed restaurant building would be single storey and measure approx. 33.02m in width by approx. 14.17m in depth and approx. 5.83m in height (covering an overall floor area of approx. 442m²). It is of a contemporary design with a dual-level flat roof and facing materials of grey and yellow vertical weatherboarding, with large, glazed openings. Despite being somewhat utilitarian, in that it is clearly designed for its function, it is characteristic of what would be expected for a roadside services location and provides more visual interest than the filling station which occupies the space in front of the proposal when it is viewed from the A2 slip road. There are no objections to the design strategy that has been employed or the overall character and appearance of the building.
- 7.3.5 In terms of scale and massing, the building is orientated in such a way that its narrowest elevations are facing northeast and southwest, resulting in less frontage facing the service area and A2 slip road. This orientation of a single storey building coupled with its flat roof design would help to ensure that its massing would be reduced as far as possible when viewed from the most populated parts of the surrounding public realm. Further to this, a landscaped strip is to be implemented along the northern edge of the site, which will provide screening. With the landscaping in place and the petrol filling station being located to the front of the building, the proposed development would be well screened and would not present a particularly prominent feature within the local landscape. Further to this, it is recognised that by removing the former hotel building, the scheme would result in a reduction in the overall developed area within the site.
- 7.3.6 With regards to landscaping, the applicant has provided a landscaping scheme that allocates large areas of the site around its eastern, southern, and western boundaries as a buffer strip to the surrounding woodland, which will incorporate a range of native species planting to help preserve the ancient woodland and improve the landscape character of the site. The scheme will result in the removal of 12 established trees from the site, many of which are located along the northern boundary; however, many of these are diseased, and supplemental planting will be incorporated within the landscape buffer to mitigate their loss.
- 7.3.7 The new planting proposed throughout the site will assist in softening the scheme somewhat and ensure a balance between built development and natural features. Overall, it is considered that the proposed landscaping scheme would provide an enhancement on what was previously approved under application 20/501601/FULL (for a coffee shop) and enable the scheme to sit comfortably within its setting.
- 7.3.8 Overall, it is therefore considered that the proposed development would not have a detrimental impact upon the overall character and appearance of the site, or that of the surrounding area, and as such, is in accordance with policies CP4 and DM14 of the Local Plan; policies E1 and E2 of the Boughton and Dunkirk Neighbourhood Plan and the NPPF.

APPENDIX A**7.4 Heritage**

- 7.4.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a local planning authority, in considering development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of architectural or historic interest it possesses.
- 7.4.2 The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.4.3 Policy DM32 of the Local Plan sets out that proposals that affect a listed building or its setting, will be permitted only where special architectural or historic interests are preserved.
- 7.4.4 On a neighbourhood level, policy E2 of the Boughton and Dunkirk Neighbourhood Plan sets out that development proposals should protect and enhance heritage assets.
- 7.4.5 The site does not contain any listed buildings and does not lie within a conservation area. However, it is within close proximity of the building formerly known as the Gate Inn, a former coaching inn, which is a Grade II listed building situated 45m to the north-east at the front of the Gate Services.
- 7.4.6 The former Gate Inn is currently in use as a cafe, but has previously operated as a diner, and as such has a history of serving a purpose as a roadside convenience. Its original setting has been altered dramatically as a result of the construction of the A2 Boughton bypass, the introduction of the petrol filling station, the former hotel building and the large areas of associated hard surfacing, which now surround the heritage asset.
- 7.4.7 The Council's Heritage Advisor has been consulted and has stated that whilst the building's 'relatively' isolated setting reinforces its intrinsic character as a coaching inn, much of its significance primarily derives from its age, architectural interest and its historical association with Sir William Courtenay, the Courtenay Riots, and the Battle of Bossenden Wood. Little emphasis has been placed on the building's surrounding environment or setting as being a significant contributor to the building's heritage status. As such, it is not considered that the proposed development would result in any additional harm to the listed building beyond what has already occurred. This is particularly the case given that the scheme would facilitate the reduction of overall built-form from the service area, through the removal of the existing hotel building, which sits closer to the heritage asset than the proposed restaurant. Further to this, it must be recognised that when viewed from the approach road to the service area, the proposed development would be situated behind the petrol filling station, which sits directly

APPENDIX A

alongside the listed building, and as such, its prominence and status within the setting of the listed building would be subservient to existing development. The tree line along the northern boundary of the site will be retained and reinforced, which would ensure that the proposal will be largely screened when viewed from the listed building and therefore a sense of visual separation between the two sites will be preserved.

7.4.8 Overall, it is considered that the proposal would not result in additional harm to the significance or setting of the neighbouring listed building, and that there are no objections on heritage grounds. As such, the scheme complies with the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, policies DM8 and DM32 of the Local Plan, policy E2 of the Boughton and Dunkirk Neighbourhood Plan and the NPPF.

7.5 Transport and highways

7.5.1 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. 7.5.2 The NPPF at paragraph 116 states that:

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

7.5.2 Policies DM6, DM7 and DM14 of the Local Plan establish that development proposals must provide appropriate levels of parking and safe vehicular access. Policies T1, T2 and T3 in the Boughton and Dunkirk Neighbourhood Plan set out that development proposals will be restricted by the capacity of the road network being able to accommodate them, increased negative impacts on the current highway network by development in the countryside will be resisted and development will incorporate sufficient levels of parking.

7.5.3 The application site forms part of Gate Services, which lies to the south of and is accessed by the west bound carriageway of the A2 Boughton Bypass. The service area currently accommodates a petrol filling station, a café and a now vacant hotel which is partially demolished. Access to the service area is provided by a designated slip road from the A2, and internally it is laid out with a circulatory road that runs around the petrol filling station and provides an access and egress to the site.

7.5.4 The proposed scheme seeks to retain and utilise the existing openings to the site and to create a new parking area with 37 car parking spaces (including 2 disability bays and 4 EV charging bays) and 4 motorcycle bays. The internal road layout is arranged to provide access to the site from the existing entrance at its eastern side, circulation around the parking area and the new restaurant building in the case of the drive thru facility and an exit through the opening located at the western side of the northern boundary. This will enable vehicles to enter the site through the shared route between the petrol filling station and the cafe and leave the service area to the rear / west of the petrol filling station.

APPENDIX A

- 7.5.5 Concerns have been raised from local residents and the Parish Council with regards to traffic generation associated with the proposal, and particularly in respect of attracting heavy goods vehicles, which can park up on the northern side of the slip road. The submitted Transport Assessment indicates that the scheme would result in +70 and +77 vehicles during am and pm peak times respectively, and +121 vehicles during Saturday peak hours when compared to the existing situation (based on the permitted use of the site as a hotel). The report goes on to state that this increase will equate to approximately 1-2 additional vehicles per minute. National Highways and KCC Highways have agreed that the construction of a free-standing restaurant of this size with a 'drive thru' facility would not have an unacceptable impact on the safety, reliability and /or operational efficiency of the highway, particularly given that it is anticipated that the majority of trips and visitors to the restaurant would be generated from existing trips / traffic along the A2 Boughton Bypass.
- 7.5.6 KCC Highways have also stated that the layout of the site is acceptable with swept path drawings for service vehicles demonstrating that access for larger vehicles will be possible, and that the proposed parking provision is sufficient for such a use in a rural roadside service location.
- 7.5.7 It is also noted that through the provision of new EV charging facilities, the proposal would help to encourage the use of electric vehicles which is a more sustainable mode of transport, and therefore would contribute towards the implementation of the aims of policy CP2 of the Local Plan as well as paragraph 117 of the NPPF which sets out that development should help to improve the transport network and be designed to enable charging of plug in and other ultra-low emission vehicles in sustainable ways.
- 7.5.8 With regards to the layout of the proposed parking, each space measures approx. 5m in length by 2.5m in width, which is compliant with the size standards for parallel parking spaces set out within the Council's Parking SPD. Further to this, the two rows of bays are positioned a minimum of approx. 6m apart, meaning sufficient space is provided for vehicles to comfortably manoeuvre into and out of each bay, in accordance with the SPD.
- 7.5.9 Notwithstanding the above, both KCC Highways and National Highways have recommended that any approval should be subject to a condition that secures a Construction Management Plan, prior to the commencement of works. Such a condition is deemed appropriate and reasonable and forms part of this recommendation.
- 7.5.10 It is considered that the proposal would not create a situation that would result in significant risks to highway safety or the efficient functioning of the local highway network. Accordingly, it is compliant with policies CP2, DM6, DM7 and DM14 of the Local Plan, policies T1, T2 and T3 of the Boughton and Dunkirk Neighbourhood Plan as well as the Council's Parking SPD and the NPPF.

APPENDIX A**7.6 Living Conditions**

- 7.6.1 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM14 of the Local Plan states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight or give rise to unacceptable levels of noise or odours.
- 7.6.2 The application site is enclosed around its eastern, southern and western boundaries by ancient woodland, and to the north by the petrol filling station, café and the A2 Boughton Bypass beyond. The nearest permanent self-contained residential properties (Forge House, Goudhurst Cottage, Gordon Cottage and Irvington Cottage) lie approximately 140m away from the site, to the north-west on the opposite side of the A2. To the east, in excess of 220m there are two properties (at Hillside and 1 Hillside), whilst the Brotherhood Woodyard gypsy and traveller site lies approximately 80m to the south-west. 2 objections have been received from residents with specific concerns raised over noise, lighting, odour, littering, antisocial behaviour and associated traffic (as set out in the consultation section above).
- 7.6.3 A Noise Impact Assessment, a Lighting Assessment, an Odour Assessment and a Transport Assessment have been submitted to demonstrate that the proposed scheme would not have a significant impact in terms of local noise, traffic or lighting levels.
- 7.6.4 Firstly, due to the contained nature of the site, and taking account of the separation distance between the proposal and nearby residential properties and that it is not highly visible from these properties, any potential impacts of the scheme on neighbouring living conditions would be indirect. There would be no harm arising from the proposed building in terms of any impact on the privacy, outlook or levels of sunlight / daylight that are enjoyed by the occupiers of the nearest dwellings. Notwithstanding this, it is acknowledged that the proposal could generate additional levels of noise, odour, traffic and general activity, which could have an indirect impact upon the living conditions of the properties identified above.
- 7.6.5 The noise impact assessment details the findings of a 3-day, 24-hour monitoring exercise, which found that when taking into account all of its combined activities, the proposed development would be expected to generate noise levels that would be 11dB below representative background daytime levels and only 2dB above background night-time levels, and as such it is not anticipated that the scheme would result in adverse acoustic impacts as the scheme would comply with National Standards related to acoustic environments. Further to this, it is not anticipated that the relatively small increase in traffic generation would result in a significant increase in noise from the road, as experienced from the nearest residential properties.

APPENDIX A

- 7.6.6 The submitted odour assessment concludes that whilst the proposed restaurant would normally dictate a high level of odour control, in this instance, due to the distance of the site from the nearest residential properties, a pragmatic approach to odour control can be adopted. However, notwithstanding this, the development will incorporate unrestricted high velocity vertical discharge termination to ensure that cooking fumes are suppressed and dispersed high into the atmosphere, to ensure that they do not have a significant impact upon nearby residential properties.
- 7.6.7 In relation to lighting, the lighting impact assessment states that the lighting scheme will use directional lighting to ensure that lamps and illuminations are directed downwards and in towards the centre of the site to preserve the darkness of the night sky above and around the site. As such, any illumination and glare will not extend to the nearest residential properties.
- 7.6.8 SBC Environmental Protection have reviewed the noise, lighting and odour assessments and confirmed that the methodology and findings of all reports are accurate. As such, there are no concerns with the proposed development with regards to noise, lighting or odour impacts subject to the implementation of the respective recommendations set out within them which can be secured by conditions.
- 7.6.9 SBC Environmental Protection have also confirmed that due to the relatively small increase in traffic that would be associated with the development, it is not anticipated that it would have a significantly detrimental impact upon air quality and therefore an air quality assessment has not been requested.
- 7.6.10 It is also noted that objections have been received from local residents that raise concerns over antisocial behaviour, littering and additional noise and nuisance during extended opening hours, and associated with an outside seating area. It should be noted that opening hours and the potential for anti-social behaviour have been factored into the noise impact assessment and that even with these taken into account, it is projected that the scheme will not exceed background noise levels as experienced from the nearest residential properties.
- 7.6.11 With regards to littering, although the comments from the Parish Council regarding car registration details being printed on packaging are noted, as this is primarily a behavioural issue, it is not considered reasonable to place this requirement upon the applicant. It is also not within the scope of the permission or the local planning authority to secure waste collection beyond the site. Instead, a condition has been attached to this recommendation that requires the applicant to submit a waste management plan to ensure that waste and litter is collected from the site on a regular basis.
- 7.6.12 It is considered that the proposal would not create a situation that would result in significant harm to the living conditions of the occupiers of any neighbouring properties. It is therefore deemed that the scheme is compliant with policy DM14 of the Local Plan and the NPPF.

APPENDIX A**7.7 Ecology**

- 7.7.1 Section 40 of the NERC Act (2006), as well as paragraphs 187 and 193 of the NPPF, establish that biodiversity should be maintained and enhanced through the planning system, and that the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged. These principles are reinforced at a local level by policies CP7 and DM28 of the Local Plan which establish that development proposals will apply national planning policy in respect of the preservation, restoration and re-creation of habitats and species, and will be required to provide, where possible a net gain of overall biodiversity. Policies E2, E4 and E6 of the Boughton and Dunkirk Neighbourhood Plan also require development proposals to seek opportunities for ecological gain and the protection of sensitive wildlife sites.
- 7.7.2 The Government's BNG legislation goes a step further than the above referenced policy requirements as it requires development proposals to have no adverse impact upon important habitats and that they must create an overall net gain in biodiversity of 10%. Whilst this legislation cannot be applied to the proposal as the application was submitted prior to the date on which it came into effect, policy E8 of the Boughton and Dunkirk Neighbourhood Plan is consistent with this requirement in respect of biodiversity net gain (BNG), as it also identifies that development proposals must create an overall net gain of 10% when measured against a baseline habitat value of the site.
- 7.7.3 The applicant has submitted a Preliminary Ecological Appraisal and additional Bat and Dormouse Surveys in support of their application. These reports state that the site itself has negligible habitat value in its own right, but the surrounding woodland, provides habitat opportunities for a range of wildlife, including Great Crested Newts, Bats, Birds, Hazel Dormice, Badgers and Reptiles. As such, a precautionary approach should be applied when removing vegetation, and it is recommended that further tree planting of broad-leaved native species or fruit trees is incorporated within the scheme and carried out in a manner that provides an ecological buffer to the proposed development.
- 7.7.4 In consultation with the KCC Biodiversity Officer, the applicant has provided a detailed Biodiversity Enhancement Plan, a Construction Environment Management Plan, and a Landscape Management Plan. These seek to provide new habitat opportunities for bats, birds, dormice and other species, in addition to wider landscape opportunities within and around the borders of the site, and to ensure that they are carefully managed and protected from potential damaging behaviour from customers. The Biodiversity Officer has reviewed the application and confirmed that sufficient information has been provided to determine the application. It has also been confirmed that the submitted lighting details would ensure that habitats along the southern, eastern and western boundaries of the sites will not be disturbed by illuminations due to the incorporation of low level and directed lighting.
- 7.7.5 It is however recommended that conditions should be attached to any permission to secure the implementation of precautionary mitigation measures detailed within the Ecological Impact Assessment and a biodiversity enhancement plan.

APPENDIX A

These suggested conditions are considered reasonable and appropriate and have therefore been incorporated into this recommendation.

Biodiversity Net Gain

- 7.7.6 In respect of biodiversity net gain, the application includes a biodiversity report and BNG metric which assesses the site as having a baseline biodiversity value of 2.85% habitat units, with a mixture of non-priority woodland, hazel scrub, modified grassland, individual urban trees and introduced shrub.
- 7.7.7 The proposed scheme has been designed to incorporate as much habitat creation as possible through tree and hedge planting, but due to a required loss of individual trees, discrete areas of hazel scrub and modified grassland, the post development score for the site would amount to a reduction of 1.34 habitat units (to -1.51 units), despite a 214% increase in hedgerows habitats throughout the site. It therefore the intention of the applicant to purchase 1.63 offsite habitat units. Full details will need to be demonstrated as part of the Biodiversity Gain Plan, the submission of which is secured by condition. KCC's Biodiversity Officer has reviewed the submitted biodiversity metric and report and has confirmed that site has been valued correctly and that the proposed biodiversity enhancements within the site coupled with the purchasing of habitat units to facilitate the establishment of habitats outside of the site, would provide an overall net gain of 10%.
- 7.7.8 It is considered that the proposal would have a net positive impact on biodiversity, however, it is necessary for the applicant to enter into a Section 106 agreement with the Council to ensure the purchase of off-site habitat units.
- 7.7.9 Overall, it is deemed that subject to compliance with conditions and the completion of a legal agreement, the proposed development would deliver habitat enhancements and would not result in harm to local wildlife. The proposal is in accordance with Section 40 of the NERC Act (2006), policies CP7 and DM28 of the Local Plan, policies E2, E4, E6 and E8 of the Boughton & Dunkirk Neighbourhood Plan and the NPPF.

7.8 Trees

- 7.8.1 Policy DM29 of the Local Plan sets out that the Borough Council will seek to ensure the protection, enhancement and sustainable management of woodlands and individual trees.
- 7.8.2 As mentioned, the site is enclosed by ancient woodland at its eastern, southern and western sides, and whilst the site itself is largely developed, there are a number of trees within it that would have the potential to be affected by the proposed development. Accordingly, the applicant has submitted an Arboricultural Impact Assessment, which concludes that the scheme will require the loss of 12 individual trees, most of which are situated along the northern boundary of the site. 6 of these trees have been assessed as being diseased and functionally dead, whilst 3 others are diseased and dying. They were also identified for removal under the previous permission for a coffee shop on the site.

APPENDIX A

- 7.8.3A Biodiversity Enhancement Plan has been submitted showing replacement trees of native species would be planted within the site to compensate the loss of the existing specimens, and buffer strips have been incorporated around the eastern, southern and western borders of the site to provide a buffer to the wider ancient woodland. The net result would be an increase in trees on the site.
- 7.8.4 The NPPF at paragraph 193 states that *“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.”* Standing Advice from Natural England and the Forestry Commission states that development proposals should provide a 15m buffer to ancient woodlands in order to protect them and the habitats that they provide. In this instance, whilst the proposed car park will fall closer to the edge of the ancient woodland in places, it is recognised that the site is currently laid with hardstanding, and that the scheme as proposed will not result in the encroachment of development towards the woodland, but will instead pull development further away. In particular, the situation to the south and west of the site would be improved as a large part of the existing hardstanding that currently adjoins the boundary to the ancient woodland would be removed and replaced with soft landscaping and the planting of more native trees. As a result, there is not a 15m buffer all around the site, but where it does come within 15m, the development would either still be further away than the existing situation or very similar to it. As a result, it is concluded that the proposal would not result in the loss or deterioration of irreplaceable habitats.
- 7.8.5 The Council's Tree Officer has reviewed the proposals and has confirmed that the proposed scheme is acceptable as it would not result in the loss of any good quality trees and would provide enhanced protections to the woodland when compared to the previous permission. It is however recommended that a condition be attached to any permission that requires the recommendations set out within the Arboricultural Impact Assessment to be complied with.
- 7.8.6 Subject to compliance with conditions, it is considered that the proposals would comply with policy DM29 of the Local Plan and the NPPF.

7.9 Flood risk, drainage, and surface water

- 7.9.1 Policy DM21 of the Local Plan establishes that development proposals should avoid inappropriate development in areas at risk of flooding, and include, where possible, sustainable drainage systems to restrict runoff to an appropriate discharge rate to ensure that surface water is disposed of on site.
- 7.9.2 The site lies entirely within Flood Zone 1 and is therefore at the lowest risk of flooding from rivers and seas. In terms of the requirement for a sequential test for flooding, since the submission of the application the NPPF has been updated to refer to any form of flooding, this includes surface water flooding. A very small area in the west of the site is subject to a high risk (1 in 30 annual likelihood) of surface water flooding. Paragraph 175 of the NPPF sets out that *“The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment*

APPENDIX A

demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

7.9.3 When the application was submitted there would have been no requirement for a Flood Risk Assessment. Therefore, although not shown by a FRA, the submitted site plan demonstrates that this scheme proposes no built development or any of the other matters listed in paragraph 175 as above in any areas at risk from flooding. Therefore, taking a pragmatic approach it is considered that due to the above factors a sequential test is not necessary. Separately, the Flood Risk Vulnerability and flood zone 'incompatibility' table in the Planning Practice Guidance also shows that a restaurant, which is classed as 'less vulnerable' does not require an exception test and is compatible in this flood zone. Further to this, the site upon which the proposed restaurant is located, is entirely laid with concrete, and the scheme will result in the removal of large areas of hard surfacing, therefore reducing surface water accumulation within the site itself.

7.9.4 The submitted drainage report concludes that it is unlikely that surface water can be discharged into the ground due to poor filtration conditions, although an existing surface water drain that runs through the site, will be utilised to deal with this issue. Cellular storage will however be utilised to reduce flow rates to the drain. Foul sewage would also be discharged via a sewage pipe that runs through the service area.

7.9.5 Overall, it is considered that the proposed development will not increase the risk of flooding within or outside of the site and as such, it complies with Policy DM21 of the Local Plan, E6 of the Boughton and Dunkirk Neighbourhood Plan and the NPPF.

7.10 Sustainable Design and Construction

7.10.1 Policy DM19 of the Local Plan requires non-residential development under 1,000sqm to achieve BREEAM 'good' standard as a minimum. A BREEAM Design Stage Pre Assessment Summary has been submitted which sets out that a 'good' standard is anticipated to be achieved. To ensure this is the case a condition has been recommended below. On this basis the scheme complies with policy DM19 of the Local Plan.

7.11 Contamination

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

APPENDIX A**7.12 Archaeology**

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

7.12.2 The site lies within an area of archaeological potential, being located on the A2, which is on the route of the main Roman road between London and the coast. KCC's Archaeology Officer has confirmed that Iron Age and Roman remains have been found in the surrounding area, and that it is possible that archaeological remains may be encountered during the proposed groundworks. Notwithstanding this, it is acknowledged that the site is likely to have been heavily disturbed already due to previous development, and as such it is recommended that a watching brief condition can be attached to this recommendation that requires the applicant to secure the implementation of a watching brief prior to works being carried out. This condition has been included below.

7.12.3 The proposal would be in accordance with Policy DM34 of the Local Plan, E2 of the Boughton and Dunkirk Neighbourhood Plan and the NPPF.

7.13 Other matters

7.13.1 The majority of the issues made within the public and Parish Council representations that have been received, have been addressed in the sections above. Of those that remain the following comments are made. Firstly, the impact on property prices is not a material planning consideration. In terms of pedestrian attempting to cross the highway, National Highways who are responsible for this section of the strategic highway network have raised no concern in this regard. In respect of potential conditions requested by the Parish Council, it would not appear reasonable to request a TRO in relation to highway matters affecting the slip road or in relation to access for a separate site on the basis that neither highway authority has requested this. A condition relating to cycle parking has been requested, however, the site is only accessed via the strategic road network, therefore this condition would appear unnecessary. A condition has also been requested requiring a discussion with the Parish Council and Officers regarding a S.106 to include benefits to the community. In respect of this matter, planning obligations are controlled by the statutory tests set out in regulation 122 and as policy tests in the National Planning Policy Framework. They must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

As such, they must only be used to mitigate an identified impact of a development. In this case, no impact has been identified which would need to be mitigated via a planning obligation, aside from the habitat credits as identified above. As such, a condition of this nature is considered unnecessary.

APPENDIX A

7.13.2 Although this application is for a restaurant, there is clearly the ability to take hot food off the premises, not least due to the 'drive thru' facility. In this respect, paragraph 97 of the NPPF states:

“Local planning authorities should refuse applications for hot food takeaways and fast food outlets:

a) within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or

b) in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour.”

As discussed above, the site is located adjacent to a dual carriageway, providing roadside facilities. As a result, the site is not within walking distance of schools and other places where young people may congregate. In addition, there is not a concentration of similar uses in this area and as such no evidence that the use is having an adverse impact on the matters set out in b) above. As a result, the scheme does not conflict with policy 97 of the NPPF.

7.14 Conclusion

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

CONDITIONS

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

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

- 2) The development hereby permitted shall be carried out in accordance with the approved plans:

Block Plan (8516-SA-2139-P002 D),
Site Layout Plan as Proposed (8516-SA-2139-P004 C),
Biodiversity Enhancement Plan V6 (A6100.01J),
Landscaping Scheme (A6100 01 J),
Proposed Elevations and Section (8516-SA-2139-P005),

APPENDIX A

Ground Floor and Roof Plans (8516-SA-2139-P006),
Proposed Lighting Layout (DWG 01),
LiAS Design Notes & Luminaire Schedule (DWG 00)

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

- 3) The development hereby approved shall not commence above slab level until details of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

- 4) The approved details of the parking/turning, loading and unloading areas as detailed on drawing 8516-SA-2139-P004 C shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use.

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

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

Reason: In the interests of visual amenity.

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

Reason: In the interests of residential amenity.

- 7) The development hereby approved shall be carried out in accordance with the recommendations set out within Section 6.0 of the Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan, produced by Hayden's Arboricultural Consultants (dated 10.05.32023).

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

- 8) Within three months of the first use of the building hereby approved, the landscape scheme shall be implemented as per the Landscape Scheme, 01 Rev J, Encon Nov 2023 and Biodiversity Enhancement Plan V6, Practical Ecology,

APPENDIX A

Nov 2024. The landscaping shall thereafter be managed in accordance with the Landscape Management Plan reference number A6100 Revision E, dated 12 November 2024.

Reason: In the interests of enhancing biodiversity.

- 9) Any tree planted in accordance with the conditions attached to this permission, or in replacement for such a tree, which within a period of five years from the date of the planting is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species and size as that originally planted, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season.

Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

- 10) From commencement of development (including site clearance) and for the duration of works through to the first use, to avoid impacts to protected and priority species, the precautionary working measures detailed in the Enhancements and recommendations section of the Bat Survey Letter and the recommendations section of the Dormouse Survey Report (both carried out by Practical Ecology), associated with the planning application shall be adhered to.

Reason: In order to protect protected species.

- 11) Within three months of the commencement of development, biodiversity enhancement shall be implemented as per the Biodiversity Enhancement Plan V6, Practical Ecology, Nov 24 or later versions, approved by submission pursuant to this condition to the Local Planning Authority. The approved measures shall be implemented and retained thereafter.

Reason: In the interests of enhancing biodiversity.

- 12) The development hereby approved shall not commence until a biodiversity gain plan (which demonstrates a biodiversity net gain of a minimum 10% against the baseline) has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development delivers a biodiversity net gain.

APPENDIX A

- 13) The development shall not commence until a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved on-site biodiversity gain plan and including:
- a) a non-technical summary;
 - b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the Local Planning Authority, has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure the development delivers a biodiversity net gain.

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

Reason: To ensure the development delivers a biodiversity net gain.

- 15) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.
- Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
 - Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
 - Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

APPENDIX A

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

Reason: To reduce risk to controlled waters.

- 16) The development hereby approved shall not commence above slab level until, details of hard landscape works (including materials) have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first use of the building(s) or land. The new areas of hard surfacing shall be constructed from either permeable materials or incorporate drainage channels to prevent surface water runoff onto the highway.

Reason: To ensure a satisfactory appearance to the development, in the interests of highways convenience and to prevent surface water runoff.

- 17) Prior to the commencement of the development hereby permitted a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A2, including the Boughton Bypass). The plan shall include as a minimum:

- Construction phasing;
- Construction routing plans;
- Permitted construction traffic arrival and departure times.

Thereafter all construction activity in respect of the development shall be undertaken in full accordance with such approved details.

Reason: To mitigate any adverse impact from the development on the A2 (including the Boughton Bypass) in accordance with the Department for Transport (DfT) Circular 01/2022. This is required prior to the commencement of development to ensure that a programme and method of works are agreed that will not cause an obstruction to the safe functioning of the highway network.

- 18) The development hereby approved shall not be brought into use until a management plan for the collection of litter within the site has been submitted to and approved in writing by the Local Planning Authority. Once approved the management plan shall be adhered to throughout the lifetime of the development.

Reason: In the interest of public health and the visual amenities of the area.

- 19) No development shall take place until the applicant, or their agents, or successor in title, has secured the implementation of a programme of archaeological works

APPENDIX A

in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 20) The building hereby approved shall be constructed to achieve a minimum of BREEAM 'Good' rating and prior to the use of the building commencing the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

- 21) The development hereby approved shall not be brought into use until 4 electric vehicle charging points have been provided. All Electric Vehicle chargers must be provided to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection).

Reason: In the interest of promoting sustainable modes of transport.

- 22) The recommendations contained in the document entitled Odour Control Assessment shall be adhered to throughout the use of the premises hereby approved.

Reason: In the interest of residential amenities.

APPENDIX A



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APPENDIX B**41 2.1 - 23/504375/FULL Former Travelodge Canterbury West, London Road, Dunkirk, Faversham, Kent, ME13 9LL**

2.1 REFERENCE NO 23/504375/FULL	
PROPOSAL Demolition of vacant hotel and the erection of a freestanding restaurant with drive thru facility, car parking, landscaping and associated works, including customer order display (COD).	
SITE LOCATION Former Travelodge Canterbury West, London Road, Dunkirk, Faversham, Kent, ME13 9LL.	
WARD Boughton and Courtenay	
PARISH/TOWN COUNCIL Dunkirk	
APPLICANT McDonald's Restaurants Limited	AGENT Planware Ltd

The Senior Planning Officer introduced the application as set out in the report. He drew Planning Committee Thursday, 22 May 2025

the application. It was also agreed to alter the trigger point of conditions (12), (13), (17) and to 'prior to any further development being carried out', rather than prior to the commencement of development.

Parish Councillor Jean Gray, representing Dunkirk Parish Council, spoke against the application.

Sarah Moakes, an objector, spoke against the application.

Charlie Brown, the Agent, spoke in support of the application.

The Chairman moved the officer recommendation to grant planning permission as per the recommendation in the report, and this was seconded by Councillor Angela Harrison.

A Ward Member spoke against the application.

At this point and following a request by the Chairman, the Senior Planning Officer provided more details on the key points of the application for Members.

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

- Knew the area well and the site had a 'long-standing' use for sale of refreshments;
- there had previously been a Travelodge on the site with traffic in and out so this would be no different;
- this was a brownfield site;
- could see no lawful planning reason to refuse the application;
- the application went against the Boughton Under Blean Neighbourhood Plan;
- the use might lead to increased crime and litter in the area;
- the Kent Woodland Trust, Kent Wildlife Trust and the Royal Society for the Protection of Birds had not been consulted;
- needed to protect the Site of Special Scientific Interest opposite the application site;
- local residents did not support the application;
- it would be difficult for any rubbish from the premises along the A2 to be collected

APPENDIX B

- safely;
- would prefer to see just a restaurant rather than a drive-thru;
- the application could not be refused simply because of who the applicant was; and
- any litter from the premises would be caused by customers and not the applicant.

In response to questions from Members, the Senior Planning Officer confirmed that the Railton report had not been submitted or viewed by officers. The Chairman confirmed that as the Railton report referred to by a speaker had not been viewed by officers it could not be considered by Members. He referred to pages 83, 84 and 85 of the report which set-out all of those who had been consulted on the application.

Resolved: That application 23/504375/FULL be granted as per the recommendation in the report and the amendments to conditions (8), (11) and (21) and the alterations to the trigger point of conditions (12), (13), (17) and (19) to 'prior to any further development being carried out', rather than 'prior to the commencement of development'.

PLANNING COMMITTEE – 4th December 2025

PART 4

Report of the Head of Planning

PART 4

Swale Borough Council's own development; observation on County Council's development; observation of development by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

4.1 REFERENCE NO 24/503658/FULL		
PROPOSAL Creation of new vehicular entrance.		
SITE LOCATION Central Park Stadium Church Road Sittingbourne Kent ME10 3SB		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Council owned land.		
Case Officer Rebecca Corrigan		
WARD Murston	PARISH/TOWN COUNCIL N/A	APPLICANT Swale Borough Council AGENT Clarkebond
DATE REGISTERED 08.10.2024		TARGET DATE 17.08.2025
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - <u>24/503658/FULL Creation of new vehicular entrance. Central Park Stadium Church Road Sittingbourne Kent ME10 3SB</u>		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is located within the built-up area of Sittingbourne and forms part of the wider Central Park Stadium complex. The stadium is a long-established leisure venue, primarily used most recently for greyhound racing and speedway events, and is situated on the eastern side of Church Road. The surrounding area comprises a mix of residential and commercial uses, with open land to the south and east.

2. PLANNING HISTORY

- 2.1. The site has a long and detailed planning history associated with its use as a leisure and sporting venue, including applications relating to stadium operations, hours of opening, signage, and ancillary structures. However, none of the previous applications are considered directly relevant to the current proposal.

3. PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the creation of a new vehicular entrance into the grounds of the Central Park Stadium. The new entrance would be located to the north of the existing access point on Church Road and will provide improved access to the land in the north of the site.
- 3.2. The works would involve alterations to the boundary treatment, installation of dropped kerbs, and associated landscaping and visibility splays to ensure safe access and egress.

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.
- 4.2. No representations were received following the public consultation.

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 all consultees.
- 5.2. **KCC Highways** – Provided the completion and maintenance of the access and provision and retention of parking spaces are secured by condition, then raise no objection.
- 5.3. **KCC Minerals and Waste** - No land-won minerals or waste management capacity safeguarding objections or comments to make regarding this matter.
- 5.4. **KCC Ecological Advice Service (KCC EAS)** - Due to the urban setting, small scale of the development and lack of suitable surrounding vegetation, no ecological information is required. It is considered that on site enhancements are not feasible. An

informative is recommended regarding nesting birds. The site is considered exempt from BNG.

- 5.5. **Mid-Kent Environmental Health** - No concerns in regard to noise, air quality, contaminated land and lighting.
- 5.6. **Health and Safety Executive (HSE)** - HSE does not advise on safety grounds, against the granting of planning permission in this case.

6. **DEVELOPMENT PLAN POLICIES**

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

ST1 Delivering sustainable development in Swale

ST3 The Swale settlement strategy

ST4 Meeting the Local Plan development targets

ST5 The Sittingbourne area strategy

CP4 Requiring good design

DM6 Managing transport demand and impact

DM7 Vehicle parking

DM14 General development criteria

DM28 Biodiversity and geological conservation

Supplementary Planning Guidance/Documents

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.

7. **ASSESSMENT**

- 7.1. The main considerations involved in the assessment of the application are:
- Principle
 - Transport and Highways
 - Visual Impact

- Ecology
- Living Conditions
- Other Matters

7.2. Principle

- 7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.2.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.2.3. Policy ST3 of the Local Plan supports development within the urban confines of towns and local centres across the borough. In this case, the site and proposed access is located within the built-up area boundary of Sittingbourne. The principle of the development is therefore considered acceptable subject to other relevant considerations as set out below.

7.3. Transport and Highways

- 7.3.1. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. Policy DM14 seeks to ensure that all development proposals achieve safe vehicular access.
- 7.3.2. 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.”

Access

- 7.3.3. The proposed new vehicular entrance would be located circa 20m north of the existing main access to Central Park Stadium on Church Road.
- 7.3.4. The proposed access will feature a vehicle crossover laid flush to the existing carriageway on Church Road, facilitating smooth entry and exit for vehicles. The application is supported by details of visibility splays together with swept path analysis. These assessments demonstrate that acceptable visibility is available in both

directions when exiting the site, whilst also demonstrating that heavy goods vehicles (HGVs) and refuse vehicles can safely navigate the access without obstruction.

- 7.3.5. KCC Highways have reviewed the proposal and raise no objection, subject to the imposition of conditions.

Parking

- 7.3.6. The Swale Borough Council Parking Standards (SPD), which supports Policy DM7 of the Local Plan, sets out guidance for parking provision across the Borough. It emphasises that parking provision should be appropriate to the type, scale, and location of development, and should support sustainable transport objectives while ensuring safe and efficient operation of the highway network.
- 7.3.7. Central Park Stadium currently provides 272 parking spaces. The formation of the proposed entrance would result in the loss of approximately six existing parking spaces. Given the limited number of spaces that would need to be removed in order to facilitate the formation of the access, it is not considered that the proposals would lead to any unacceptable impact on the parking provision at the site.
- 7.3.8. Whilst a condition securing the replacement of the six spaces is not considered necessary in this case, a desktop exercise carried out during the course of the application demonstrates that there is space available in the wider site to accommodate the re-provision of these spaces if required in future.
- 7.3.9. In view of the above, the proposals comply with Policies DM7 and DM14 of the Local Plan and the NPPF.

7.4. Visual Impact

- 7.4.1. 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.
- 7.4.2. The proposed new vehicular entrance is modest in scale and would involve limited physical alterations to the site frontage. The design and materials proposed are considered appropriate for the location and would not detract from the visual character of the surrounding area. The entrance would be integrated into the existing boundary treatment, and any associated landscaping would help soften its appearance, ensuring the development remains in keeping with the established streetscene.
- 7.4.3. The proposal complies with Policies CP4 and DM14 of the Local Plan and the NPPF.

7.5. Ecology

- 7.5.1. 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. The NPPF states that

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

- 7.5.2. No ecological information has been submitted with this application. However, following consultation with KCC Ecology, it is advised that the proposed development has limited potential to result in significant ecological impacts. This conclusion is based on the small scale of the proposal, its urban setting, and the lack of suitable surrounding vegetation or habitats for protected species. As such, no further ecological surveys or mitigation measures are considered necessary. It is also considered that on site enhancements are not feasible.
- 7.5.3. In view of the above, the proposals are considered in accordance with Policy DM28 of the Local Plan and the NPPF.

BNG

- 7.5.4. This application is exempt from Biodiversity Net Gain as it falls within the ‘de minimis’ category.

7.6. Living Conditions

Existing residents

- 7.6.1. Policy DM14 of the Local Plan and the NPPF requires that new development causes no significant harm to amenity.
- 7.6.2. The proposed development has been assessed in terms of its potential impact on the living conditions of nearby residents, particularly those located along Church Road and in the vicinity of Central Park Stadium.
- 7.6.3. The new vehicular entrance is not anticipated to result in significant increases in traffic or noise levels beyond those already associated with the stadium’s existing operations.
- 7.6.4. The entrance is positioned away from the nearest residential properties and would not introduce any new built form or activity that would materially affect outlook, privacy, or daylight. The separation distance, combined with the limited intensity of use associated with the access, ensures that the proposal would not give rise to any unacceptable impacts on residential amenity. Environmental Health have raised no objections.
- 7.6.5. The proposal is considered to maintain an acceptable standard of residential amenity for existing residents in accordance with Policy DM14 of the Local Plan and the NPPF.

7.7. Conclusion

- 7.7.1. The proposed development for the creation of a new vehicular entrance lies within the built-up area boundary of Sittingbourne, where the principle of development is acceptable. The proposal is modest in scale and the design would not result in harm to the character or appearance of the area. The development is not considered to have any adverse impact on living conditions of existing residents or ecology, and is exempt from the mandatory biodiversity net gain requirements under the Environment Act 2021.
- 7.7.2. The access proposed would not lead to any unacceptable impact on highways safety. The proposal is considered to comply with relevant Local Plan policies and the NPPF and is therefore recommended for approval.
- 7.7.3. 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 by statutory and non-statutory consultees.

7.8. Recommendation

- 7.8.1. Grant subject to conditions.

7.9. Conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town & Country Planning Act 1990.

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

Received 14 November 2025

- Site location plan

Received 04 October 2024

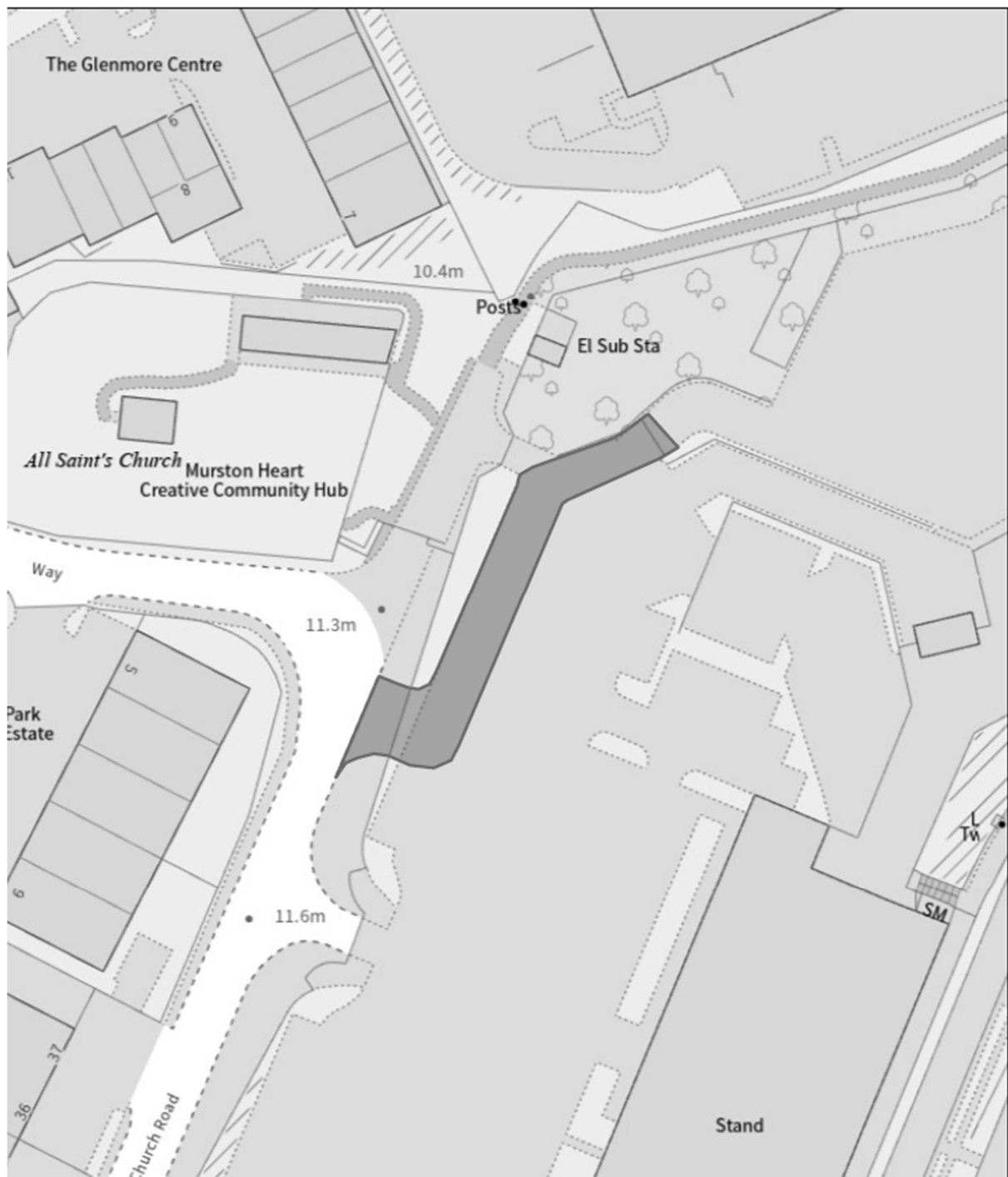
- 0200 Rev P03 General Arrangement
- 0300 Rev P01 Highways Construction Details
- 0400 Rev P02 Site Clearance
- 0500 Rev P02 Signing and Lining
- 0600 Rev P02 Surfacing and Kerbing

- 0700 Rev P02 External Works

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

3. The vehicular access hereby approved shall be completed in accordance with the approved plans prior to its first use. The access shall thereafter be maintained in accordance with the approved details.

Reason: To ensure the provision of a safe and suitable access to the site in the interests of highway safety and the free flow of traffic.



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PLANNING COMMITTEE – 4th December 2025**PART 5**

Report of the Head of Planning

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

- **Item 5.1 – Light Industrial Unit (Disused), Land Adjacent to Pebble Court Farm, Woodgate Lane, Borden, Sittingbourne ME9 7QB**

PINS Decision: APPEAL DISMISSED**Committee or Officer Decision : DELEGATED REFUSAL****Observations**

Planning permission was sought for the conversion of a building, said to be dilapidated but formerly in use for light industrial purposes, into a three bedroom dwelling and the conversion of another building into a home office. The main issues were the suitability of the location for a dwelling and the acceptability of the proposal in the context of the supply of rural employment sites.

In respect of the first issue, the site being in the countryside, accessed only from a narrow track and distant from all shops and services needed for day to day living lead the Inspector to conclude that the proposal was contrary to the settlement strategy and would lead to occupiers being entirely reliant on private vehicles.

In relation to the loss of the employment use, having considered the case of the appellant, the Inspector found that *“the evidence does not adequately demonstrate that there is no demand for rural employment at the site, or that its commercial use would be unviable.”* The proposal was therefore found to be contrary to Policy DM3.

Other developments and permission in the general area were not found to be relevant by the Inspector who undertook a balancing exercise, having regard to the Council's housing land supply, the economic benefits arising from construction and occupation, the provision of a home office to reduce commuting and the energy efficiency credentials of the proposal relative to the existing situation. The Inspector was not persuaded to give weight to the potential for the site to provide a self-build dwelling as this was not secured. However, these benefits were found to be outweighed by the identified harm and the conflict with the development plan. The appeal was, therefore, dismissed.

- **Item 5.2 – Cowstead Farm, Queenborough Road, Halfway, Kent ME12 3RL**

PINS Decision: APPEAL DISMISSED**Committee or Officer Decision : DELEGATED REFUSAL****Observations**

Planning permission was sought for the demolition of the existing farmhouse at the site and the erection of 6 dwellings. There were five key areas of consideration which shall be addressed in turn below.

Firstly, in terms of the Settlement Strategy, whilst close to built-up area boundary and near to shops and services, the Inspector noted that the site was in the countryside and the site was not served by routes that would be conducive to walking or cycling. It was found that forthcoming developments within the area and a nearby PRow did not compensate for the existing discouragement to cycling and walking that exists. It was also noted that the site was not well served, at this time, by bus and train services. For these reasons, the site is not *“adequately accessible by sustainable modes of transport.”* Therefore, *“future occupants would be heavily reliant on the private car.”* A prior approval for conversion of buildings was noted but not found to be reason to make a different assessment of the above and the Inspector therefore found the proposal contrary to the settlement strategy and policies DT1, ST3 and CP2.

The second issue was the character and appearance of the development. In short, it was found that the farmhouse and its spacious rural surrounds were a positive feature and the development *“would erode significantly the spaciousness of the appeal site which contributes significantly to its rural character.”* The proposal was not considered to be reflective of the character and appearance of the site and the surroundings and would have the effect of urbanising the site and locality. Notwithstanding the potential domestication of the site caused by a prior approval, it was found that the proposal would harm the character and appearance of the area in a manner that would be contrary to policies ST1, ST3, CP4 and DM14.

Thirdly, the Inspector assessed the acceptability of demolishing a non-designated heritage asset, i.e. the farmhouse at the site. The Inspector assessed the building and its value before concluding that its *total loss* would cause considerable harm and cause the loss of functional link with other heritage assets. Efforts to downplay the value of the building by the appellant were not agreed and their evidence relating to the ability to bring the building back into use was not considered to be grounds to find this harm acceptable. The proposal was therefore found to be contrary to Policy CP8 and the harm was given moderate weight.

The landscape impact of the proposal was found to be acceptable. However, in respect of the Important Local Countryside Gap (ILCG) that the site is located within, whilst the proposal was found to not conflict with some of the purposes of the ILCG, it was found to *“result in the intensification of built form on the appeal site resulting in the loss of a more open and undeveloped area and that the proposed built development would change the rural open character. As such, the proposal would be at odds with two of the purposes of the ILCG.”* The conflict with Policy DM25 was given limited weight.

The Inspector summarised areas where the proposal was acceptable and had regard to benefits arising from housing supply, economic development, BNG and the energy efficiency credentials of the proposal. However, the identified harm was found to significantly and demonstrably outweigh the benefits of the proposal. The appeal was, therefore, dismissed.

f

- **Item 5.3 – 89 Victoria Street, Sheerness, Kent ME12 1YF**

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

A Certificate of Lawfulness was sought for an outbuilding in the curtilage of a dwelling and refused, in 2023, on the grounds that the proposal did not appear to be proposed to meet a use that would be incidental to the enjoyment of the dwelling, as is required for under the terms of the applicable permitted development right. The Inspector concluded that the details within the submissions were sufficient to conclude that the use of the building would be incidental to the dwelling and, therefore, the appeal was allowed and a Certificate of Lawfulness was granted.

- **Item 5.4 – Brogdale Farm, Brogdale Road, Ospringe ME13 8XU**

PINS Decision: APPEAL ALLOWED & COSTS REFUSED

Committee or Officer Decision : COMMITTEE DECISION

Observations

The application sought outline planning permission for a development comprising of light industrial / research and developments units, tourism accommodation and a nursery. The application was refused on the grounds of impacts to highway safety, harm to the setting of a listed building, the loss of BMV agricultural land, the impact on the character and appearance of the area and the conflict with the spatial strategy of the development plan.

The Inspector found that the highway proposals accorded with the relevant national standards and, notwithstanding the evidence provided by interested parties, it should not be concluded that the access was unsafe. Moreover, it was found that the access to sustainable modes of transport was sufficient to accord with national and local policy requirements.

The visual impact of the proposal was considered to be urbanising and harmful to the rural character, intrinsic value, landscape setting, tranquillity, and beauty of the countryside. This harm was afforded significant weight. Moreover, the loss of BMV agricultural land was found to be harmfully contrary to policy and it was found that the proposal would cause a medium amount of less than substantial harm to the setting of a heritage asset. These harms were afforded significant and great weight respectively.

However, the harms were deemed to be outweighed by the benefits of the proposal which include the provision of buildings and uses that would support the economic, tourist and education aspirations of local and national policies, particularly noting the association between the site and the National Fruit Collection. The weight given to each of these factors varied with most weight being given to the tourism benefits in this location. The proposal being acceptable or policy compliant was afforded weight as a positive and a benefit of the proposal in some respects, including in relation to ecology, accessibility and providing a planning obligation in relation to highways and air quality.

The appeal was, therefore, allowed.

In relation to the application for costs, it was considered that the applicant should have been given opportunity to respond to the evidence that was presented by the Parish Council shortly prior to the applicable Planning Committee meeting. The fact that this evidence appeared to have been important to the assessment of the Planning Committee and that the applicant had not had chance to comment on it was found to be prejudicial to their involvement and an example of unreasonable behaviour. However, the Inspector found that the appeal would have proceeded in any case and, therefore,

unnecessary or wasted expense had not been incurred. Despite the case of the applicant, no other unreasonable behaviour was identified and, as such, the application was refused.

- **Item 5.5 – Spade Lane, Hartlip, Sittingbourne, Kent, ME9 7TT**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

An enforcement notice had been served on the grounds of a breach of condition relating to a temporary permission. It was appealed on grounds a (planning permission should be granted), b (the breach has not occurred), f (the steps required by the notice are excessive) and g (the time for compliance is too short).

The condition limited the number of caravans that could be at the site and, with the onus of proof being on the appellant to demonstrate that it had not been breached and no evidence being provided that contradicted that of the Council, the Ground (b) appeal failed.

The Ground (a), (f) and (g) appeals were not considered by the Inspector as, in the time between the appeal being made and the appeal being considered, the temporary planning permission had expired. The Inspector, therefore, had no jurisdiction as the related permission and deemed application had fallen away.

The appeal was, therefore, dismissed.

- **Item 5.6 – 20 Park Road, Sittingbourne, ME10 1DR**

PINS Decision: APPEAL DISMISSED & COSTS REFUSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought to convert a building that is currently used as offices into three flats, with a replacement rear extension and landscaping. The main issue was the adequacy of the living conditions that would be provided to serve future residents.

Whilst the basement/ground floor flat was found to be of sufficient size to meet the Nationally Described Space Standards, the accommodation was considered to be compromised by the configuration of the building and the relationship between the habitable rooms and the external spaces. The reliance of a bedroom on a lightwell positioned beneath a stairwell was considered to provide occupiers with inadequate daylight and outlook.

One of the flats was proposed to be accessed from the stairwell at rear of the site, thereby causing occupiers to have to pass another flats bedroom window. The frequent footfall and activity within a metre of the bedroom window was found to be unacceptable

in terms of privacy and outlook. That window was also found to be unduly enclosed as a result of it looking out to a narrow passage.

Whilst the case of the appellant was noted, having regard to the view that such relationships should be found in historic urban areas, that occupiers of flats can be tolerant of such living conditions, that the Council cannot demonstrate a 5 year supply of housing, that the site is well located in terms of transport and services, that the proposal would derive economic benefits and that the proposal would re-instate a residential use to a residential area, the Inspector found that the harm and conflict with the development plan was unacceptable and the appeal was, therefore, refused.

In relation to the application for an award of costs, the appellant's case was that the application should have been found acceptable as the NDSS were mis-applied and, therefore, the appeal was unnecessary. Whilst the Inspector agreed that the standards should have been applied differently, it was identified that this was not the sole consideration and, for the reasons given above, the Inspector found that it was sound for the Council to have refused the application. A complaint that discussions were not enabled by Officers was rejected on the grounds that the Council is not necessarily required to do so. The costs application was therefore refused.

- **Item 5.7 – Land at Rides House Farm, Warden Road, Eastchurch, Kent ME12 4HA**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Prior approval was sought for the conversion of a building and its curtilage from agricultural use to residential use. Works were undertaken before prior approval had been sought and, therefore, the development could not be permitted development. That was the reason for refusal and the appeal was dismissed for that reason. The appellant's case that the works were minor, incomplete and not tantamount to a change of use was disregarded.

- **Item 5.8 – Land adj. Rides House, Warden Road, Eastchurch, Kent ME12 4HA**

PINS Decision: APPEAL DISMISSED & COSTS REFUSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for the construction of two dwellings. The main issues were whether the location is a sustainable location for residential development and the effect on the character and appearance of the area.

The distance of the site from shops, schools and services and the inevitable dependence on cars was found to be contrary to Policy CP2 and the location of the development in the countryside was found to be contrary to Policies ST1, ST3 and CP3.

The proposal was considered to be of suburban character in a location that is currently characterised by the sporadic and functional pattern of the built form. It was found that *“The scheme would consolidate built form across the width of the site and erode the sense of openness that contributes to the area’s rural character.”* The applicant’s case that the proposal should be found to be visually acceptable was disagreed with by the Inspector.

Permissions that exist to convert buildings at the site were not found to be reason to reach a different conclusion in either respect. The Inspector had regard to housing supply requirements, the provision of EV charging and cycle parking, other appeal decisions at a neighbouring site and the economic benefits of development. However, having weighed all of these factors, it was concluded that the appeal should be dismissed.

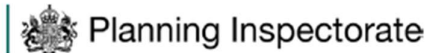
The application for costs centred in the applicant’s view that permission should have been granted as the planning history and other permissions should have been given more weight and, in the interests of consistency, the application should have been refused. The Inspector disagreed and found that no unnecessary or wasted expenses were incurred by the appellant.

PLANNING COMMITTEE – 4th December 2025**PART 5**

Report of the Head of Planning

PART 5

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



Appeal Decision

Site visit made on 29 September 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2025

Appeal Ref: APP/V2255/W/25/3367384**Light Industrial Unit (Disused), Land Adjacent to Pebble Court Farm, Woodgate Lane, Borden, Sittingbourne ME9 7QB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Michael Miller against the decision of Swale Borough Council.
 - The application Ref is 25/500162/FULL.
 - The development is described as the conversion and change of use of existing and dilapidated detached disused former light industrial workshop into a three bedroom dwelling (C3) and conversion and change of use of existing adjacent detached former associated office and store (previously hay barn) currently disused into a home office to be used for the dwelling occupier. Proposals include part demolition of existing commercial dilapidated workshop and installation of a sewage treatment plant and EV charging point.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is a suitable location for housing, with regard to development plan policies and accessibility to services and facilities, including the effect of the proposed development on the supply of rural employment sites in the Borough.

Reasons

3. The appeal site comprises two single-storey buildings accessed via a narrow track from Woodgate Lane, which is a narrow road providing access from Maidstone Road. The site is in a discreet location, and the parties agree that the site comprises previously development land. The proposal is for the conversion of an existing building to use as a dwelling.
4. Policies ST1 and ST3 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP) set out the settlement strategy for Swale to deliver sustainable development. Policy ST3 states that by use of previously developed land within defined built up area boundaries and on sites allocated by the Local Plan, development proposals will be permitted, subject to meeting particular criteria. This reflects the approach within the National Planning Policy Framework (the Framework), which states at Paragraph 125 c) that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes.
5. There is no dispute that the site is outside of any defined built-up area boundary. Consequently, the site is within the countryside for planning policy purposes.

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Appeal Decision APP/V2255/W/25/3367384

Policy ST3 goes on to state that for sites in the open countryside outside the built-up area boundaries, development will not be permitted unless it meets particular criteria, including that the development would protect the vitality of rural communities.

6. Although the site is currently vacant, it has previously been used as a workshop. Policy DM3 of the LP requires that proposals for residential development will not be permitted where this would reduce the potential for rural employment unless it is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. The supporting text for the policy sets out that even if the site or building is vacant, evidence will need to show that it is neither viable nor likely to become viable and that alternative employment uses have been robustly tested. This will also include the applicant having marketed the property for its commercial/community use for a reasonable period in a manner and at a price that reflects that use.
7. The site has been marketed and offered for sale and at auction for which an advertisement has been provided. Nevertheless, there is no substantive evidence before me detailing the extent of the marketing undertaken, including the period of time that the property was marketed, evidence of and justification for the marketing price, details of where the property was advertised and a log of any interest. Moreover, while the appellant suggests that the reuse of the building for commercial purposes would be unviable, there is no supporting evidence, including quotes from contractors, detailing the costs involved in renovating the buildings for commercial purposes. Consequently, the evidence does not adequately demonstrate that there is no demand for rural employment at the site, or that its commercial use would be unviable.
8. The appeal site is in a rural location detached from Danaway. While there are bus stops on Maidstone Road providing connections to larger settlements, including Sittingbourne, Maidstone, Newington and Faversham, the facilities within Danaway are limited. There are few everyday services and facilities within Borden, whilst the wider provision of facilities in Sittingbourne are further afield.
9. To access the bus stops and other settlements, future occupants would be required to use Woodgate Lane, a narrow, unlit track with no pedestrian footways. Given the distance that would need to be travelled along this road, it would not provide safe and suitable access to the bus stops on Maidstone Road. Moreover, it would not provide satisfactory access to the nearby settlement of Borden by sustainable modes of transport. Consequently, future occupants would be likely to travel by private vehicles, and this would therefore be unlikely to maintain the vitality of rural communities.
10. The appellant has referred me to residential development for three dwellings at The Field Barn¹ and a further development for eleven dwellings at Woodgate Lane². These two developments are close to the site but relate to the conversion of an agricultural building using permitted development rights and a proposal considered under a previous development plan. Accordingly, these developments are notably different to the scheme before me.
11. I conclude that the site is not a suitable location for the proposal having regard to development plan policy and accessibility to services and facilities. The

¹ Application reference 21/504972/PNQCLA

² Application reference 15/507804/FULL

Appeal Decision APP/V2255/W/25/3367384

development would therefore conflict with Policies ST1, ST3 and DM3 of the LP, as set out above.

Planning Balance

12. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the LP due to the location being unsuitable for housing and the harm to the supply of rural employment in the Borough. The proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
13. There is no dispute that the Council is currently unable to demonstrate at least a five year supply of housing land that the Framework requires. The parties agree that the Council is able to demonstrate a 3.98 year supply, which is substantially below the required level of five years. Paragraph 11. d) of the Framework indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
14. The appellant states that the dwelling would make a contribution to meeting the Council's requirements in respect of self-build and custom housing. Nonetheless, there is no substantive evidence before me that demonstrates that the Council is not meeting its requirements in this regard. Moreover, there is no mechanism before me, including a planning obligation, that would ensure that the proposed dwelling would contribute to the delivery of self-build and custom housing.
15. The proposal would deliver a single dwelling that would provide a boost to the supply of housing through the efficient use of land. The Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. In addition, the proposal would deliver social and economic benefits both during construction through the creation of jobs, and following occupation through the use of facilities and services in the surrounding settlements.
16. In addition, proposal would provide social, economic and environmental benefits, including that the development would provide an effective use of previously developed land, reusing a redundant building, which is in a poor state of repair and would incorporate low energy consumption measures. The development would also provide a home office which would avoid the appellant commuting and support the rural economy. These factors weigh in the scheme's favour. However, these benefits are limited by the scale of development proposed.
17. There are no objections on highways grounds or from environmental health. Nor were there objections from neighbours. However, the lack of harm in these regards is a neutral factor which does not weigh in favour of the development.
18. The proposal would lead to an enhancement of the existing building and would incorporate low energy consumption measures. The development would also provide a home office which would avoid the appellant commuting and support the rural economy. These factors weigh in the scheme's favour. However, given the

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

3

Appeal Decision APP/V2255/W/25/3367384

small size of this contribution these matters carry limited weight in my assessment.

19. In the particular circumstances of this case, I have concluded that the proposal would not be a suitable location for housing, would harm the supply of rural employment sites and would conflict with the relevant policies of the development plan and the Framework. The adverse impacts would therefore significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. Therefore, the proposal does not benefit from the presumption in favour of sustainable development.

Swale Special Protection Area

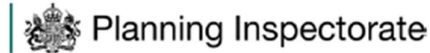
20. The site is within 6 kilometres of the Swale Special Protection Area (SPA). The SPA is identified as being of international importance for the breeding, wintering or the migration of rare and vulnerable species of birds and has been designated for overwintering, on-passage and breeding birds. The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) requires me as the decision maker to undertake an Appropriate Assessment where there are likely significant effects from the proposal, either alone or in combination with other plans or projects, on the integrity of the sites.
21. The Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) aims to deliver strategic mitigation necessary to avoid likely significant effects from recreational disturbance. The mitigation is secured through a financial contribution. While the appellant has indicated that a financial contribution would be made in accordance with the SAMMS, there is neither a completed planning obligation securing the payment, nor confirmation that a payment has been made. However, as I am dismissing the appeal on other matters, there is no need for me to consider this matter further or for me to undertake an AA in accordance with the Habitats Regulations.

Conclusion

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

J Pearce

INSPECTOR



Appeal Decision

Site visit made on 1 October 2025

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2025

Appeal Ref: APP/V2255/W/25/3365056

Cowstead Farm, Queenborough Road, Halfway, Kent ME12 3RL

- 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 Sheppey Gateway Ltd against the decision of Swale Borough Council.
 - The application Ref is 24/503740/FULL.
 - The development proposed is demolition of the existing farmhouse and erection of 6no. dwellings with associated access, parking and landscaping works.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has confirmed that in respect of the fourth reason for refusal, the term 'designated' was included in error, and that only non-designated heritage assets are relevant in the consideration of this case. Based on the evidence before me, I can find no reason to disagree. Consequently, Policy DM32 of the Bearing Fruits 2031 The Swale Borough Local Plan Adopted July 2017 (LP) which relates to development involving listed buildings, is not relevant to the consideration of this case.

Main Issues

3. The main issues are:
 - whether the appeal site is in a suitable location for new dwellings, having regard to the spatial strategy for the area and the accessibility of services and facilities by sustainable modes of transport;
 - the effect of the proposal on the character and appearance of the immediate area;
 - the effect of the proposal on the farmhouse as a non-designated heritage asset;
 - the effect of the proposal on wider landscape character; and
 - the effect of the proposal on the Important Local Countryside Gap (ILCG) designation.

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Appeal Decision APP/V2255/W/25/3385056

Reasons

Location

4. There is no dispute between the parties that, whilst in close proximity, the appeal site is located outside of any designated settlement boundary identified in current local planning policies and is therefore in the open countryside for the purposes of the development plan. Policy ST3 of the LP states that in the open countryside, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. I will return to matters of landscape and character and appearance later in my decision.
5. The appeal site is located in close proximity to a roundabout. On the other side of the roundabout is a large commercial area including various commercial units, supermarkets, food outlets and other leisure and retail units. I noted the presence of a separate footpath and cycleway directly outside of the appeal site. However, I also noted that it did not provide a direct connection to the nearest commercial area identified above. Consequently, anyone wanting to walk or cycle would have to use the roads which, whilst only a snapshot in time, were busy during my site visit and included a dual carriageway. Given the nature of the roads, I do not find that it would be safe for pedestrian movements, nor do I think it would be inviting to many as a cycle route.
6. I understand that planning permission was approved in March 2025 for a supermarket to the other side of the adjacent roundabout. I am also referred to a site outside the settlement boundary to the south of the appeal site where planning permission was granted in January 2025 for commercial development including a drive-thru and restaurant. Through both of these schemes it appears that additional footpath/cycleway connections would be provided along with bringing some services and facilities closer to the appeal site. The appellant asserts that development has commenced on these schemes, although I did not witness any significant works, whilst on site. Nevertheless, based on the current circumstances, I do not find it likely that people would walk or cycle to these nearest services and facilities from the appeal site.
7. I acknowledge that there is a Public Right of Way to the west of the appeal site that leads from Queenborough Road to the settlement of Halfway Houses, however this route takes you across agricultural fields and would not necessarily be that accessible to many, particularly those with mobility issues, or during inclement weather or hours of darkness.
8. The existing separate footpath/cycleway continues east from the appeal site all the way to Minster on Sea. The distance to services and facilities within Minster on Sea, which would be needed to meet day to day needs, would be relatively far and as such may put off regular access by pedestrians or cyclists. I am referred to a development located on the edge of Minster on Sea, which would provide a convenience store and community facility in closer proximity to the appeal site. Nevertheless, whilst I witnessed that development was underway during my site visit, I have no timescale before me to suggest when these new facilities would be delivered.

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2

Appeal Decision APP/V2255/W/25/3385056

9. I am referred to the presence of a bus stop within 50 metres of the appeal site, although I did not witness this during my site visit. I am not provided with any details of the frequency of bus services serving that bus stop. I did note the presence of a bus stop on Sheppey Way to the south of the appeal site and whilst this would be accessed by a separate footpath, it would be a fair distance to walk to access a bus service, which I am told only runs every 1 to 2 hours. As a result of the distance, I do not find that the bus services from this stop would be an attractive option for many. As part of one of the approved schemes identified above, an additional bus stop would be provided on Sheppey Way, in closer proximity to the appeal site, nevertheless, this is not yet in operation. The nearest train station is some distance from the appeal site, and I am not provided with any information that the bus service would provide a connection to it.
10. Whilst I accept that the appeal site would not be significantly removed from services and facilities in terms of distance, I do not find, based on the current circumstances, that they would be adequately accessible by sustainable modes of transport. Consequently, I find that future occupants would be heavily reliant on the private car. I accept that this situation is likely to change in the future, given the type of developments approved in the vicinity of the appeal site. Nevertheless, until that infrastructure is in place I cannot attribute any significant weight to those improvements or the opportunities for the use of sustainable modes of transport that may arise from them.
11. I do not find that the Council granting prior approval schemes for the conversion of the adjacent agricultural buildings confirms that the appeal proposal before me now would be in a suitable location. The re-use of existing buildings and the prior approval process are subject to different material considerations and are therefore not directly comparable.
12. I therefore find that the appeal site would not be in a suitable location for new dwellings, having regard to the spatial strategy for the area and the accessibility of services and facilities by sustainable modes of transport. As such, it would be contrary to Policies ST1 and ST3 of the LP insofar as they seek to ensure development is located primarily in main urban areas and larger villages for the more convenient location of jobs, homes and services, alongside more sustainable transport choices. It would also conflict with Policy SP2 of the LP, which although not referred to in the reason for refusal, is referred to in the Officer Report and also promotes access to sustainable forms of transport.

Character and appearance

13. The appeal site comprises a traditional farmhouse with associated garden area. To the north and east of the appeal site are a number of agricultural buildings that were once associated with the farmhouse, one of which has already been converted to residential use. Beyond the appeal site and the adjacent agricultural buildings is open countryside. To the south of the appeal site is fairly significant local road infrastructure including a roundabout. Given the appearance of the traditional farmhouse and the fairly large grounds in which it sits, it provides for a sense of spaciousness that responds positively to the rural character and appearance of the surroundings.
14. Provision of six new dwellings in place of the farmhouse would result in significant additional built form which would be spread across the appeal site, including

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

3

Appeal Decision APP/V2255/W/25/3385058

across the currently undeveloped garden area. This would erode significantly the spaciousness of the appeal site which contributes significantly to its rural character.

15. Whilst I note that design influences may have been taken from built form in the surrounding area, many of the examples provided in the submitted Design and Access Statement do not reflect development in a rural setting akin to the appeal site. The design approach does not reflect the character and appearance of the existing farmhouse nor is it clear that it takes any significant design cues from the adjacent agricultural buildings or other more rural developments in the local area. Consequently, the amount of development, the design proposed and its arrangement within the site would appear as a more urban development, rather than respecting the traditional farmstead character that is currently present. This would be incongruous with the rural character and appearance of the area.
16. The sub-division of the site and the provision of boundary treatments and other domestic paraphernalia would have a significant urbanising effect also, highlighting the intensification of the domestic appearance of the site. As a result of the amount of development identified and in particular the layout proposed with development being centred around an internal courtyard, the visual connection between the appeal site and the adjacent agricultural buildings would be significantly eroded.
17. It is asserted that the conversion of one of the adjacent agricultural buildings to residential use and the other schemes granted by the Council for further conversion schemes will alter the use of the site, making it a group of dwellings, rather than being in agricultural use. Whilst I accept the use may change, the conversion of existing buildings which respect the rural character and appearance of the area are not justification for a new development of the scale, arrangement and design proposed on the appeal site.
18. I find that the proposal would result in significant harm to the character and appearance of the area. The proposal would be contrary to Policies ST1, ST3, CP4 and DM14 of the LP. These policies seek, amongst other things, that developments achieve good design, that they contribute to protecting and, where appropriate, enhancing the beauty of the countryside and reflect the positive characteristics and features of the site and locality.

Non-designated heritage asset

19. There is no dispute between the parties that the farmhouse is a non-designated heritage asset (NDHA). Paragraph 216 of the National Planning Policy Framework (the Framework) states that the effect of an application on the significance of an NDHA should be taken into account in determining the application and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
20. The farmhouse is a detached two storey dwelling constructed of yellow stock brick with red brick detailing and a slate roof. Timber sash windows are still present along with simple timber external doors. A date stone is present on one of the elevations, citing the year 1883. The submitted Built Heritage Statement (BHS) identifies that much of the internal space has been modernised at some point. Externally, the farmhouse appears distinctly traditional and rural in character. The adjacent agricultural buildings, of which Barn 3 is also an NDHA, are of varying

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

4

Appeal Decision APP/N/2255/W/25/3365056

ages and character, nevertheless, they have a legible association with the farmhouse both visually and in terms of an historical functional link.

21. I find that the significance of the farmhouse is derived from its local historic and architectural interest, being an example of a smaller farmhouse from the late 19th Century. The significance of the farmhouse also stems from its setting including the wider farmstead and the surrounding rural landscape.
22. The appellant asserts, through the BHS that the level of significance is limited in this case, in part due to the late 19th Century date, the use of very common materials and construction methods and simple design along with the substantial material deterioration of the building and the need for significant replacement of built fabric to reinstate the residential use.
23. I accept that the internal elements of the building have been altered over time and original features such as the kitchen and fireplaces may have been removed. Nevertheless, during my site visit I noted that the external elements of the building appeared largely unaltered. The farmhouse appeared to be of a distinctly rural design which provides local historic value. Whilst the road infrastructure and the nearby commercial development to the south do not contribute to the setting of the appeal site in a positive way, the farmhouse is still clearly experienced alongside the adjacent agricultural buildings, including Barn 3, and the surrounding rural landscape. This means that the historic links to the former use of the wider site remain understood. I therefore find that the significance of the NDHA is important.
24. The demolition of the farmhouse would result in the loss of the entire historic fabric of the building and as such it would result in considerable harm to the NDHA. In addition, the previous functional connection between the traditional farmhouse and the adjacent agricultural buildings, which still read as a group of buildings, which appear as a congruent feature of the open countryside, would no longer be evident.
25. I understand that the farmhouse has not been lived in for some time. The appellant asserts that in order to bring the farmhouse back into use it would require extensive works including underpinning and that the majority of the historic fabric would need to be replaced. I witnessed the presence of cracks in the external elevations during my site visit and I have no reason to consider that the work identified would not be necessary. Based on the likely Gross Development Value, development costs and other costs identified in the submitted Financial Viability Note (FVN), the residual land value, following the refurbishment works identified, would be in excess of -£200,000. Therefore, whilst the building would not be beyond repair, it is unlikely that the renovation of the existing farmhouse would be financially attractive to many. There is no robust evidence before me which refutes the findings of either the submitted Structural Survey or the FVN.
26. In conclusion, the proposal would result in the total loss of the NDHA which would result in considerable harm to its significance. The proposal would therefore be contrary to Policy CP8 of the LP which seeks, amongst other things, that developments sustain or enhance the significance of non-designated heritage assets and their settings in a manner appropriate to their significance. However, taking into account the current structural issues and the viability information provided, with regard to reinstating the residential use of the site, I attribute moderate weight to the conflict with Policy CP8 of the LP.

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5

Appeal Decision APP/V2255/W/25/3365056

Wider landscape character

27. Turning now to consider the effects on the wider landscape. The site is not within a designated landscape, as defined under Policy DM24 of the LP, although its character is identified in various landscape character studies which are referred to in the submitted Landscape and Visual Appraisal August 2024 (LVA).
28. The appeal site is within the LCA Central Sheppey Farmlands character area, as identified in the Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document Revision A November 2011 (SPD). The SPD states that villages, hamlets and farms are scattered across the area and are mostly in keeping with its rural character. It goes on to state that insensitive modern residential and holiday developments are poorly integrated and intrusive and generally have an urbanising effect. The condition of the landscape is described as generally poor and the sensitivity identified as moderate. The aims set out in the SPD for this character area are encouraging restoration and the creation of new landscape features.
29. I agree with the findings of the LVA that in longer views, where visible, the proposal would be seen in the context of the adjacent agricultural buildings and in some cases the nearby commercial development. I accept that the road infrastructure outside of the appeal site has altered the setting to some extent with the roundabout, lighting columns and signage being a fairly prominent feature in the locality. I also note that if implemented, the approved schemes in the vicinity will also alter the wider surrounding context.
30. The appeal proposal would be contained within the confines of the existing site and would not extend out onto surrounding agricultural land. There is already a degree of screening through boundary treatments and planting, albeit there are fairly obvious gaps in this currently. Nevertheless, the enclosure of the site is established already visually.
31. Hedgerow and boundary treatment planting is proposed along the southern and western boundaries, along with tree planting within the eastern areas of the site to provide mitigation. The LVA suggests that for the type of development proposed, this type of mitigation would result in a moderate adverse effect on site character initially with a minor adverse effect within 5 years of the development being completed. I agree with the findings of the LVA that the visual effects would be largely localised and that as tree and boundary planting is established the wider impacts would reduce.
32. Policy DM24 states that non-designated landscapes will be protected and enhanced and planning permission will be granted subject to 1) the minimisation and mitigation of adverse landscape impacts; 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.
33. Given my assessment above, I find that adverse landscape impacts would be minimised and mitigated, mainly through containing the development within the confines of the existing site and the provision of the proposed landscaping scheme. As such, the second criteria set out under Policy DM24 of the LP is not applicable in this case.

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6

Appeal Decision APP/V2255/W/25/3365056

34. In conclusion, the proposal would appropriately minimise and mitigate the impact on the wider landscape character and therefore it would not be contrary to Policy DM24 of the LP, the aims of which are set out above. My findings on this matter do not override my concerns about the effect of the proposal on the character and appearance of the more immediate surroundings.

The ILCG designation

35. The appeal site is located within the ILCG. Policy DM25 of the LP states that the role of ILCG is to retain the individual character and setting of settlements with the policy text referring to a number of purposes which are set out at paragraph 7.7.34 of the LP. The purposes include maintaining the separate identities and character of settlements by preventing their merging, safeguarding the open and undeveloped character of an area, preventing encroachment and piecemeal erosion by built development or changes to the rural open character along with influencing decisions on the longer term development of settlements through the review of planning policies.
36. I find that the proposal would maintain the separate identities and character of the nearby settlements, given the containment of the proposal within the existing site and that the undeveloped nature of the surroundings which provides the gap between the settlements would be retained.
37. Nevertheless, I have found that the proposal would result in the intensification of built form on the appeal site resulting in the loss of a more open and undeveloped area and that the proposed built development would change the rural open character. As such, the proposal would be at odds with two of the purposes of the ILCG, as defined in the supporting text at paragraph 7.7.34 of the LP.
38. In conclusion, there would be some conflict with the purposes of the ILCG, which are directly referenced by the policy and therefore the proposal would be contrary to Policy DM25 in respect of the ILCG designation. However, I have found that the proposal would not harm the ILCG in terms of contributing to the merging of settlements, given the identities and character of the nearby settlements would be maintained. Therefore, I attribute limited weight to the conflict with Policy DM25 of the LP.

Other Matters

39. The existing access would be retained, and sufficient parking and cycle storage would be provided. No concerns are raised about bin storage or drag distances for refuse collection. The proposed dwellings would not be at any significant risk of flooding and no significant sources of contamination have been identified. The proposal would result in sufficient living conditions for future occupants of the scheme and there would not be any significant effects on the living conditions of neighbouring or nearby occupiers. A lack of harm or policy compliance in these respects are neutral considerations that weigh neither for nor against the proposal.
40. I note that the scheme before me now sought to resolve issues raised previously when a previous application for a similar development was refused by the Council. Be that as it may, I must consider the appeal on its individual merits.
41. The appeal site lies within the zone of influence of the Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar, the Swale Estuary SPA and

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7

Appeal Decision APP/V2255/W/25/3365056

Ramsar and the Thames Estuary and Marshes SPA and Ramsar. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require where a plan or project is likely to result in a likely significant effect on a designated habitats site, a competent authority is required to make an appropriate assessment (AA) of its implications on the integrity of the site, in view of its conservation objectives.

42. I note that the appellant has submitted a unilateral undertaking which responds to mitigation requirements identified by the Council in this regard. However, regulation 63(1) of the Regulations indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my findings above, it has not been necessary to address this in any further detail. This matter weighs neither for, nor against the proposal.

Planning Balance

43. Whilst the LP is more than five years old, paragraph 232 of the Framework makes it clear that the weight attached to any conflict with the development plan does not hinge on its age, but on the degree of consistency with the Framework.
44. As identified above, I have found that the proposal would be contrary to Policies ST1, ST3 and CP2 of the LP in relation to its location and Policies ST1, ST3, CP4 and DM14 of the LP in relation to character and appearance. I have also found that it would be contrary to Policy CP8 of the LP with regard to the non-designated heritage asset and Policy DM25 of the LP with regard to the ILCG, albeit I have attributed moderate and limited weight to the conflict with these policies.
45. Although I have not identified conflict with Policy DM24 of the LP in relation to the wider landscape impact, the proposal would be at odds with the policies set out above. As such there would be conflict with the development plan as a whole.
46. The principle of directing development towards locations with good access to services and facilities, avoiding reliance on travel by the private car, reflects expectations in the Framework as does the need for good design and making sure developments respect local character. The Framework also identifies the desirability of sustaining and enhancing the significance of heritage assets and that new development making a positive contribution to local character and distinctiveness should be taken account of. The Framework also sets out that the intrinsic character and beauty of the countryside should be recognised. Consequently, when considered against the relevant provisions of the Framework, in the context of this particular case, the conflict with the development plan carries significant weight.
47. There is no dispute between the parties that the Council cannot currently demonstrate a sufficient five year housing land supply. The appellant states that the current figure, based on information provided by the Council, is 3.98 years. The Council do not contest this figure. Therefore, the approach set out in paragraph 11d) of the Framework is applicable.
48. The proposal would see the redevelopment of a vacant small site on previously developed land, providing six new dwellings, built to modern standards. The proposal would also result in economic benefits during the construction phase and after with future occupants supporting the local economy. Whilst the scheme would

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

8

Appeal Decision APP/V2255/W/25/3365056

contribute to boosting the supply of housing in line with the Framework requirements, given the limited scale of the scheme, the benefits would be moderate.

49. The appellant's intention is to deliver highly energy efficient dwellings through a comprehensive sustainability and renewable energy strategy. Electric vehicle charging points are proposed for all dwellings. In terms of environmental benefits, the scheme would provide additional landscaping, green roofs on the car barns and ecological enhancements, including an overall biodiversity net gain of 11%. Due to the scale of the proposal, any environmental benefits in these respects would be limited.
50. However, I find that in this case, the adverse impacts of the development on the character and appearance of the area would be significant, and alongside the reliance on travel by private car, the harm would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations and securing well-designed places. Therefore, the proposal does not benefit from the presumption in favour of sustainable development following an assessment under paragraph 11d) ii. of the Framework.
51. Consequently, even if I were to find that the proposal did not conflict with paragraph 11d) i. of the Framework and there were no strong reasons for refusal relating to habitats sites, this would not alter my conclusions in relation to paragraph 11d) ii. of the Framework set out above.

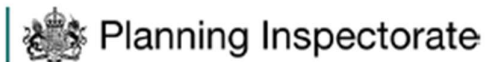
Conclusion

52. The proposal conflicts with the development plan, when considered as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

G Dring

INSPECTOR

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Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2025

Appeal Ref: APP/V2255/X/23/3329041

89 Victoria Street, Sheerness, Kent ME12 1YF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Wayne Brett against the decision of Swale Borough Council.
 - The application ref 23/502794/LAWPRO, dated 14 June 2023, was refused by notice dated 9 August 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is 'new outbuilding as workshop/summer house'.
-

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is considered to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 88 Victoria Street is a two storey semi-detached dwelling with a rear garden. The proposed outbuilding would be located at the rear of the rear garden. Under Class E of Part 1 of Schedule 2 of the GPDO the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to limitations set out in paragraph E.1. The Council does not dispute that the proposed outbuilding would be built in the curtilage of the dwellinghouse and that it would meet the limitations in paragraph E.1. They claim, however, that the outbuilding would not be for a purpose incidental to the enjoyment of the dwellinghouse.

4. The judgement in *Emin v SSE [1989] JPL909* confirmed that regard should be had not only to the use to which the building would be put, but also to the nature and scale of that use in the context of whether it was for a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwelling might be part of that assessment but is not in itself conclusive. The fundamental question is whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve the intended purpose.

5. The Council have not commented on the provision or use of a workshop in the outbuilding; their concerns are with the summerhouse element. The plan of the

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Appeal Decision APP/V2255/X/23/3329041

proposed building submitted with the application shows there to be a sofa and a TV in the summerhouse. This is of no consequence; furniture and facilities are to be expected and the size and position of items in the room would change over time. The building does not include any sanitary facilities so use of the building would be reliant on such facilities being available in the dwellinghouse. It is reasonable for the occupants of the dwelling to desire garden accommodation where they can enjoy the outdoors and which would not constitute primary accommodation.

6. The proposed outbuilding would be commensurate in size to the dwellinghouse and would be necessary to accommodate the proposed use. It is for a purpose incidental to the enjoyment of the dwellinghouse and would therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

7. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for new outbuilding as workshop/summer house at 89 Victoria Street, Sheerness, Kent was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector

Appeal Decision APP/V2255/X/23/3329041



Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 14 June 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 27 October 2025

Reference: APP/V2255/X/23/3329041

First Schedule

New outbuilding as workshop/summer house

Second Schedule

Land at 89 Victoria Street, Sheerness, Kent ME12 1YF

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

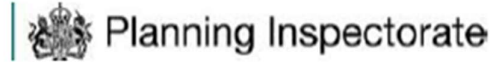
It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

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3

Appeal Decision APP/V2255/X/23/3329041



Plan

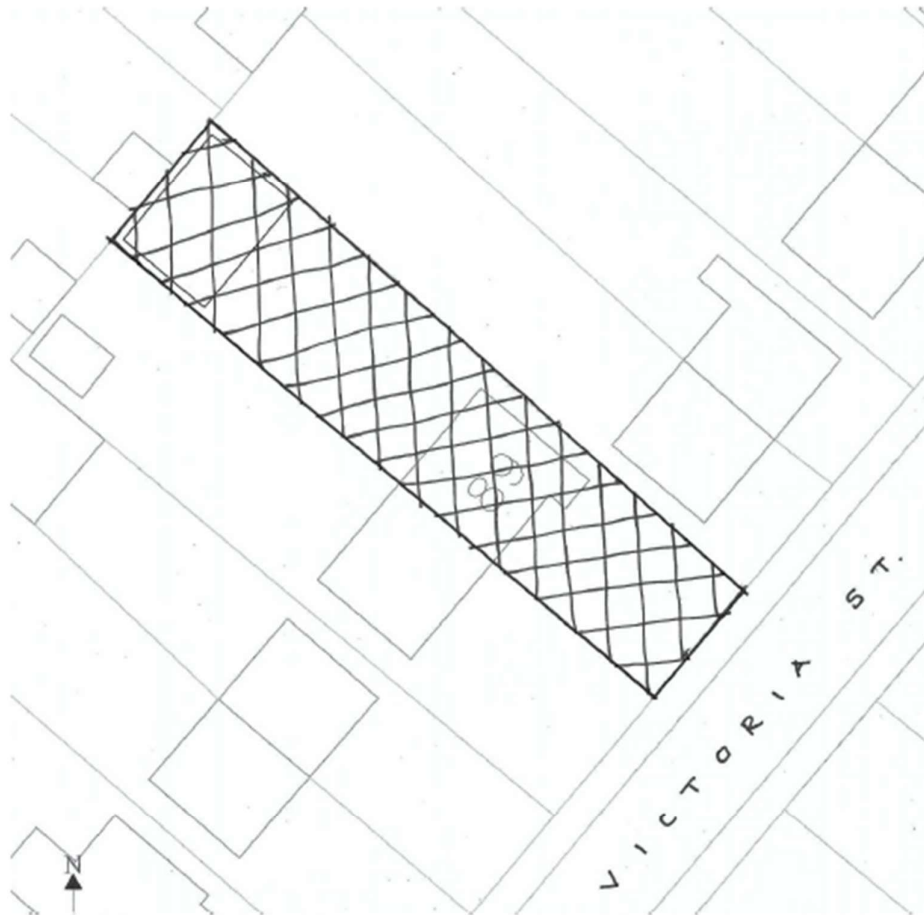
This is the plan referred to in the Lawful Development Certificate dated: 27 October 2025

by John Braithwaite

Land at 89 Victoria Street, Sheerness, Kent ME12 1YF

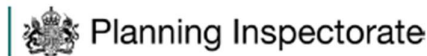
Reference: APP/V2255/X/23/3329041

Scale: Not to Scale



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4



Appeal Decision

Hearing held on 7 October 2025

Site visit made on 7 October 2025

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2025

Appeal Ref: APP/V2255/W/25/3368880

Brogdale Farm, Brogdale Road, Ospringe ME13 8XU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by The East Malling Trust against the decision of Swale Borough Council.
 - The application Ref is 20/505877/OUT.
 - The development proposed is described as a mixed-use development comprising up to 360sqm nursery school (use Class Ef), up to five holiday lets and up to 1,710sqm of flexible workshop, industrial & research and development floorspace (use Class Eg (ii, iii) with access from Brogdale Road.
-

Decision

1. The appeal is allowed and planning permission is granted for a mixed-use development comprising up to 360sqm nursery school (use Class Ef), up to five holiday lets and up to 1,710sqm of flexible workshop, industrial & research and development floorspace (use Class Eg (ii, iii) with access from Brogdale Road at Brogdale Farm, Brogdale Road, Ospringe ME13 8XU in accordance with the terms of the application, Ref 20/505877/OUT, subject to the conditions in the attached schedule at Annex C.

Applications for costs

2. An application for costs was made by The East Malling Trust against Swale Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal concerns an application for outline planning permission, with all matters reserved except for access. The reserved matters include appearance, landscaping, layout, and scale. Where the submitted plans show details relating to these reserved matters, I have treated them as illustrative only, as they are intended to show how the site could be developed rather than how it will be.
4. Following discussions with all the parties at the Hearing, I undertook an extensive unaccompanied visit to the appeal site and Brogdale Farmhouse. I then travelled via Brogdale Road to and along Porters Lane. I returned to the appeal site and also headed along Brogdale Road over the M2 motorway bridge and into the built-up areas to the south and north of the A2.

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Main Issues

5. The main issues are:

- Whether the site represents an appropriate location for the proposed development;
- The effect of the proposed development upon the character and appearance of the area;
- The effect of the proposed development on the Grade II listed building Brogdale Farmhouse;
- The effect of the proposed development on the availability of best and most versatile agricultural land ("BMV agricultural land");
- The effect of the proposed development on highway safety; and
- Whether the site represents an appropriate location having regard to modes of travel.

Reasons*Location*

6. The appeal site lies in the Countryside. It sits within a semi-rural area defined by open fields with some ribbon development along Brogdale Road, and the M2 motorway to the north. Just beyond the M2 there is a landscaped public open space associated with the wider 'Perry Court Farm'¹ development which includes housing, a supermarket and hotel.
7. The appeal site contains agricultural land including a disused reservoir, demonstration garden area, glasshouses and polytunnels. It also features an existing central farmstead hub which includes tourism facilities, small businesses, shops, café, and community / commercial functions currently operating at the farm, including the National Fruit Collection. The main access to the appeal site comes through a parking area which also serves the wider orchards and farmland.
8. Policy ST 3 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 ("the Local Plan") sets out the settlement strategy. It indicates that development should be directed within built up area boundaries. The appeal site falls outside a built up area boundary and as such the development would not sit squarely with the settlement strategy. This conflict with the development plan carries harm and the planning system should be genuinely plan-led.
9. However, Policy ST 3 goes on to say that development will not be permitted outside the built up area 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 communities. Therefore, and before determining the appeal, I will consider what, if any other

¹ Site allocation MU 7.

Appeal Decision APP/N/2255/W/25/3368880

harm, would be caused by the proposed development and whether there are any material considerations that may outweigh the conflict with the settlement strategy.

Character and Appearance

10. The appeal site is broadly enclosed and bounded by mature trees, the M2 Motorway runs near to its northern boundary. Open fields generally bound the site to the east but there is some development to these borders such as a Brewery and a larger overflow carpark to the south. To the west and turning southward along the Brogdale Road, fields in the locality give way to a scattering of ribbon development lining the road punctuated by open fields, landscaping, and occasional agricultural buildings. While earlier development has lightly urbanised the area, and the noise and visual impact of the motorway diminishes the sense of tranquillity and remoteness, the local area retains a pleasant semi-rural quality.
11. The existing complex of buildings and hardstanding within the southern side of the appeal site do detract somewhat from the rural character of the area. However, these buildings are close-knit and modest in overall area with many having an agricultural appearance. Their intimate nature as a pocket of development, with sections of boundary screening moderately reduces the harm they generate in their setting.
12. The northern section of the appeal site is more agricultural and rural in character, the glass houses and polytunnels are lightweight rural structures and the disused reservoir does not enclose land. Despite the proximity of the motorway and the overgrown neglected character of this part of the appeal site it does provide relief from the southern buildings, hardstanding, and activity of the wider site. This relief also forms a positive transition from the more rural area into the built-up areas to the north beyond the motorway.
13. The proposed development is for 360sqm of nursery school floorspace, up to five holiday lets and 1,710sqm of flexible workshop, industrial & research, and development floorspace. The indicative drawings suggest that the agricultural glasshouses, demonstration garden, planting areas and polytunnels would be removed and the site levelled. The other structures within the appeal site would be retained and a new access would also be created onto Brogdale Road.
14. The plans submitted are illustrative in respect of any matters that are reserved, and they indicate how the site could be developed. Appearance, layout, scale, and landscaping are reserved matters. Any assessment in this respect would be at the later reserved matters stage, which would incorporate considerations as to whether such development would or would not integrate with the locality.
15. Nonetheless, even when considering the presence of existing development and retention and supplementing of the verdant boundary landscaping, the quantum of the proposed development with its access, likely buildings, circulation routes, parking, and associated activity would have a considerable urbanising effect in this semi-rural area. This would harm the rural character, intrinsic value, landscape setting, tranquillity, and beauty of the countryside; all of which positively contribute to the distinctive character of the locality. I ascribe significant weight to this harm.
16. The proposed development would therefore unacceptably conflict with the relevant provisions of Policies ST1, CP 4 and DM14 of the Local Plan. These, amongst

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3

Appeal Decision APP/V2255/W/25/3368880

other things, require development to achieve good design reflecting the best of an area's defining characteristics.

Listed Building

17. Brogdale Farmhouse is a Grade II listed building; the official list entry indicates that it was erected in the 18th Century. While it is not part of the appeal site, it sits very close to it and historically it would have sat within the wider Brogdale Farmstead. However, the evidence before me suggests that it was separated from the farm at some point in the 1960s before it was listed in 1970.
18. In these cases, I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, ("the Act") to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest.
19. The special interest of this heritage asset is derived in part as an exemplar of a Kentish farmhouse within the fruit growing belt. Its form, detailing, materials, and method of construction reflect the local vernacular style and its character as a farmhouse within the farmyard context.
20. The setting of a farmhouse within a farmyard complex is an important factor insofar as it relates to this appeal, and the significance of the heritage asset does derive value from this setting. The northern sections of the appeal site retain a decidedly agricultural feel to them by reason of the open land, glass houses, and polytunnels. However, I note that the disused reservoir, unkempt appearance, and the nearby motorway with its attendant visual disturbance and noise moderately detract from this.
21. I also acknowledge that the setting of Brogdale Farmhouse has suffered from a considerable measure of physical and visual disruption from its yard setting over the passage of time. This includes piecemeal development of the yard and the farmhouse entering separate ownership and separate occupation from that of the wider farm complex. The boundaries around Brogdale Farmhouse are also planted by dense and significant landscaping and this significantly reduces intervisibility. These factors all contribute toward an overall sense of detachment and severance from the farmyard weakening its agricultural setting.
22. Nonetheless a legible relationship between the main farmhouse and its wider setting is still experienced on site. This is reinforced by the existing fields, hedgerows, agricultural uses, and buildings which aid in understanding the farmhouse's historical role within the farmstead.
23. This is an outline application meaning the detailed appearance, scale, layout, and landscaping details are reserved for later consideration. It is likely that any future scheme would come forward as a group of buildings and the indicative drawings suggest a vernacular agrarian character, thus nodding to a farmstead context.
24. I also accept that the northern aspect of the appeal site is not the last trace of agriculture associated with the wider farm and change and adaption are part of farmstead evolution. However, the appeal development would intensify non-agricultural activities on site; combined with previous development, it would closely surround the farmhouse on three sides. While I appreciate the relationship of the farmhouse with the farmyard is somewhat diminished already, the proposed

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

4

Appeal Decision APP/V2255/W/25/3368880

development would further erode the agricultural setting thus compounding the existing situation.

25. Taking all these factors into consideration, the proposed development would fail to preserve the setting of this heritage asset including how it is appreciated and understood. This negative impact would cause less than substantial harm to the significance and special interest of the farmhouse and for the reasons set out in the preceding paragraphs, the extent of harm would sit at the midpoint of less than substantial harm.
26. The scheme therefore conflicts with the relevant provisions of Policy DM 32 of the Local Plan as far as this policy requires development proposals to conserve a heritage asset and its setting. The National Planning Policy Framework ("the Framework") requires any harm to be weighed against public benefits, and I shall return to this within my Planning and Heritage Balance below.

Best And Most Versatile Agricultural Land

27. The agricultural sector is important to the character of the countryside as well as the identity of Swale as a farming district. This part of Kent is associated with a long history of fruit production and understandably the Local Plan seeks to safeguard this resource.
28. I accept some of the agricultural land is overgrown, unlevel, and is not currently in agricultural use, however, there is limited evidence to suggest that it could not return to active use or that the agricultural use no longer lawfully exists. Therefore, it remains that the appeal site comprises BMV agricultural land and it is not allocated for development in the Local Plan.
29. I note the relative size and self-containment of the BMV agricultural land within the appeal site when compared to the wider Brogdale landholding. The evidence suggests that the proposed development would not compromise the viability of the remaining agricultural holding, its existing orchards, or any land in operational agricultural use. This tempers the harm which would be generated from the proposed loss of BMV agricultural land. Nonetheless there is limited evidence to suggest any alternative sites on land of a lower grade have been considered.
30. Tying all these considerations together on this main issue, the loss of BMV agricultural land would conflict with Policy DM 31 and this would generate harm to which I attach significant weight. This policy states that development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. I shall return to this consideration within my Planning and Heritage Balance below.

Highway Safety

31. Brogdale Road has an existing speed limit of 30mph. An access would be created onto this road and visibility sightlines would be provided in both directions including to the north and before the crest of the motorway bridge. In calculating the appropriate distances for these sightlines, the appellant has commissioned three independent speed surveys² in order to obtain data for traffic flows either side of the proposed access.

² March 2019, February 2025, and April 2025.

Appeal Decision APP/N/2255/W/25/3368880

32. The surveys were taken at different times with each running for seven days to ensure local factors such as temporary signage, roadworks, or school holidays would not unduly influence the outcome of the surveys. All the surveys found consistent results regarding the 85th percentile vehicle speeds.
33. The 85th percentile speeds from these surveys were taken to determine the stopping sight distance ("SSD") for the proposed vehicular access and to inform the required visibility sightlines for this proposed access.
34. The 85th percentile is a well-established way to calculate the SSD i.e. the distance a driver needs to see ahead to stop safely. The SSD incorporates the time required for a driver to identify a hazard and then to brake including the vehicle's rate of deceleration. By adopting 85th percentile speeds this ensures that street designs account for how fast most drivers actually travel, not just the posted speed limit.
35. The appellant has shown via drawing 19-008-001 C that the required visibility sightlines associated with the SSD can be achieved and this takes into account the gradient of the carriageway toward and from the crest of the motorway bridge. An independent Stage 1 Road Safety Audit also accompanies the appeal, and this does not identify any concerns with the development.
36. I appreciate that 15% of drivers exceeded the 85th percentile and this is of significant concern to the Council and interested parties. The Manual for Streets ("MfS"), a recognised document authored by the Department for Transport, endorses the 85th percentile speed for calculating SSDs because it represents a realistic upper limit of typical driver behaviour while avoiding design solutions for extreme or rare behaviours. Essentially the 85th percentile is a recognised figure which balances safety with practicality as designing for higher percentiles could be impractical and lead to over-engineered roads.
37. The MfS is a government document underpinned by substantial research and is regarded as a key guidance document for street design. I therefore attach considerable weight to its content. The appeal is further supported by a review of local accidents and there is limited evidence before me to suggest the highway layout unacceptably contributes to vehicular accidents. I also note the Kent County Highway Authority and National Highways raised no objection to the proposed development.
38. I have carefully considered the Speedwatch evidence submitted by Ospringe Parish Council. I appreciate this evidence is coordinated by Kent Police and run by local communities with trained volunteers monitoring speeds of vehicles using approved devices. This evidence is therefore an important material consideration.
39. However, I note that the two sessions were only conducted for a duration of one hour each. While they provide a snapshot of traffic in time, the limited timespan and frequency of both sessions reduce the soundness of the data when building a picture of typical traffic behaviour. I have also not been provided with the raw data to analyse the amount and degree of speeding within these two sessions or a detailed methodology and assessment of the evidence. These factors all reduce the weight I can attach to this Speedwatch data.
40. Overall, the Appellant has shown an appropriate method for recording vehicular speeds and calculating a suitable visibility splay as set out in recognised highway

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

6

Appeal Decision APP/V2255/W/25/3368880

standards. Highway consultees have also not objected on technical grounds. I therefore attach substantial weight to the Appellant's evidence. The Speedwatch data is of relevance, and I do not dismiss it, but given the shortcomings I have set out above, I do not find it to be as robust as the Appellants evidence. Consequently, the Speedwatch data does not alter my overall findings.

41. The evidence also shows that adequate parking could be provided on site as per the Council's Parking Standards SPD 2020. The access has been designed in accordance with the Kent Design Guide and would provide sufficient width for two-way vehicular movements including larger vehicles. Vehicle turning, traffic flow and traffic generation has also been considered by the Kent County Council Highway Authority, and they raised no objections on these grounds. I have no substantive evidence before me to come to another view.
42. Therefore, and concluding on this main issue I am satisfied that safety standards would not be unacceptably compromised. The proposed development would accord with the relevant provisions of Policies CP2, DM6 and DM14 of the Local Plan. These look to, amongst other things, ensure that development would not be detrimental to the safety of the transport network.

Modes of Travel

43. The appeal site is located next to the Brogdale Road, and this offers opportunities for walking and cycling. The housing, hotel and supermarket associated with the 'Perry Court Farm' development are also within a modest walk or cycle.
44. Brogdale Road has a speed limit of 30mph and there is limited evidence before me to show it is heavily trafficked to the point where crossing the road would be challenging or unsafe. The cycle and walking routes are unlit in parts and this would suppress their attractiveness. However, the speed limit is 30mph and while I accept a minority of drivers break speed limits, 30mph is at the lower end of road speeds. Cycle parking would be proposed as part of the development and walking and cycling opportunities can be found nearby which take users away from the roads offering alternative, albeit modestly longer routes, into the built-up areas.
45. Bus stops are located approximately 1.2km from the appeal site and can be accessed via the footpath. The bus services are reasonably frequent and serve the locality and beyond. The appeal site is approximately 2km to the railway station which can be accessed by the footpath. There is cycle parking at the railway station and regular services to Ramsgate, Deal, and London are offered. I also acknowledge that the appeal site's existing agricultural, employment, tourism and educational hub would have an element of linked/combined trips.
46. Drawing all these considerations together, while there are some concerns about the distances and accessibility to services and facilities by transport modes other than the private car, paragraph 110 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In this case and having regard to the facts on the ground, while there would be some shortcomings, genuine opportunities to walk and cycle would still be available. These would offer an appropriate choice of transport modes which would reduce the need to travel, particularly by private car.
47. In conclusion, the proposed development would benefit from sustainable and alternative transport choices. As such it would accord with the relevant provisions

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

7

Appeal Decision APP/V2255/W/25/3368880

of Policies CP 2 and DM 6 of the Local Plan all of which, amongst other things, seek to provide for sustainable modes of transport to allow choice.

Other Considerations

48. The Council is just over halfway through its Local Plan which was adopted in 2017 and from the evidence before me appears to be meeting its employment land targets as set out in this Plan. However, more recent evidence in the form of the Employment Land Review 2023 ("ELR") states that there have been major structural changes in employment and business habits. It finds that there has been strong take-up of employment land recently and supply is tighter as a result.
49. The ELR confirms that demand for and uptake of industrial land has been stronger and faster than was anticipated previously and new build development that has occurred in the Borough has not been sufficient to keep pace with demand. It states there should be a focus to provide good quality industrial space which can be used flexibly by light industrial occupiers. Demand for land is also influenced by Swale's housing land supply and evidence before me shows that employment floorspace allocations have reduced in favour of housing.
50. This generates a higher demand for employment land than originally envisaged by the Local Plan. In effect the need for employment floorspace cannot be met from land within the designated built up-area boundaries or existing site allocations and new allocations will need to be found. The ELR highlights the importance of attracting economic growth to address long-term systemic shortcomings in Swale's existing economy. The ELR states that there is evidence of a market for light industrial space and this is likely to be most prevalent in Faversham. While not directly within Faversham, the proposed development is nearby and would contribute to this localised need.
51. The appeal site is identified in the ELR as a site potentially suitable for employment uses. It acknowledges the agricultural use of the site and accepts that some of the farm buildings are currently used for business purposes. The Appellant has provided letting agent evidence to show that existing commercial space at the appeal site enjoy high levels of occupancy and low void periods. The letting agent and the Council's own Economic Development team also confirm that a demand exists for existing and further flexible employment space in this area.
52. The Council challenges some of the letting agent's evidence for demand, however, even if I set this aside, it does not diminish the overall strength of the remaining evidence. Bringing all these factors together there is a clear evidenced need for a higher requirement of employment land. This would include light industry in the local area. The proposed development would positively respond to the unmet need and long-term shortcomings in the Borough's economy, and I will return to this in my Planning and Heritage Balance below.

Planning and Heritage Balance

Harms

53. I have identified that the proposal would cause less than substantial harm to the significance and special interest of the grade II listed Brogdale Farmhouse by failing to preserve its setting and this would sit at the midpoint of such harm. It

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

8

Appeal Decision APP/V2255/W/25/3368880

must be noted that even less than substantial harm to a designated heritage asset carries great weight in accordance with paragraph 212 of the Framework.

54. I have also concluded that the proposed development would have an adverse impact on the character and appearance of the countryside and there would be a loss of BMV agricultural land. These harms attract significant weight.

Neutral Matters

55. The Statement of Common Ground indicates that the appeal site lies more than five hundred meters from the Kent Downs National Landscape ("the NL"). Section 245 of the Levelling-up and Regeneration Act 2023 includes a requirement to seek to further the statutory purpose of conserving and enhancing the natural beauty of National Landscapes.
56. The proposed development would have effects on local character which I have considered above but it would not affect the natural or scenic qualities of the wider rural landscape given its separation and screening. While a reserved matter, it is likely that buildings would also be low set further reducing any effects on the NL. Therefore, the outline elements of this proposal would have an acceptable effect on the NL and would conserve its natural beauty as well as any other areas of high landscape value. The absence of harm in this regard is, however, a neutral factor in my assessment.
57. I have also found no harm in respect to highway safety, but this lack of harm is also a neutral matter which neither weighs for or against this appeal proposal.

Benefits

58. The proposed development would deliver 1710sqm of flexible workshop, industrial & research and development floorspace where there is a demonstrable and considerable shortfall of employment land. This would deliver economic growth, jobs, productivity, and employment floor space for small to medium businesses supporting and contributing to identified shortcomings in the Borough's economy. It would create conditions in which businesses can invest, expand, and adapt, supporting the rural economy, agriculture, and tourism. Tying these together, I place great positive weight on the totality of these benefits.
59. The proposed development would provide a source of income for Brogdale Farm and the National Fruit Collection. I appreciate this collection has a national and international interest alongside its interest to the local farming district and its long history of fruit production. Proposed and existing uses would also support each other through linked trips and spin off trade. I place moderate positive weight on these benefits.
60. Brogdale Farm generates tourism to the area particularly the National Fruit Collection. The holiday lets would further diversify tourism opportunities in this fruit growing belt supporting the rural area. I ascribe this benefit significant positive weight.
61. Information boards are proposed to be installed on site to illustrate the history of Brogdale Farm and its connection with the listed farmhouse. Conditions can be imposed to secure the appearance, siting, and implementation of these information boards. These would provide historical context in a concise and digestible format

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

9

Appeal Decision APP/V2255/W/25/3368880

- to deliver better awareness of the history of Brogdale Farmhouse. I ascribe moderate positive weight to this benefit.
62. Environmental benefits are also proposed but considering the emphasis of the Framework on using natural resources prudently, minimising waste and pollution, and moving to a low carbon economy, it is not unusual for such benefits within development schemes. For these reasons, I give moderate positive weight to these benefits.
 63. I appreciate that great weight should be given to the need to create educational facilities. A nursery has the potential to provide a community facility for local families and at the time of making the application Lorenden Preparatory School had shown a need to occupy the nursery, however this need has now been met elsewhere. There is limited evidence to show a need exists for a nursery in this location and I therefore ascribe this benefit limited positive weight.
 64. There would be highway, air quality and ecology obligations secured through the Appellant's deed of agreement. Positive though these aspects would be, they are broadly responding to the effects of the proposed development and the requirements of the development plan rather than being tangible benefits. I therefore afford these moderate positive weight.
 65. I have found the modes of travel offer appropriate choice given the appeal site is physically well-related to the existing settlement. These factors carry moderate positive weight.
 66. The proposed development is supported by an Ecological Impact Assessment. The evidence shows that sufficient information is contained in this report subject to an update to consider any changes in circumstances prior to any construction works starting. In addition, conditions are agreed to mitigate lighting impacts and to secure ecological management and enhancements. These benefits would mainly be to either offset the effects of the proposed development or are requirements of regulations and planning policy. I therefore afford these benefits moderate positive weight.
 67. Given the agricultural use of the appeal site, it has not been shown that the whole appeal site clearly qualifies as previously developed land ("PDL"). There is undeveloped land and agricultural development within the site, which is clearly not PDL, but there are other sections which may well be PDL. Therefore, it is difficult to come to an overall finding in the absence of clear evidence. Taking a precautionary approach I have therefore only ascribed limited positive weight to any PDL status of the site particularly as the indicative drawings suggest the development would be located principally within the northern section of the appeal site which is more agricultural in nature.

Heritage Balance

68. I have found that the harm to heritage assets would be less than substantial but nevertheless of considerable importance and weight. The public benefits together would, however, carry greater positive weight, and I am satisfied that in this instance they would be of the appropriate magnitude and effect to outweigh the harm to the heritage asset I have identified.

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

10

Appeal Decision APP/V2255/W/25/3368880

69. There is therefore compliance with the Framework's historic environment conservation and enhancement policies, as far as they provide the opportunity for any less than substantial harm identified to a designated heritage asset to be outweighed by the public benefits of a development proposal.

Overall Balance

70. Taking all the factors in the round, the proposal would harm a heritage asset although I have found the public benefits would outweigh the harm. There is, however, further harm to the character and appearance of the area and through the loss of BMV agricultural land. Nonetheless, the benefits of the proposal are many and weighty in total. The harms and conflicts would be fewer and of lesser overall weight. Given my findings above, I am satisfied that the benefits identified would outweigh the harms as well as the conflict with the settlement strategy. Therefore, and in this instance, there are material considerations that indicate that the proposal should be determined otherwise than in accordance with the development plan.
71. While I have found that this particular set of circumstances would be acceptable, that may not be the same for other proposals in comparable locations. I am satisfied that this would not set an unacceptable precedent for future development.

Other Matters

72. The appeal is supported by a section 106 deed of agreement, dated 7 October 2025. It secures:
- A highway contribution towards improvements to mitigate the impact to the Strategic Road Network;
 - An Air Quality Assessment and necessary mitigation measures (via contribution) to mitigate air quality impacts from transport; and
 - An Ecology contribution towards Special Protection Area and Ramsar site recreation mitigation measures.
73. The Council have indicated that they are satisfied with the provisions of the agreement and the Council's Statement sets out the justification for each of the obligations. I am also satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and the tests set out at paragraph 58 of the Framework.
74. The site lies within the zone of influence of a Special Protection Area, ("the SPA") which is noted as an internationally important habitat for rare bird species. Increased recreational pressure arising from additional residents in the zone of influence could potentially have a likely significant effect on the habitat either alone or in combination with other projects.
75. The evidence before me indicates that the proposed development would result in an adverse effect upon the integrity of the SPA. In these circumstances, permission could only be granted if, after undertaking an Appropriate Assessment it was found that adequate measures were in place as to mitigate the adverse effect.

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

11

Appeal Decision APP/N/2255/W/25/3368880

76. To counter such adverse impacts, measures to limit recreational pressure through strategic access management and monitoring ("SAMM") have been devised and the development could, through obligations contained in a legal agreement, provide financial contributions towards SAMM mitigation measures.
77. I am presented with a legal agreement which would secure a SAMM contribution, and this provides adequate mitigation. As a result, I can be certain that there would be no adverse effect on the integrity of the SPA.
78. The appearance, landscaping, layout, and scale of the proposed development is reserved for later consideration. At that stage living conditions such as overlooking, light and outlook of the neighbouring residential occupiers can be considered. Given the separation and intervening screening, I see no reason why such matters cannot be adequately dealt with at that stage.
79. Concerns were raised at the Hearing by interested parties regarding the overall management of the appeal site historically. While this matter falls outside the remit of this appeal, a new owner now manages the site; at the Hearing assurances were made to address those concerns by the current site owner with interested parties.

Conditions

80. A list of suggested conditions has been agreed by the main parties, and this is set out in the Statement of Common Ground. These were also further discussed at the Hearing considering the tests set out within the Framework. Consequently, where my final suite of conditions differs from those suggested to me, reasons are given below. In the interests of clarity, precision and to avoid duplication, I have also made minor changes to some conditions.
81. I have imposed standard outline planning permission conditions in respect of the submission of the reserved matters and time limitation. It is also necessary to ensure that the development is carried out in accordance with the outline plans submitted in the interests of certainty.
82. In order for the reserved matters application to be properly considered I have imposed landscaping conditions which are in the interests of the character and appearance of the area as well as biodiversity. In support of crime prevention and security I have also imposed a secure by design condition. An archaeology condition is necessary to ensure features of archaeological interest are properly examined. Contaminated land, piling, and foul draining conditions are also necessary to avoid unacceptable risks such as pollution.
83. Concerning the safe and efficient operation of the highway network, a construction management plan, parking details, electric vehicle charging details, and details of loading, unloading, and turning facilities are necessary. A condition to secure access and visibility details is also necessary.
84. To protect the living conditions of neighbouring occupiers, details of mechanical ventilation are necessary. In addition, to ensure biodiversity, the character and appearance of the area, and living conditions are protected, conditions to agree external lighting and tree protection are also needed.
85. Ecology conditions are required for the sake of biodiversity, and energy and sustainability conditions are necessary to promote efficiency and carbon reduction. As set out earlier in this decision heritage information boards are necessary to

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

12

Appeal Decision APP/V2255/W/25/3368880

better understand the grade listed farmhouse and its setting. Conditions to control the uses and restrict permitted development are also required to safeguard employment and tourism uses.

86. The appeal site lies within Flood Zone one which has the lowest probability of flooding. A Flood Risk Assessment and Drainage Strategy supports the appeal and this proposes to incorporate permeable paving and attenuation tanks, before discharging water to a nearby watercourse. I note that the Environment Agency, Kent County Council Flood and Water Management Team nor Southern Water have raised any objections. I have no reason to disagree and therefore conditions would be necessary to secure appropriate drainage.
87. In terms of noise and disturbance, An Acoustic Assessment accompanied the appeal. This concluded that any noise from plant associated with the units would be acceptable subject to mitigation measures. It is also appropriate to control noise through the hours of operation. The use of conditions in these respects would be necessary in the interests of the living conditions of neighbouring occupants.
88. Noise is also likely during the construction phase. Conditions to limit construction hours and to require the submission of a construction management plan, to manage noise and dust during the construction phase, would therefore be necessary.
89. In respect of construction hours, at the Hearing the Appellant accepted an alteration to the agreed starting hours from 07:30 to 08:00. This is reasonable and I have therefore imposed it. I have not included suggested condition 41 as it duplicated suggested condition 26.
90. I have also not included drawing 08482-LEP-BF-ZZ-DR-A-00105 in the list of approved drawings as this is an indicative drawing which will be considered at the reserved matters stage. For the same reasons I have not asked for the submission of materials (suggested condition 9) at this stage as these can be agreed via reserved matters.

Conclusion

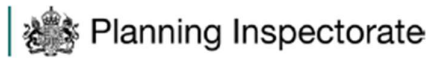
91. For the above reasons, having regard to the development plan as a whole and all other relevant considerations, the appeal is allowed subject to the conditions listed in the attached schedule at Annex C.

N Praine

INSPECTOR

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13



Costs Decision

Hearing held on 7 October 2025

Site visit made on 7 October 2025

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2025

Costs application in relation to Appeal Ref: APP/V2255/W/25/3368880
Brogdale Farm, Brogdale Road, Ospringe ME13 8XU

- 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 The East Malling Trust for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for development described as a mixed-use development comprising up to 360sqm nursery school (use Class Ef), up to five holiday lets and up to 1,710sqm of flexible workshop, industrial & research and development floorspace (use Class Eg (ii, iii) with access from Brogdale Road.
-

Decision

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

Background

2. 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.
3. The Applicant states that the Council took several years to decide the application and once it had, it did not provide evidence to substantiate its reasons for refusal. The Applicant also considers the Council behaved unreasonably by accepting late evidence without consultation. Consequently, the Applicant did not have appropriate time to formally review and respond to the late evidence and the Applicant feels that these actions have generated a need for this appeal, resulting in unnecessary delay and expense.

Reasons

4. A Planning Committee decision which goes against officer advice is not a reason to give an award of costs, as the Committee was entitled to come to its own conclusions on the merits of the proposal. The reasons for the refusal are set out in the Council's decision notice, and they are complete, specific, and relevant to the application. The decision notice also clearly states the policies in the development plan. In addition, the Council's statement of case and its oral evidence given at the Hearing was coherent and logically presented. The Council's evidence reasonably showed me how it arrived at its balanced decision.

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Costs Decision APP/N/2255/W/25/3368880

5. However, the Council accepted highway evidence late in the process. While the acceptance of late evidence can be reasonable in certain circumstances, and there is no evidence to suggest the Council has a statutory requirement to further consult, the PPG¹ states that where an application has been amended it is up to the Local Planning Authority to decide whether further consultation would be necessary in the interests of fairness.
6. The PPG also states that in deciding what further steps may be required local planning authorities should consider whether, without consultation, any of those who were entitled to be consulted on the application would be deprived of the opportunity to make any representations.
7. The late evidence was submitted on the day the Council decided the planning application and this evidence proved pivotal in influencing the Council's assessment of the proposal in respect of the highway matters. Despite the considerable weight the Council gave to this late evidence, and the ramifications it had for the outcome of the application, the Council did not consult the Applicant and moved to a decision on the same day. In doing this, the Council deprived the Applicant of an opportunity to make representations particularly as this late evidence was relied upon in framing the highway objection.
8. In the interests of natural justice, the planning process must be open and fair. If new and previously unseen information is submitted and later relied upon, consultation with affected parties would very likely be required before any formal decision is made. This ensures those who would be affected by a decision can express their views and decisions are taken in a transparent way. To do otherwise would undermine confidence in the planning system.
9. Therefore, given the late evidence was pivotal to the final highway reason for refusal, the Council's failure to consult with the Applicant in this respect was unreasonable.
10. The merits of the planning arguments were articulated in evidence, and my reasoning is set out in the associated Appeal Decision; I do not intend to rehearse the planning issues here. However, the late evidence was a legitimate material consideration with merit. The Council is required to give regard to it and the weight to give to these considerations is for the decision maker to decide. This was satisfactorily articulated in the Council's written evidence and orally at the Hearing.
11. Taking all the evidence into account, I have not been persuaded that the costs incurred by the Applicant in preparing for and attending the Appeal Hearing would have been avoided, even if late consultation had occurred at the application stage. This is because the Council's case did not materially change at appeal. While my appeal decision found in favour of the Applicant, this was a matter of planning balance and judgement; the Council was entitled to come to a different view as set out in its evidence.
12. Tying all these factors together, I have found that unreasonable behaviour on behalf of the Council has occurred by accepting late evidence and relying on this evidence to inform the third reason for refusal without affording the Applicant opportunity to comment.

¹ Paragraph: 026 Reference ID: 15-026-20190722

Costs Decision APP/N/2255/W/25/3368880

13. However, having considered the submissions from both main parties, I am not persuaded that undertaking consultation at the application stage would have changed the Council's position at appeal or prevented the inclusion of the third reason for refusal. Consequently, it has not been shown that unnecessary or wasted expense has occurred in the appeal process.
14. Finally, I note the application was live for several years with changes in council personnel over this period. That said, and from the submissions before me, the Council was reactive to the applicant's requests for updates and revisions were negotiated during the lifecycle of the application in response to Council comments. If the Applicant had concerns about the time taken to decide the application, the option was available to appeal against non-determination. This did not occur, and it was not the delay in the decision that compelled the Applicant to appeal.

Conclusions

15. As a result, having considered the above, I conclude that unreasonable behaviour by the Council has been demonstrated, however, this has not led to unnecessary or wasted expense incurred by the Applicant. Consequently, the application for an award of costs is refused.

N Praine

INSPECTOR



Planning Inspectorate

Appeal Decision

Site visit made on 28 October 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/V2255/C/24/3344377

Spade Lane, Hartlip, Sittingbourne, Kent, ME9 7TT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Owen Maughan against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 16 April 2024.
- The breach of planning control as alleged in the notice is Non-Compliance with Condition 3 of Planning permission 19/503694/FULL (allowed on Appeal APP/V2255/W/20/3254539 dated 8th June 2022).
- Condition 3 states:
"There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed at any time, of which no more than 1 caravan shall be a static caravan".
- The requirements of the notice are:
 - (i) Remove from the Land all unauthorised static caravans, touring caravans and associated vehicles in accordance with condition 3 of planning permission 19/503694/FULL (allowed on appeal ref. APP/V2255/W/20/3254539 – a copy of which is enclosed).
 - (ii) Reduce the number of plots within the caravan site to 8 in accordance with condition 3 planning permission 19/503693/FULL (allowed on appeal APP/V2255/W/20/3254539) in accordance with the attached Layout Plan 2014.01
 - (iii) Reinstate the Land to its original condition before the breach took place - this includes removing the fencing that has been erected to 'sub-divide' the unauthorised plots.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is corrected in Section 5(ii) by removing the word "plots" and replacing it with "pitches".
2. Subject to the correction the appeal is dismissed on ground (b) and the enforcement notice is upheld. No further action is taken in respect of the appeals made on grounds (a), (f) and (g).

Appeal site and background

3. The appeal site is a relatively flat area of land within the countryside approximately 1km away from the village of Hartlip with access off Spade Lane. There are a small number of dwelling houses nearby, the nearest opposite the site and a few to the rear on South Bush Lane.

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4. The relevant background to this appeal is that conditional planning permission was granted on appeal (Ref: APP/V2255/W/20/3254539) for a temporary period of 3 years for use of the site as an 8 pitch gypsy traveller site, with associated day rooms, new access, driveway, hard standing, package treatment plants, boundary fencing and landscaping.
5. The word "plots" in Section 5(ii) of the notice is erroneous. However, that it should instead say "pitches" is patently obvious to any reasonable observer from the wording of Condition 3 (C3) of the appeal permission, also referred to in full in the notice. As such, there is no significant ambiguity or confusion and the notice can be corrected to refer to "pitches" without prejudice to any party.

Appeal on ground (b)

6. An appeal on ground (b) is a claim that the matters alleged in the enforcement notice have not occurred as a matter of fact. The onus of providing evidence rests with the appellant and is tested on the balance of probabilities.
7. Contrary to the appellant's contention, the alleged breach of planning control at Section 3 of the notice is very clearly stated as non-compliance with C3 which itself is also set out in full. As such, the notice is clear in describing the breach as non-compliance with the limitations on the number of pitches and caravans in C3. Any arguments the appellant might have wanted to make as to the merits of varying the condition under ground (a) were not prejudiced given the appellant knew the level of use/number of caravans on site in order to make such arguments. As such the alleged breach as drafted does not require any correction.
8. As stated earlier, the onus is on the appellant to show the alleged matters have not occurred. Therefore, he needs to show that prior to the notice being issued there were no more than 8 pitches on site, with no more than 2 caravans on each pitch, of which no more than 1 of those was a static caravan.
9. In this regard the appellant has not provided any evidence that the number of pitches and caravans have not exceeded the limitations set out in C3. In contrast, the Council's evidence is that when the notice was issued they recorded that 11 pitches had been created with 72 caravans stationed on the land, of which 56 were static caravans. Aerial photographs of the site before and after the notice was issued also show significantly more pitches and caravans in excess of that permitted by C3.
10. Having regard to all of the evidence before me, and on the balance of probability, it is clear that the matters alleged in the notice had occurred.
11. The appeal on ground (b) therefore fails.

Appeals on grounds (a), (f) and (g)

12. The ground (a)/deemed planning application (DPA) flows directly from the breach of planning control. Hence the DPA before me, validly made when it was lodged, was limited to carrying on the development authorised by the planning permission granted on appeal, APP/V2255/W/20/3254539, but without complying with C3 which limited the number of pitches and caravans.

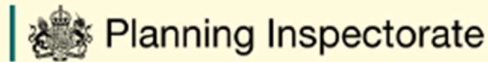
Appeal Decision APP/V2255/C/24/3344377

13. As such, the DPA mirrors a retrospective application made under s73A(2)(c) of the Act, including that it is not open to me to review any other conditions imposed on the original permission; doing so would widen the scope of the enforcement notice.
14. Moreover, the appeal permission granted was for a limited period of time by Condition 2 (C2) to 3 years and hence the permission expired on 8 June 2025. It is no longer extant. No separate application or appeal was made in respect of C2 of the appeal permission.
15. Since the appeal permission has expired and is no longer extant I have no jurisdiction over any DPA related to C3; only C2 of the expired appeal permission remains 'alive' and for enforcement purposes only. Hence all of the development and use of the site is now in breach of C2.
16. C2 requires the permitted use to cease, removal of all caravans on the land and the land restored to its condition before the development took place. The enforcement of C2 is now a matter for the Council as local planning authority. It is of course open to the appellant to re-apply for planning permission.
17. Consequently, no further action can be taken with regard to these grounds of appeal.

Thomas Shields

INSPECTOR

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Appeal Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Appeal Ref: APP/V2255/W/25/3370775
20 Park Road, Sittingbourne, ME10 1DR

- 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 Patrick Melanophy against the decision of Swale Borough Council.
 - The application Ref is 25/500670/FULL.
 - The development proposed is the conversion of building currently used as offices into three apartments. Demolition and replacement of existing single-storey extension with new rear extension and associated landscaping.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal site is located within a 6km zone of influence of the Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). As part of the appeal, the appellant has provided a financial contribution towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy for off-site mitigation. This has been confirmed by the Council.
4. Given this, the Council have stated the second reason for refusal relating to the impact of the proposal on the SPA can fall away. I have therefore proceeded on this basis.

Main Issue

5. The main issue is whether the proposal would provide adequate living conditions for the future occupiers, with particular regard to outlook, light, and privacy.

Reasons

6. The appeal property comprises a three-storey semi-detached building on the western side of Park Road, within a predominantly residential part of Sittingbourne close to the town centre. The appeal building features a two-storey rear outrigger with a pitched roof and a small rear garden. A narrow side passage allows access to the rear. At roof level, a prominent gabled dormer window projects from the front

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Appeal Decision APP/V2255/W/25/3370775

roof slope and incorporates white painted timber sash windows consistent with the lower bays. The surrounding area is characterised by closely spaced Victorian and Edwardian terraces and semi-detached properties with shallow rear gardens.

7. I accept the appellant's clarification that the proposed basement and ground floor unit (Flat 1) would meet the minimum gross internal area required by the Nationally Described Space Standards. However, the quality of the proposed accommodation would be significantly compromised by the physical configuration of the site and the relationship of key rooms to external spaces.
8. The proposed bedroom to Flat 1 would rely solely on a newly formed lightwell at the rear of the building for natural light and outlook. The lightwell would sit directly beneath an external staircase and landing serving the upper flat (Flat 3). The enclosing walls of the appeal building's rear outrigger together with the neighbouring outrigger, and the stair structure above, would combine to restrict daylight penetration and create an oppressive outlook. The limited view of open sky and close proximity of adjacent walls and stairs would further contribute to a sense of enclosure. Whilst the appellant contends the existing stairwell and balcony would be replaced with a lightweight structure, the resulting internal environment would appear gloomy and confined, failing to provide an acceptable living standard for the future occupiers of this unit.
9. The adjacent study would benefit from a rear-facing window. While the light reaching this room would be moderate given the surrounding built form, it would likely be sufficient for its intended ancillary use as a study rather than a primary habitable space. This, however, does not mitigate the harm identified in relation to the principal bedroom.
10. The proposal would also introduce a contrived circulation arrangement. Access to Flat 3 would be achieved solely via the external stair positioned within the rear garden, requiring residents to pass directly alongside the bedroom window of Flat 2 at ground-floor level. This would result in frequent footfall and activity within less than a metre of that window, causing an unacceptable loss of privacy and outlook for occupiers of Flat 2. The narrow passage and proximity to the boundary would also create a heightened sense of enclosure.
11. The appellant contends that such access arrangements are not unusual within historic urban settings and that prospective occupiers could opt for alternative accommodation if they found the arrangement unsatisfactory. Whilst I acknowledge tighter spatial relationships and awkward accesses are often found within urban environments, planning decisions for new development must be based on whether a proposal would provide a reasonable standard of amenity for any future occupier, not on individual preferences or tolerance levels. In this instance, the proposed arrangement and degree of material harm it would cause would go beyond what could reasonably be expected even in a dense urban context.
12. Accordingly, I conclude that the proposal would fail to provide acceptable living conditions for future occupiers, contrary to Policies CP4 and DM14 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) insofar as they seek to ensure that proposals are well-designed and cause no significant harm to amenity.

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2

Appeal Decision APP/V2255/W/25/3370775

Other Considerations

13. The appellant refers to the borough's housing land-supply position, stating that it stands at 3.98 years. The Council acknowledge that they cannot demonstrate a 5-year supply of deliverable housing land. Consequently, because of the provisions of footnote 7, paragraph 11 d) of the National Planning Policy Framework (the 'Framework') is engaged. As such, it is necessary for me to determine whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in providing additional housing to assist the Council in addressing its undersupply.
14. I have found conflict with Policies CP4 and DM14 of the Local Plan which are consistent with the Framework. I therefore find that the proposal would conflict with the Development Plan as a whole. The conversion of this vacant building would make a modest contribution to local housing supply. The site lies within the built-up area of Sittingbourne, a highly accessible location close to public transport, services and employment opportunities. These factors lend the proposal some sustainability credentials, and the reuse of an existing building would also represent an efficient use of land. However, the provision of three additional residential units would make a relatively minimal difference to the overall supply of housing and so I give this moderate weight in favour of the proposal.
15. The appellant also highlights that the proposal would restore the property to residential use, which would better reflect the prevailing character of Park Road and potentially enhance the appearance of the building through refurbishment. While this would offer a minor visual and functional benefit to the streetscene, it too carries only limited weight in the overall balance.
16. There would also be some minimal economic benefits during construction and from future occupants' contributions to the local economy through the use of services and facilities. I have attached limited weight to this consideration.

Planning Balance and Conclusion

17. Set against these benefits is the significant harm I have identified in respect of the quality of accommodation. This harm attracts substantial weight given the Framework's core objective of securing well-designed, high-quality places.
18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The harm I have identified would significantly and demonstrably outweigh the moderate benefits of the appeal scheme, when assessed against the policies in the Framework taken as a whole. The appeal scheme therefore does not benefit from the presumption in favour of sustainable development.
19. I have a duty under the Conservation of Habitats and Species Regulations 2017 to assess any impact the proposed development would have upon the SPA, which is a designated European site. New residential development at this site has the potential to cause disturbance to the SPA and therefore the development must provide appropriate mitigation. The appellant has provided a financial contribution towards mitigation as part of the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS). This is acknowledged by the Council. Notwithstanding this, as I am dismissing the appeal for the reasons

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3

Appeal Decision APP/N/2255/W/25/3370775

given above, I do not need to conduct any further assessment in relation to the SPA.

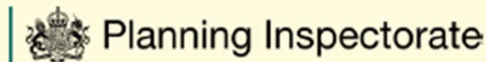
20. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it.
21. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR

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4



Costs Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Costs application in relation to Appeal Ref: APP/N2255/W/25/3370775 20 Park Road, Sittingbourne, ME10 1DR

- 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 Patrick Melanophy for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of building currently used as offices into three apartments. Demolition and replacement of existing single-storey extension with new rear extension and associated landscaping.
-

Decision

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

Reasons

2. 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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The appellant states that the Council misapplied the Nationally Described Space Standard (NDSS) by excluding voids over stairs from the gross internal area calculation, and that this error led to an unnecessary appeal. The Council's floorspace calculation for Unit 1 should have included voids above staircases in accordance with the NDSS. On that narrow point the Council was mistaken.
4. However, the refusal was not founded solely on the NDSS figure. The officer's assessment identified substantive harm to future occupiers' living conditions arising from the basement bedroom's poor light and outlook, and from the contrived access arrangement whereby occupiers of the upper flat would pass immediately beside the ground-floor bedroom window of Flat 2. Those concerns were policy-based and reasonable, and they would have persisted irrespective of the precise NDSS figure.
5. Even had the correct floorspace figure been used, the application would still have been refused on living conditions grounds. The appeal would therefore still have been necessary to resolve the parties' disagreement on those issues. In these circumstances, while there was an error, it did not cause the appellant unnecessary or wasted expense in the appeal process.

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

Costs Decision APP/V2255/W/25/3370775

6. The appellant also refers to the planning officer's limited engagement during the application process and suggests that greater dialogue or an opportunity to amend the scheme could have avoided the appeal. Whilst proactive communication is generally encouraged by the PPG, the Council is not necessarily required to negotiate or invite amendments where they consider the proposal to be fundamentally unacceptable. In this instance, the Council's concerns related to the overall quality of the accommodation and the site layout, matters that could not have been readily overcome through minor revisions. I therefore do not find that the Council's approach amounted to unreasonable behaviour.
7. I am satisfied on the basis of the evaluation of the planning merits set out in the Council Officer's Report that the Council has shown a clear rationale for its decision in light of the disputed assessment over the adequacy of the internal space and has provided a balanced commentary on the other material planning considerations. A full and reasonable assessment of the proposal against the Development Plan and other material considerations has therefore been undertaken by the Council during the course of the planning application. In the absence of any conclusive evidence to the contrary, I am unable to conclude that the Council has acted unreasonably in their assessment and determination of the proposed development.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Thomas Courtney

INSPECTOR



Planning Inspectorate

Appeal Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2025

Appeal Ref: APP/V2255/W/25/3368057

Land at Rides House Farm, Warden Road, Eastchurch, Kent ME12 4HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Sam Hayward against the decision of Swale Borough Council.
 - The application Ref is 25/500910/PNQCLA.
 - The development proposed is the change of use of a building and any land within its curtilage from agricultural to 1no. dwellinghouse and associated operation development.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interest of accuracy, the site address and description of development in the banner heading is taken from the decision notice and appeal form.

Main Issue

3. The main issue is whether the proposal would constitute permitted development under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

4. The appeal building lies within a small cluster of residential development to the north of Warden Road. It is a single-storey block-built structure situated within a hard-surfaced yard. The external walls have been rendered and fitted with domestic-style uPVC windows and a timber door, while a flue serving a wood-burning stove protrudes from the roof. Internally, the building contains plastered and painted walls, internal partitions, a toilet, a rudimentary kitchen installation, fitted light fixtures, carpets, window blinds and evidence of electrical fittings and plumbing. Although presently vacant, the internal layout and finishes are unmistakably residential in character.
5. The appellant accepts that works were carried out before the application was submitted but contends that these were only minor repairs (including rendering, replacement windows and doors), and that nothing amounting to a residential conversion had begun. However, the submitted evidence and my site visit observations indicate that the building has already been subdivided into rooms of a domestic type and fitted with kitchen and toilet facilities. These do not constitute maintenance operations but works that contribute to the conversion of a structure into a dwelling.

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Appeal Decision APP/V2255/W/25/3368057

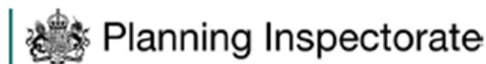
6. The appellant further argues that the doors are only basic ply doors, that only two windows are uPVC, and that the flue and wood burner was installed for heating and is located where the proposed kitchen would later be. The relevant test is not whether particular elements are temporary or incomplete, but whether any operations forming part of a residential conversion have already taken place.
7. Taken cumulatively, the extent of internal and external alteration to the building goes beyond mere maintenance. Whilst the appellant states that these works do not amount to development requiring planning permission and are not indicative of a material change of use, the presence of domestic fenestration, internal partitions, rooms with carpet flooring, plumbing, toilet facilities and kitchen fittings, together with plastered finishes and decorated walls, is not consistent with an agricultural storage use. The installation of these features is not related to repair work but are all operations reasonably necessary to convert an agricultural structure into a dwellinghouse within the meaning of paragraph Q.1(i) of the GPDO.
8. Whether or not the building has been occupied, these works demonstrate that physical conversion has already begun. The GPDO requires that prior approval must be sought before beginning such development. Once those works are carried out, the procedural conditions in paragraph Q.2 (1)-(2) cannot be satisfied. These conditions are intended to prevent piecemeal or retrospective use of the Class Q right.
9. On balance, the building operations needed to convert the original agricultural building to a dwellinghouse began before the prior approval application was made. Accordingly, I conclude that the proposal does not constitute permitted development under Class Q the GPDO.

Conclusion

10. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR



Appeal Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2025

Appeal Ref: APP/V2255/W/25/3364501

Land adj. Rides House, Warden Road, Eastchurch, Kent ME12 4HA

- 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 Mark Ball against the decision of Swale Borough Council.
 - The application Ref is 24/505000/FULL.
 - The development proposed is the construction of two detached single-storey bungalows.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal site is located within 6km of the Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). The appellant has provided a financial contribution towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy for off-site mitigation. This has been confirmed by the Council.
4. The appeal site previously accommodated two agricultural buildings, which were granted Prior Approval for conversion into two dwellings in 2020¹. Full planning permission was then also granted for their conversion to form two single residential dwellings in 2023².

Main Issues

5. The main issues are:
 - whether the proposed dwellings would be in a suitable location having regard to relevant development plan policies; and
 - the effect of the proposed development on the character and appearance of the area.

¹ Application Ref: 20/501903/PNQCLA.

² Application Ref: 21/501243/FULL.

Appeal Decision APP/V2255/W/25/3364501

Reasons

Suitable location

6. The site lies beyond any defined settlement boundary, within a dispersed cluster of buildings on Warden Road. Policies ST1, ST3 and CP3 direct most new housing to the main urban centres and larger rural settlements and seek to restrict development in the open countryside. The proposal would thus be at odds with the policies that govern the spatial distribution of development in the borough.
7. Policy CP2 promotes sustainable patterns of growth by reducing the need to travel and locating housing where there is convenient access to services and facilities. The appeal site is some distance from shops, schools and other day-to-day services, with no continuous footways or regular public transport to larger nearby settlements. In this context, occupiers would be highly dependent on private vehicles, contrary to the development plan's aim of focusing housing in sustainable locations and the aim of Policy CP2 to promote sustainable transport.
8. Earlier permissions at the site allowed the conversion of existing agricultural buildings. Those approvals were based on the re-use of existing structures, which is treated differently in both national and local policy. Following their demolition, there is no structure capable of conversion and no realistic fallback. The current proposal therefore amounts to new-build housing in the countryside, which is not supported by the spatial strategy.
9. Given this, the proposal would not be in a suitable location having regard to relevant development plan policies. The proposal would therefore conflict with Policies ST1, ST3 and CP2 of the Swale Borough Local Plan (the 'Local Plan'), insofar as they seek to ensure the settlement strategy is adhered to and new housing is directed to sustainable locations.

Character and appearance

10. The appeal site occupies part of the former Rides Farm yard. It is an irregular backland plot reached by a narrow access road between existing buildings. The ground is rough and largely covered by concrete slabs, rubble and overgrown vegetation, enclosed by timber fencing. The surrounding landscape remains open and agrarian, with widely spaced dwellings and farmsteads scattered along Warden Road. The pattern of development here is loose and transitional, set within open countryside.
11. The two new bungalows would occupy the site which has been cleared of the former agricultural buildings. Their symmetrical side-by-side arrangement, domestic gardens, parking areas and boundary enclosures would introduce a suburban form of development that would contrast with the more sporadic and functional pattern of surrounding buildings. The scheme would consolidate built form across the width of the site and erode the sense of openness that contributes to the area's rural character.
12. The appellant describes the proposed dwellings as modest and sensitively designed with vernacular architectural elements. Although they contend the dwellings would not be visually intrusive, the suburban plot arrangement, tight-knit volume of development, shared parking and enclosed gardens would be readily perceived as out of keeping with the looser, farmstead-derived pattern of

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

2

Appeal Decision APP/V2255/W/25/3364501

surrounding buildings. The use of sympathetic materials would not overcome the visual impact of the development.

13. I recognise that the wider area contains both rural buildings and residential properties. However, those properties are mostly dispersed and individually sited within large plots, maintaining green gaps and a strong sense of spaciousness. In contrast, the proposal would infill the plot and introduce an excessive amount of built form across the width of the site. The site would thus appear overly urbanised, increasing the density of development in this location, which would harm the loose and open rural character of the area.
14. The appellant refers to previous residential permissions and suggests the proposal is a logical and acceptable progression of the site's development. However, those earlier consents related to the conversion of existing agricultural buildings. With those structures now demolished, the visual context has materially changed. The layout and appearance of the new-build dwellings, on cleared ground, would not continue the form or character of the approved conversions.
15. The earlier approvals were different in both form and impact. They retained the overall footprint, massing and rural typology of the agricultural structures, preserving the appearance of simple, rural sheds set within a loose farmyard arrangement. Their conversion would have resulted in a subdued, low-key presence that respected the site's origins. By contrast, the current proposal introduces two entirely new suburban-style bungalows, representing a shift from an agricultural character to a fully domestic one. The resulting pattern of development would be more consolidated, appearing materially more intrusive within the rural backdrop.
16. Consequently, the proposed development would have an adverse impact on the character and appearance of the area. It would conflict with Policies CP4 and DM14 of the Local Plan insofar as they seek to ensure that proposals protect the intrinsic value and beauty of the countryside and ensure that development is appropriate to its setting.

Other Considerations

17. The Council acknowledge that they cannot demonstrate a 5-year supply of deliverable housing land. Consequently, because of the provisions of footnote 7, paragraph 11 d) of the National Planning Policy Framework (the 'Framework') is engaged. As such, it is necessary for me to determine whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in providing additional housing to assist the Council in addressing its undersupply.
18. The appellant contends the proposal would optimise the use of the site and contribute positively to the borough's housing targets. This is tempered by the fact that the site lies outside a settlement boundary, has poor access to shops and services and would be dependent on private vehicles. Whilst on-site measures such as limited parking, EV charging and cycle storage are proposed, these would not overcome the site's locational unsustainability, since they would not effectively reduce the need to travel by car. Furthermore, the provision of two additional dwellings would make a relatively minimal difference to the overall supply of housing and so I give this moderate weight in favour of the proposal.

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3

Appeal Decision APP/V2255/W/25/3384501

19. The appellant argues that the previous consents have already established the principle of residential development and that this must be given considerable weight. As mentioned previously, the residential development that was permitted was tied to the conversion of the agricultural buildings that have now been demolished. Whilst the Framework supports the redevelopment of previously-developed land, this does not include land that was last occupied by agricultural buildings. The Framework also supports the development of windfall sites – but these should be suitable sites within existing settlements. I have therefore attached limited weight to this consideration.
20. The appellant refers to an appeal allowed on a neighbouring site at Rides House for the erection of two semi-detached dwellings following the demolition of Rides House³. This case differs from the proposal in that it comprised previously-developed land, occupied the footprint of the former house, and did not have a harmful impact on the character and appearance of the area. The other appeal on land adjacent to Rides House⁴ was dismissed due to its unsatisfactory location with regards to the Council's spatial strategy. I have been provided with very limited information relating to the other developments referred to at Barbara Crest, Norman Road, and at the Wheatsheaf Inn, Warden Road. I cannot decisively assess whether they are comparable to the proposed scheme. Therefore, these cases do not lend any weight in favour of allowing the appeal.
21. There would also be some minimal economic benefits during construction and from future occupants' contributions to the local economy through the use of services and facilities. I have attached limited weight to this consideration.

Planning Balance

22. Set against these benefits is the significant harm I have identified in respect of the proposal's unsuitable location when judged against the settlement strategy policies for Swale. This conflict with the development plan is a matter of significant weight against the proposal. The proposal would also harm the character and appearance of the area in light of its incongruous suburban layout. This harm attracts substantial weight given the Framework's core objective of securing well-designed, high-quality places.
23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The harm I have identified would significantly and demonstrably outweigh the moderate benefits of the appeal scheme, when assessed against the policies in the Framework taken as a whole. The appeal scheme therefore does not benefit from the presumption in favour of sustainable development.
24. I have a duty under the Conservation of Habitats and Species Regulations 2017 to assess any impact the proposed development would have upon the SPA, which is a designated European site. New residential development at this site has the potential to cause disturbance to the SPA and therefore the development must provide appropriate mitigation. The appellant has provided a financial contribution towards mitigation as part of the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS). This is acknowledged by

³ Appeal Ref: APP/V2255/W/20/3262303.

⁴ Appeal Ref: APP/V2255/W/22/3295953

Appeal Decision APP/V2255/W/25/3364501

the Council. Notwithstanding this, as I am dismissing the appeal for the reasons given above, I do not need to conduct any further assessment in relation to the SPA.

Conclusion

25. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it.
26. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR



Planning Inspectorate

Costs Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2025

Costs application in relation to Appeal Ref: APP/V2255/W/25/3364501

Land adj. Rides House, Warden Road, Eastchurch, Kent ME12 4HA

- 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 Mark Ball for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for the construction of two detached single-storey bungalows.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The appellant claims that the Council acted unreasonably by misinterpreting the planning history, failing to give appropriate weight to previous permissions, and refusing an application that should have been approved. It is also alleged that procedural inconsistencies led to unnecessary expense.
4. The Council's delegated report identifies the earlier prior approval and full planning permission and explains why the demolition of the former agricultural buildings materially altered the site circumstances. In the Council's judgement, the loss of the buildings removed the fallback position that had previously justified residential development. The proposal was therefore assessed as a new-build scheme in the countryside. The Council applied relevant development plan policies and concluded that the proposal's location and form of development were unacceptable. It reached a view it was entitled to make. Disagreement with that planning judgement or the weight attached to particular considerations does not amount to unreasonable behaviour.
5. No persuasive evidence shows procedural unfairness, delay, or any failure in the decision-making process amounting to unreasonable behaviour. The officer report considered the site history, planning policy and the change in circumstances following demolition. There is no indication that relevant evidence was ignored or the proposal misunderstood.

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Costs Decision APP/V2255/W/25/3364501

6. While the appellant has incurred costs in preparing the appeal, these are the normal costs associated with challenging a refusal. There is no direct causal link between the Council's behaviour and any unnecessary or wasted expense.
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Thomas Courtney

INSPECTOR

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