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2.2 REFERENCE NO - 21/505936/FULL			
APPLICATION PROPOSAL			
Erection of 3no. dwellings to replace those demolished under application 19/501984/DEMREQ			
ADDRESS 19-21 Mount Field Queenborough Kent ME11 5DB			
RECOMMENDATION That delegated authority is given to the Head of Planning to grant Planning Permission, subject to completion of a further reconsultation process, the imposition of recommended conditions and completion of a SAMMS payment.			
SUMMARY OF REASONS FOR RECOMMENDATION			
<p>The proposal entails development within the built-up area which is acceptable in principle. The development is on the site of three former dwellings that were originally granted under planning Ref: SW/06/0377, but subsequently demolished in 2019. The scale, design and appearance of the development as proposed is consistent with the former dwellings. No significant impacts to the character, appearance or layout of the vicinity of the site have been identified and although in Flood zone 3, the Environment Agency does not object to the development as proposed. The proposal does not result in any material harm to the outlook or amenity of neighbouring occupiers or any highways safety concerns over or beyond the relationships that existed with the previous dwellings. It accords with all the relevant policies of the development plan and government guidance in the revised NPPF. The agent has agreed to pay a SAMMS contribution subject to approval and therefore suitable mitigation measures have been agreed.</p>			
REASON FOR REFERRAL TO COMMITTEE			
Objection from Queenborough Town Council and Call in by Cllr Beart			
WARD Queenborough And Halfway	PARISH/TOWN COUNCIL Queenborough	APPLICANT Mr Q Searle AGENT Building Drawings	
DECISION DUE DATE 31/12/21		PUBLICITY EXPIRY DATE 03/06/22	
PLANNING HISTORY			
Application Ref:	Description	Recommendation	Date
SW/06/0377	The construction of fourteen number three bedroom houses at two and three storeys, a new access road, landscaping and car parking.	Approval, subject to conditions	22.11.2006
19/501984/DEMREQ	Prior Notification for the proposed demolition of 3 dwellings.	Prior Approval not required	07.06.2019

APPENDIX A**1. DESCRIPTION OF SITE**

- 1.1 The subject site is located within the built-up area of Queenborough. The site is situated on an area of land situated on the western side of Mount Field and infills an area between a railway embankment to the west and a relatively modern housing estate to the east.
- 1.2 The site is currently vacant, previously occupied by three dwellings of three storeys in height which formed a small terrace row. The three original dwellings formed part of a larger residential housing scheme for 14 dwellings under planning application Ref: SW/06/0377 dated 22.11.2006, and dwellings of similar design and scale are sited on each side of the site. The three dwellings (19-21) were subsequently demolished, being deemed unfit for purpose, and the site is currently empty with the exception of protective hoarding around the sites perimeter. There is an established landscape buffer of mature trees along the western boundary of the site adjacent to the railway line. The site of the proposed access is an existing turning head, used for informal parking by the occupants of dwellings in Mount Field.
- 1.3 To the west, on the opposite site of the railway line is Queenborough Conservation Area.
- 1.4 The site is also in Flood Zone 3 in an area at risk of flooding.

2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of 3no. three bedroom dwellings with amenity space and landscaping. The original dwellings were demolished having been found to be structurally unsafe.
- 2.2 The built form of development would be three storeys in height, the third storey accommodated partially within the roofspace served by dormer windows to the front and rear. A summary and comparison of the scale of development proposed is set out in further detail within Section 3, below. The main difference between the scheme and the dwellings previously present on the site is the introduction of a single storey rear infill extension to the rear of the properties (2.4m by 2.4m to eaves/ 3.4m to ridge height).
- 2.3 The proposal has been revised under the course of this application. The width of the development has been reduced by 1m on either side of the development block. To the west, the development has been set in to retain a sufficient landscape buffer to ensure protection of the visual amenity of the Queenborough Conservation area opposite as requested as part of the original consent (SW/06/0377). To the east, the development has been set in to ensure that the proposal aligns with the side flank of the previous consent, in the interests of visual amenity.
- 2.4 The proposed dwellings would be of a relatively traditional design incorporating a pitched roof with gable ends and would feature front and rear facing flat roof half dormer windows, and front Juliet balconies above the integral garages, mirroring that of the original consent and existing properties directly opposite at no's.22-26 (cons). A combination of brickwork and cladding is proposed to the fenestrations. Concrete interlocking tiles are proposed for the roof and white uPVC windows are proposed for the doors and windows.

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- 2.5 The existing access and hardstanding would be retained. Each property would be served by two parking spaces (one within a garage).
- 2.6 The application site area has recently been amended to incorporate further space for car parking. This is within land already identified as being under the control of the applicant. Nonetheless, as the site area has technically been enlarged it is necessary to carry out a further consultation, which is currently underway. It is not envisaged that this would raise any new matters of concern (and it is noted that no neighbour objections have been received), however it is important that the correct consultation process is followed.

3. SUMMARY INFORMATION

	Demolished Properties	Proposed	Change (+/-)
Approximate Ridge Height (m)	10.8m	10.5m	
Approximate Eaves Height (m)	6.3m	6.3m	
Approximate Depth (m)			
Ground Floor	12.8m	13.7m	
First and second floors	9.8m	10m	
Approximate Width (m) single unit	4.4m	4.4m	
Approximate Width (m) block	13m	13m	
No. of Storeys	3	3	
No. of Bedrooms	3	3	
Net Floor Area	120m ²	125m ²	
Parking Spaces	2	2/3	

4. PLANNING CONSTRAINTS

- 4.1 Potential Archaeological Importance
- 4.2 Environment Agency Flood Zone 2/3

5. POLICY AND CONSIDERATIONS5.1 The National Planning Policy Framework (NPPF) 2021

Chapter 2: Sustainable Development; Chapter 6: Building a strong, competitive economy; Chapter 9: Promoting sustainable transport; Chapter 11: Making effective use of land; Chapter 12: Achieving well-designed places; Chapter 14 :Meeting the challenge of climate change, flooding and coastal change; Chapter 15: Conserving and enhancing the natural environment; Chapter 16: Conserving and enhancing the historic environment

- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policy ST 1 Achieving sustainable development in Swale; Policy ST 3 The Swale settlement strategy; Policy ST 6 The Isle of Sheppey area strategy; Policy CP2 Promoting Sustainable Transport; Policy CP 3 Delivering a wide choice of high quality homes; Policy CP4 Requiring good design; Policy DM 6 Managing Transport Demand and Impact; Policy DM 7 Vehicle Parking; Policy DM 14

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General Development Criteria; Policy DM 19 Sustainable Design and Construction; Policy DM 21 Water, Flooding and Drainage; DM 28 Biodiversity and geological conservation

5.3 Swale Vehicle Parking Standards SPD 2020

6. LOCAL REPRESENTATIONS

6.1 No neighbouring representations were received.

7. CONSULTATIONS

7.1 Queenborough Town Council:

“The Town Council raise concerns, knowing of the issues around this area of Queenborough regarding sewage and water flooding.

Prior to any consideration of the application a completely new flood report should be sought and accompany the submitted application for review by consultees’, the one attached is outdated being 2005.

The impact of these dwellings on the Queenborough and Rushenden sewage system should be reviewed as homes in Queenborough continue to be flooded with raw sewage with the most recent event being January 2021.

The current pumping station is totally inadequate for Queenborough and Rushenden, with a long history of flooding of raw sewage where the station cannot cope, and Southern Water must improve the pumping station.

Queenborough Town Council ask Swale Borough Council for careful consideration to application for a new connection to the current system.”

7.2 Cllr Cameron Beart: *“I note that the Town Council have already objected to the above application so this should be a committee referral anyway but I would like to call this application in to be determined by the planning committee as ward member also.”*

7.3 KCC Flood and Water Management: (Summarised) (19.12.2021) *“The application under the above reference number therefore falls outside the definition of major development and also falls outside of KCC’s remit as statutory consultee”*

7.4 KCC Highways: (21.12.2021) The development proposal does not meet the criteria to warrant involvement from the Highway Authority

7.5 Southern Water: (04.01.2022) (Summarised) *The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised. Relevant conditions and Informatives are advised.*

7.6 Environment Agency: (11.01.2022) Initially objected to the proposal based upon an insufficient Flood Risk Assessment. A revised and updated FRA was submitted by KRS Environmental dated April 2022 whereby the EA raised no objection to the proposal (17.05.2022)

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- 7.7 KCC Ecological Advice: (14.01.2022) We advise that the proposed development has limited potential to result in ecological impacts and as such we are satisfied that there is no requirement for an ecological survey to be carried out. Ecological Enhancement condition recommended and Breeding Birds Informative.
- 7.8 Network Rail (01.02.2022) (Summarised) - *Due to the close proximity of the proposed dwellings to Network Rail's land and the operational railway, Network Rail requests the applicant / developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team via AssetProtectionLondonSouthEast@networkrail.co.uk prior to works commencing. This will allow our ASPRO team to review the details of the proposal to ensure that the works can be completed without any risk to the operational railway.*
- 7.9 Environmental Health: (27.04.2022) No objection, subject to conditions – Hours of construction & EV charging
- 7.10 Natural England: No comments received

8. BACKGROUND PAPERS AND PLANS

- 8.1 Existing – Site Plan
- 8.2 Proposed – 21061QS-PP-(03)01-Proposed Plans-Ground and First Floor; 21061QS-PP-(03)02-Proposed Plans-Second Floor and Roof; 21061QS-PP-(04)01-Proposed Elevations-All; 21061QS-PP-(13)01-Site Plans-Location Plan; 21061QS-PP-(13)02-Site Plans-Existing Block Plan; 21061QS-PP-(13)03-Site Plans-Proposed Block Plan (Revised drawings)

9. APPRAISALPrinciple of Development

- 9.1 The site is an existing brownfield site, the principle of development for three houses having been previously established under planning application Ref: SW/06/0377, and by the construction and presence of three dwellings on the site until they were demolished in 2019. The application site lies within the built up area of Queenborough, within a residential and sustainable location reasonably accessible by public transport. The principle of development within these locations is generally regarded as acceptable and in accordance with accords with Policy ST3 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017.
- 9.2 In addition, Policy CP3 also aims to steer new development to the built-up area boundaries. As a result, the site location is considered sustainable, situated within the defines of an urban area with a good range of services which can be reached by sustainable travel modes to the benefit of future residents and in accordance with sustainable development set out within the NPPF 2021.
- 9.3 Overall, I consider the principle of development consistent with policies ST1, ST3, CP3 of the Local Plan (2017) as adopted, subject to considerations set out in further detail below.

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Visual Impact

- 9.4 The Government attaches great importance to the design of the built environment as stated in paragraph 130 of the NPPF. In addition, Policy CP4 of the Swale Local Plan 2017 promotes and encourages high-quality design which should be appropriate and reflect the character of the area.
- 9.5 In terms of scale and bulk, the proposal has been amended through the course of this application to reduce the width of the development proposed in line with the dwellings previously on the site and as per the approved scheme (Ref: SW/06/0377). A single storey infill extension has been introduced however I am satisfied that this is a relatively modest extension (2.4m deep by 2.4m to eaves/ 3.4m to ridge height) which does not adversely impact upon the scale of development previously approved. Moreover, there has been only a minimal increase (5m²) in the proposed floor area.
- 9.6 Turning to design and appearance, the appearance is reflective of the previously approved scheme and identical to the residential block directly opposite at no's 22 to 26 Mount Field. I note the proximity to Queenborough Conservation Area, however this is located on the opposite side of the Railway Line, and I do not envisage the scheme would cause harm to the setting the Conservation Area, taking into account the former similar development on the site and surrounding built form. Revised plans have been submitted to reduce the width of the development along the western boundary which will ensure the retention of the existing and well established landscaped buffer between the flanks of the proposed houses and the boundary of the site with the railway line and I am satisfied that this will provide appropriate and sufficient mitigation to the setting of the conservation area.

Residential Amenity

- 9.7 The proposed dwellings would be located a minimum of 17 metres from the closest existing dwelling at No.14 Barler Place. This distance is measured from the (east) flank wall of the proposed dwellings to the rear wall of No.14 and is the same as the previous dwellings on the site which was considered acceptable under the application Ref: SW/06/0377. No windows are proposed in the side flank of the properties and the proposed dwellings would be a sufficient distance to avoid any unacceptable overshadowing, and I do not envisage the scheme giving rise to significant noise and disturbance.
- 9.8 In respect of the relationship with no's 22-26 Mount Field to the north and no.17 & 18 to the south, the distances at first and second floor level would be approx. 19 metres. Whilst less than the 21m standard normally applied, I note this distance would be the same as the dwellings that were previously on the site and considered acceptable as per the previous approval in 2006. I consider this to be acceptable given this historic relationship between dwellings.
- 9.9 Due to the nature of the development it is also necessary to consider the amenities of future occupiers. The internal spaces would meet national standards and rear gardens would be modest but acceptable and commensurate with the gardens associated with the demolished properties.

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Highways, Access, Parking

- 9.10 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Swale Borough Parking Standards 2020
- 9.11 In terms of access and highway safety, no changes are proposed to the existing site entrance or hardstanding to the front forecourt. KCC Highways have been consulted and no concerns have been raised.
- 9.12 Each dwelling would be provided with 2 parking spaces, one of which would be in the integral garage. This would be in line with the arrangements for the dwellings previously constructed on site and in accordance with the original consent (SW/06/0377). However, the integral garage space does not comply with the dimensions specified in the more recent Parking SPD adopted by the Council. Under normal circumstances this would not be acceptable. However as the units are effectively replacement dwellings for the dwellings that until recently were on the plot, and the parking arrangements would be no worse than provided for these dwellings, I consider this to be acceptable in this particular instance. I note that the integral garage measures 2.6 by 5.2m and as such consider it would still be possible to utilise this space for parking, albeit it is not in accordance with the new standards.
- 9.13 For this reason, I am satisfied that there is sufficient parking for future occupiers and that parking would not lead to displacement of parking to the highway, to the detriment of highway safety.

Flood Risk

- 9.14 The property is located within designated Flood Zone 3. Following an initial objection from the Environmental Agency on the grounds that the original FRA was out of date (2005) a revised Flood Risk Assessment has been provided under the course of this application. I have consulted with the Environment Agency on the revised FRA who have raised no objections to the proposal, despite the location within flood zone 3. I have no reason to dispute this response and the proposal is acceptable in this regard.

Landscaping

- 9.15 Policy DM14 requires the provision of an integrated landscape scheme that would achieve a high standard of landscaping within the development. No landscaping has been provided however I am satisfied that this can be implemented via a condition, attached.

Ecology/SAMMS

- 9.16 Since this application would result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. An HRA/AA is appended below. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £253.83 per dwelling. The applicant has confirmed that he is willing to make this payment in the event of an approval.

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Other Matters

9.17 I note the comments from the Town Council regarding the Queenborough and Rushenden sewage system and raise concerns that the pumping station is inadequate for this area. I have consulted with Southern Water who are responsible for sewerage disposal and no objections on capacity grounds have been raised, although conditions/informatives are sought to protect existing sewers and apparatus.

10. CONCLUSION

10.1 The proposal entails development within the built-up area which is acceptable in principle. The application is to replace three dwellings of almost identical form that were recently demolished, but were subject to previous approval at this site, under planning Ref: SW/06/0377, and the scale, design and appearance are found to be consistent with this previously approved development. No significant impacts to the character, appearance or layout of the vicinity of the site have been identified and although in Flood zone 3, the Environment Agency does not object to the development as proposed. The proposal does not result in any material harm to the outlook or amenity of neighbouring occupiers or any highways safety concerns over or beyond the relationships between the previous dwellings that stood on site. It accords with all the relevant policies of the development plan and government guidance in the revised NPPF. Moreover, the agent has agreed to pay a SAMMS contribution subject to approval and therefore suitable mitigation measures have been agreed in principle.

11. RECOMMENDATION

That delegated authority is given to Grant planning permission, subject to completion of the new consultation process (as described in para. 2.6) securing a SAMMS payment and the following conditions:

CONDITIONS to include

- 1) The development 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 drawing title number(s): 21061QS-PP-(03)01-Proposed Plans-Ground and First Floor; 21061QS-PP-(03)02-Proposed Plans-Second Floor and Roof; 21061QS-PP-(04)01-Proposed Elevations-All; 21061QS-PP-(13)01 Rev A-Site Plans-Location Plan; 21061QS-PP-(13)02-Site Plans-Existing Block Plan; 21061QS-PP-(13)03 Rev A-Site Plans-Proposed Block Plan

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

- 3) All external materials to be used in the development shall match those specified on the application form.

Reason: To ensure that the materials harmonise with the surroundings, in

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accordance

- 4) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interest of residential amenity.

- 5) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- 6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority

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

- 7) 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 tree 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 interest of visual amenities of the area and encouraging wildlife and biodiversity.

- 8) The dwelling(s) hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended); No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

- 9) No development beyond construction of foundations shall take place until a scheme for the adequate provision of active electric vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development hereby approved.

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

- 10) The development shall be carried out using the flood resilience measures specified in the revised Flood Risk Assessment submitted with the application.

Reason: To minimise risks from flooding.

- 11) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no dwelling shall be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

- 12) Upon completion, no further rear extensions to the dwellings, whether permitted by Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of neighbouring amenities, flood risk and retention of sufficient amenity provision

- 13) Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To minimise risk from flooding

- 14) Prior to the completion of the development hereby approved, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of generous native species planting where possible. The approved details will be implemented and thereafter retained.

Reason: To minimise impacts on and provide net gains for biodiversity in accordance with the requirements of the NPPF.

- 15) The area shown on the submitted plans as car parking space (including the integral garages) 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 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.

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INFORMATIVESSouthern Water

You are referred to the response received to the Council from Southern Water on 4th January 2022. As per the contents of the advisory note, you are advised to liaise directly with Southern Water regarding the location of the public sewer prior to the implementation of development. This planning permission does not remove or override any requirement for approval from Southern Water in respect of development over or near a public sewer.

KCC Ecological Service

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. These habitats are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

Network Rail

You are referred to the response received to the Council from Network Rail on 1st February 2022. As per the contents of the advisory note, due to the close proximity of the proposed dwellings to Network Rail's land and the operational railway, you are advised to liaise with National Rail directly and follow the Asset Protection informatives which are issued to all proposals within close proximity to the railway (compliance with the informatives does not remove the need to engage with Network Rail ASPRO team).

Highways

It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

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

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

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

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Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

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However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required. In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which has been secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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