

## Application: 21/504028/FULL Land At School Lane, Newington ME9 7JU

Proposal: Erection of 25no. residential dwellings and the provision of a 20 space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

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Newington Parish Council objects to this application.

Our submission outlines our objections, referencing these to relevant reports (from Swale planning officers, SBC policy documents, planning inspectorate decisions and other applicable documents). We show how these material considerations are substantiated in SBC policy and the National Planning Policy Framework.

### 1 False justification given for this proposal

The proposal for 25 homes is predicated on the supposed need for a new permanent drop-off zone and some additional parking at Newington CP School. This could be met by a permanent arrangement for use of the land currently enjoyed for this purpose.

#### The applicant's Design and Access Statement

The 'School drop-off and parking area of the proposal is the focal element of the scheme. Newington Church of England Primary School (Newington CEPS) currently have a short term lease arrangement, expiring in June 2022, to use the land off of School Lane as a temporary staff parking and drop off zone. The parking / drop off area is needed because the existing school grounds are constrained and do not provide sufficient car parking for staff nor allow a safe zone for parents to drop off their children.

There are 21 parking spaces on the spacious school site with a total 42 teaching and support staff in the school and adjacent Cherries pre-school.

Prior to the temporary parking/drop off area being provided, during peak times the roads easily became congested, causing tension between parents, increased pollution due to idling cars and increased safety risks.

This temporary site was originally farmland, repurposed with a hard surface for construction vehicles and then as a car park for the portacabin sales office when the landowner sold the land opposite for the construction of 14 homes as Blaxland Grange. Through Members' grants the School was able to construct a secure pedestrian route from school to this land. It is our understanding that no planning application was made for change of use of the land from agriculture to contractor hardstanding/ school use and that the land is currently registered still listed as for agricultural use.

Although an improvement from the existing school site, the temporary parking/drop off area does not meet the full requirements of the school.

The current area is probably sufficient for 20 additional staff car parking spaces, and two or three spaces of off-road short-stay parking for visitors during the day as well as a drop-off zone for blue badge holders, taxis and parents. Like most schools Newington CEP has a policy of no vehicle movements on the school site at the beginning and end of the school day.

The facility will be delivered through a freehold transfer in perpetuity to Kent County Council which can be secured by way of planning obligation.

This could be met through the landowner simply gifting the current site to Kent County Council rather than short-term agreements.

The 'consultation' with parents of Newington School pupils had a fairly high response rate due to the fact that it was sent by the School (roll 200 in the summer term, 120 families consulted, 54% response rate) but the question was:

*'Following the successful establishment of the drop off zone, we wanted you to know that the current arrangement is up for review. Under a new scenario, and with enough support, we would potentially be provided with a fully tarmacked and fit for purpose car park, drop off zone and paved path in to school. This would be provided in perpetuity by a community contribution from a Developer as part of a potential*

*housing development adjacent. Please complete and submit the form below so your voice can be heard and will be considered in any future developments. Kind regards, Newington CEP School'*

Of the 120 families 55 did not respond and 56 said they would use the drop-off area. Their support was for this facility – not for a development of 24 homes.

Currently visitors park on the road or use the parish church car park 300 metres away.

## 2 The location of the proposed development

It is hard to envisage a less-suitable site for a housing development.

The proposed site is at the junction of School Lane with Bricklands (known locally at Mill Hill or 'the road with no name'!)

Church Lane is an ancient highway and the only road to the north of the A2. As such it serves as access and egress for its residents and those using the roads leading from it. As well as being narrow, Church Lane offers the only parking for most of the 135 houses either side of the road and for some of the properties on the A2. Whilst just manageable at some times of the day, Church Lane often comes to a standstill at the start and end of the school day. As most of the Village population live South of the A2, parents choose to drive, often backing-up along the A2 until there is space to enter Church Lane.

There are two roads off Church Lane: St Mary's View and Denham Close. The former was the subject of an earlier unsuccessful planning application for extension in 2015 with the planning appeal dismissed in March 2017 (see below)

At its northern end Church Lane divides west to School Lane, north via Wardwell Lane, a narrow route to Lower Halstow; and East becoming Iwade Road / High Oak Hill towards the much-enlarged Iwade, many residents of which use it as 'rat-run' for the station and towards the Medway Towns.

School Lane stretches only 100 yards before dividing into Bricklands (a single track by-way) and Boxted Lane (again narrow, but with passing points); both lead to Breach Lane.

Boxted Lane floods for much of the year as water flows from adjacent fields. Attempts at alleviation through roadside grips have not been successful. Kent County Council have confirmed that the cost of a modern drainage system would be prohibitive; residents and road users are left with the situation where, on request, floodwater is pumped into tankers when necessary. This has been confirmed as policy by the KCC Cabinet Member for Highways and Transport.

The School has been here since Victorian times; plans to relocate it to a new site, south of the A2, off Playstool Road were dropped 40 years ago due to KCC finances. Some expansion of parking and a drop-off facility are needed. A housing development would make the traffic situation considerably worse. The applicants Transport statement (5.5.6) estimates '117 vehicle trips across the 12 hour weekday period'; we submit that most of these would be at peak times to coincide with the start and end of the school day as well as others from the village and Iwade on their way to and from work.

An unreliable traffic count was undertaken in summer 2016 (end of the school summer term) and an up-to-date one is required for period covering normal term-time school days.

We have an ongoing concern for the safety of children who walk to school and are unconvinced by the applicants proposal in 'Access and Highways' para 3.3.4 of their Planning Statement.

We are relieved that Fernham Homes decided not to proceed with plans to build between Bricklands and Boxted Lane as this would abut the village cemetery – a place of calm, greatly valued by the families of deceased who regularly visit.

We note that the Newington Parish Council was, unusually, formally consulted on a planning application in Bobbing, our neighbouring parish (Application: 21/500173/FULL Land East Of Hawes Woods, High Oak Hill, Iwade Road, Newington ME9 7HY Proposal: Retrospective application for change of use of land from agricultural to animal rescue including new stock fencing and gates, mobile field shelters, small animal houses, shipping containers for storage, associated boundary treatment and stationing of a mobile caravan for use as a residential unit for staff.) the officer email: '*The neighbouring Newington and Lower Halstow Parish Councils have been consulted, at the request of the Development Manager, Planning Services, due to potential effect on roads leading to the site*'. This clearly acknowledges a concern about traffic on the rural road network in this vicinity and the cumulative effect of any developments.

The development at Blaxland Grange was the subject of a condition that all construction traffic should reach the site via Iwade Road rather than Church Lane; a further acknowledgment of congestion problems on the narrow Church Lane, as well as the height restriction under the railway bridge.

There are also concerns about sewerage in this part of the village. A complete upgrade of the main sewer running south to Lower Halstow is long overdue and has been consistently postponed due to cost. Currently sewage is stored in underground tanks for pumping outside peak hours. There has been flooding on a number of occasions.

The applicant refers to this (6.2.11) as a 'currently underdeveloped part of the village'. There is a good reason for the lack of development: the road network is poor and it is outside the defined built up area.

### 3 Swale Borough Council and NPPF Policies relevant to this proposal

- It is not part of the existing Swale Borough Council Plan
- It is not included in the latest consultation exercise on the local plan
- It was not part of the 'call for sites' for the Strategic Housing Land Availability Assessment in October 2020
- The Swale Local Plan Panel on 29 October 2020 followed the officer recommendation '*that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review*'.

Therefore this application is contrary to Swale's policies and procedures. It is a premature application.

In the Local Plan, Policy ST 3 identified Newington as a Tier 4 Rural Local Service Centre with noted limitations to expansion, so the village was allocated a growth rate of 1.3%. Even in the 2017 edition of the Local Plan, the restrictions on growth were reiterated with the single exception of "Land North of the High Street".

The following facts emphasise the extent that Newington has already played in fulfilling the targets of the Local Plan:

1. Total already built in Newington 2014 to now is 180 properties
  - a. For the target six years to date that is **297.5%**
  - b. Or for the full 17 year quota that is already **105.3%**

Since the Census in 2011 (population 2551 in 1089 household spaces; data from 2021 not yet available), this village has grown by 18%. (for detail used in the calculation please see appendix 1)

In reality: the village school has vacancies only in specific year groups; there is one convenience store, a public house and a joint pharmacy/post office; the GP surgery is not accepting new patients (extensively covered by recent media reports highlighting difficulties for Newington residents to obtain the services of the doctor locally by telephone or face-to-face); there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction

stops at Newington station. This was one reason for the Local Plan Panel October 2020 decision not to progress allocations in the local plan review.

The Parish Council is sure that Members will understand the cumulative effect of this increase and that of the proposal for a further 25 homes.

This application is outside the built-up (see policies E6 RC3). The exception – where a proposal is *‘able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities’*.

does not apply.

This proposal does not enhance the countryside or the *vitality of the rural community*.

The proposal does not meet the definition of sustainable development in rural areas

*“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*

It does not provide housing for agricultural workers on neighbouring land and so is contrary to the principle.

The land is not a ‘brownfield’ site; it is agricultural land

Policy DM31: Agricultural Land – confirms development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up areas.

Development on BMV will not be permitted unless:

1. The site is allocated
2. There is no alternative site on land of a lower grade than 3a
3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely significant losses of high-quality agricultural land

Fernham Homes gave a presentation to Newington Parish Council in June 2021 and were clear that they saw the potential for further development adjacent to this site; this would lead to even more significant loss of agricultural land as well as a seriously detrimental effect on the rural character of the area.

#### 4 The proposed development is outside the defined urban boundary of our village.

There is one planning inspectorate decision (2016) close to this site. We also give detail of three more recent inspectorate decisions 2018-2021 where dismissal of the appeals was due to the proposal being outside the defined built-up area. We quote also from the 2020 decision in a neighbouring village, dismissed on the same grounds.

##### a) Land to East of St Mary’s View, Church Lane,

The closest application for a significant development was Land to East of St Mary’s View, Church Lane, 300 yards from this application. 15/509664/OUT ‘Outline application for the erection of up to 26 residential dwellings with all matters reserved with the exception of access’ planning application from November 2015, refused at Swale Borough Council Planning Committee in May 2016, decision notice July 2016, with the subsequent planning appeal dismissed in July 2016

The close proximity to this application makes the reasons for the inspector decision relevant:

Appeal Ref: APP/V2255/W/16/3157268 Decision date 6 March 2016 Application 15/509664/OUT 29. The site comes within the Iwade Arable Farmlands as identified by the Swale Landscape Character and Biodiversity Appraisal SPD. This area is characterised by very gently undulating rural landscapes that may traditionally have supported fruit growing. The SPD refers to the large arable/horticultural fields with regular field patterns and rectangular shapes predominating, and a sparse hedgerow pattern.

34. ...in my view the proposal would significantly harm the rural character and setting of Newington. This harm would not be mitigated by the landscape proposals. The proposal would therefore conflict with paragraph 17 of the National Planning Policy Framework, which amongst other matters states that regard

should be had to the different roles and character of different areas, and that the intrinsic character and beauty of the countryside should be recognised.

36. I therefore conclude that the proposal would significantly harm the character and appearance of the surrounding area and would fail to comply with Local Plan policies E6 and E9. Loss of Agricultural Land

37. The appellant acknowledges that the proposal would result in the loss of an area of BMV land. Policy DM31 of the emerging local plan sets out that development on BMV land will only be permitted when there is an overriding need that cannot be met on land within the built up area boundaries, unless the site is

43. At the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, social, economic and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. In social terms the proposal would provide market and affordable housing, within walking distance of a primary school, shops, services and public transport.

44. Economically the proposal would provide employment during the construction period and would make a modest contribution towards household expenditure in the area. The developer contributions would provide mitigation against the adverse impacts of the proposal on local infrastructure and therefore are not an economic benefit of the proposal. In environmental terms, the proposal would result in the loss of BMV land, and would result in harm to the landscape and character of the area. Whilst the proposal includes mitigation measures these would not outweigh the environmental harm arising from the proposal

46. In the absence of a five year supply of housing, the Framework recognises the intrinsic beauty and character of the countryside as a core planning principle, and it should be given significant weight.

47. Whilst there is an existing shortfall in the five year housing land supply, it is likely that this will be resolved in the context of the emerging Local Plan and therefore the existing shortfall is likely to be of limited duration. In this context there is insufficient evidence to persuade me that the loss of the BMV land which comprises the appeal site is necessary to meet the housing needs of the Borough.

48. I have concluded above that the proposal would cause significant harm to the rural character and appearance of the site and the surrounding area and would also result in the loss of BMV land.

50. Taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.

The Eden Meadow development at Boyces Hill Newington(16/505861/OUT, for 9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers.

Extract from Officer report

- i. It is outside the defined urban boundaries of Newington
- ii. Newington is considered a less sustainable settlement (services, transport and access to employment)
- iii. There would be significant adverse impact on the landscape character, quality and value of the rural setting.
- iv. There would be significant, permanent and unnecessary loss of a large area of best and most versatile agricultural land.
- v. 'As such it is considered that the proposed development does not accord with the National Planning Policy Framework' (see report to 2 February meeting (10.1) for detail

Newington Parish Council believes this was an accurate and balanced report. The reasons for refusal, above, apply to the current proposal.

The subsequent Appeal (non-determination ) was allowed. Decision date 31 March 2017 Appeal Ref: APP/V2255/W/16/3162806

7. The appeal site lies adjacent but outside the built-up area for Newington as defined in the "Swale Borough Local Plan 2008" (the LP). Saved Policy H2 states that residential development in the countryside will only be permitted where it meets one of the exceptions listed in Policies E6 and RC3. The provision of 9 open market dwellings does not fall within any of the exempted categories and consequently there would be conflict with the LP in this regard.

8. However, the LP is now time-expired and whilst this does not mean that it cannot carry weight, its policies need to be considered in relation to their consistency with the Framework.

The Local Plan, subsequently examined in summer 2017 and found to be sound is now valid and current; its policies apply fully.

The three most recent appeals to the planning inspectorate have been rejected on the grounds of being outside the urban boundary. (see: 148 High Street: PINS ref APP/V2255/W/17/3185369; 6 Ellen's Place: PINS ref APP/V2255/W/20/3250073; 132 High Street: PINS ref APP/V2255/W/20/3247555.

In each case the Inspector decisions were that any, then, deficit in Swale's current supply was not a reason to approve the applications.

b) 148 High Street, Newington (2 appeals)

An Appeal for 3 homes on a site south side of the A2 at 148 High Street, Newington, was dismissed by the Planning Inspectorate.

Decision date 17 January 2018 Appeal Ref: APP/V2255/W/17/3185369 Application 17/500946/FULL 4 ...the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.

6. Although the commercial activities to the east have encroached to a small degree into the area to the rear of the High Street, the remainder has retained its open, rural character. Any other existing buildings appear to be part of the agricultural activities that previously took place in the area and are typical of those that can be seen in the countryside. There is therefore a significant change of character between the development which fronts the High Street and the area to the south.

7. The largest of the proposed dwellings would be a clear incursion into the open, rural landscape and countryside to the south of the High Street.... the introduction of the proposal as a whole with its access road, garages, parking areas, gardens and associated residential paraphernalia, would significantly erode the open, rural character of the area.

8 ...Consequently, the development as a whole would represent an unacceptable incursion into the countryside which would be harmful to the area's open, rural character and appearance. This would be the case regardless of the precise details of the layout or design of the individual buildings.

9. I therefore conclude that the proposal would harm the character and appearance of the countryside, contrary to Policies ST3, CP3, CP4 and DM14 of the Local Plan, all of which seek to conserve and enhance the countryside.

10. Notwithstanding the fact that Newington is an accessible village with a significant range of services, the Local Plan has defined its built-up area boundary. The supporting text of Policy ST3 recognises that development opportunities within the village are limited for a variety of reasons, including poor air quality and the surrounding high quality agricultural land. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.

15. I am aware that an Inspector granted planning permission for development of nine dwellings at Ellen's Place in March 2017. However, that scheme was assessed against different policies and when the Council was unable to demonstrate a five year housing land supply. The Inspector found that even though that scheme did not conform to the development plan, the adverse impacts did not significantly and demonstrably outweigh the benefits. The particular circumstances of that site and the policies which applied at the time therefore justified allowing the appeal.

A further appeal was also dismissed

Land rear of 148 High Street, Newington, ME9 7JH. Decision date 14 August 2020 Appeal Ref: APP/V2255/W/20/3245359 19/505596/FULL "*conversion of former agricultural barn to a dwelling house including elderly dependent relatives replacement structure, associated car parking and access driveway*"

6. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states “*At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, 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. Given that the site’s location would be outside the built-up area boundary of Newington, the appeal site would not be an appropriate location for residential development.

9. ...The appeal site is situated within the open land to the south of the High Street and exhibits all the attributes of the countryside.

10. ...The development would have a significantly urbanising effect upon the site and would substantially change its character. It would result in a diminution of the rural character and appearance of the area and negatively impact upon the tranquillity and beauty of the countryside.

12. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, development to support the aims of sustainable development, adhere to the Council’s settlement strategy and to conserve and enhance the countryside.

17. At the heart of the National Planning Policy Framework (the Framework) is the presumption in favour of sustainable development.. Notwithstanding this, the appeal site lies outside the settlement boundary and is within the countryside, a location that would conflict with the aim of providing homes in accordance with the Borough’s identified and agreed settlement hierarchy. Furthermore, I have found that the proposal would harm the rural character and appearance of the countryside.

19. I, therefore, conclude that the adverse impacts would significantly and demonstrably outweigh the moderate benefits of the scheme when considered against development plan polices and the Framework read as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.

c) 6 Ellen’s Place, Boyces Hill, Newington

6 Ellen’s Place, Boyces Hill, Newington, ME9 7JG 19/503203/FULL proposed erection of a chalet bungalow with detached garage; creation of new vehicular access and erection of a detached garage to serve no. 6.

Decision date 3 January 2021 Appeal Ref: APP/V2255/W/20/3250073

5. The new development referred to above, now named Eden Meadow, is a somewhat stark intrusion into the landscape, that was allowed on appeal. I have been supplied with a copy of the appeal decision notice; it is clear that the appeal was determined under earlier circumstances, in particular when the council was unable to demonstrate a 5-year supply of housing land to a significant extent, so that the Inspector decided that the development would contribute significantly in economic and social dimensions that outweighed the conflict with the development plan. I would add, though, that the Inspector stated that “*it would introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangements along High Street*”.

7. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement hierarchy within the Borough. It is the fifth element of this policy that is pertinent in this case:

“*5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, 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*”. Policy DM9 sets out exceptions under which new dwellings will be permitted within the countryside, none of which are applicable here.

8. These polices clearly place stringent restraints on new residential development within the countryside. In spite of the recent development of Eden Meadow, which currently is very raw and may soften as any landscaping scheme evolves, the appeal site is clearly within the countryside. These policies were adopted in 2017, before that latest version of the Nation Planning Policies Framework (the Framework) was published by the government, but the 2019 version continues to support local plan policies that protect the countryside. Framework chapter 15 sets out policies for conserving and enhancing the natural environment. Within this, paragraph 170, part b) is apposite in

relation to this case: “170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;” **NB:** This is retained in the July 2021 version of the NPPF at Para 174 (b).

9. In respect of providing for housing, Framework chapter 5 deals with delivering a sufficient supply of homes. Within this chapter, under the heading Rural housing, are paragraphs 77 and 78. These state, as relevant here, “In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, ...”; and, “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services”. As far as the appeal proposal is concerned, whilst it may be in a reasonably sustainable location to access shops, public transport and community facilities, there is no local need, particular to the area, that has been identified. Furthermore, it cannot be said to provide an opportunity for the village to grow and thrive, and it would not support local services to any material extent. The appeal site is not isolated, and therefore Framework paragraph 78 dealing with isolated homes is not relevant.

11. I should also mention that the council currently cannot demonstrate a 5-year housing land supply and the engagement of footnote 7 to Framework paragraph 11 should therefore be considered. However, the council has now been able to identify 4.6 years supply (as compared with the supply of 3.17 years quoted in the Inspector’s decision that led to the Eden Meadow development), a shortfall of just 0.4 years.

### Conclusions

20. I conclude that the proposed development would be contrary to Policy ST3 of the Swale Borough Local Plan 2017 in that, being outside the defined built-up area, it would harm the character, appearance, and intrinsic amenity value of the countryside.

#### d) Land to the rear of 132 High Street, Newington

Land to the rear of 132 High Street, Newington ME9 7JH 19/500029/FULL proposed 4 bedroom detached dwelling

Decision date 25 January 2021 Appeal Ref: APP/V2255/W/20/3247555 19/500029/FULL

13. ... The development would have a significantly urbanising effect upon the site and would substantially change its character. This would result in a diminution of the rural character and appearance of the area.

14. I have been directed to a residential development known as Eden Meadow and the New Farm car sales/workshop site where those developments project further south than that of the appeal site. However, I have not been provided the full details of those developments and when they were granted planning permission. It may be that they predated the revised 2019 National Planning Policy Framework (the Framework) and the 2017 Local Plan. If so, those developments would have related to a different development plan context where different considerations may have applied. I do not consider that those developments would justify either setting aside the current applicable development plan policies or the proposed development at this appeal site.

15...I conclude that the proposed development would not be an appropriate location for a new dwelling having regard to the spatial strategy of the development plan. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, to resist development in the countryside and to conserve and enhance the countryside.

18. Paragraph 213 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The intrinsic character and beauty of the countryside is recognised by the Framework. Development in rural areas is not precluded but the Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the Local Plan in terms of the location of housing. The appeal site lies adjacent to the built-up area boundary close to services, facilities and public transport and is not constrained by land designations, design, highway, or neighbour living conditions concerns. However, it is nevertheless outside the built-up area and where such development would be harmful to the character, appearance, and wider amenity value of the countryside.

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reason given, the appeal should not be allowed



e) Land Off Jubilee Fields, Upchurch

We also refer to 19/501773/OUT 'Land Off Jubilee Fields Upchurch Kent ME9 7AQ', Outline application for residential development of 41no. two, three and four bedroom houses. This planning appeal in our neighbouring village was rejected in December 2020 (APP/V2255/W/20/3246265)

Even though, at the time, the '5YHLS is no more than 4.6 years and may be closer to 4 years. The shortfall is therefore of concern but cannot be said to be acute.'

and the conclusion:

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

We believe that this decision should equally apply to this application in Newington.

Consistency of decision making is a fundamental principle of planning law and local authorities can only depart from it if they give cogent reasons for doing so.

<http://www.bailii.org/ew/cases/EWCA/Civ/2018/1519.html>

Bearing Fruits 2031: The Swale Borough Local Plan 2017 has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states

*"At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, 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"*.

National planning policy does not support this application and it certainly does nothing to protect or enhance the setting.

## 5 Newington Air Quality Management Area

Most traffic from the proposed development would access the A2 via Church Lane and enter the Newington Air Quality Management area. This would undeniably have a cumulative effect on pollution and the health of residents of our village. The 124 homes recently completed at Watling Place already increases problems of air quality in Newington - one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016

See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref:

APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

'even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)'

25 homes may seem a modest proposal – but the cumulative effects of other recent developments, within Swale and also in the neighbouring authority of Medway which has permitted large developments in Rainham, will result in an increase in traffic flows through Newington. These combined cumulative developments already have a significant effect on the health of village residents, especially children and the elderly.

We are not aware of a separate report on

The Planning Statement deals with the topic in two paragraphs (5.6.1 and 5.6.2); the latter states:

'Based on the assessment results, air quality is not considered a constraint to planning consent and the proposed development is considered suitable for residential use'

The assessment results do not seem to be in the public domain and we are unsure by whom the development is seen as suitable.

In the absence of this data we note the following:

a) We are unsure what, if any, data has been used to arrive at the conclusion that the site is suitable.

NB There were sporadic roadworks due to emergency gas repairs along the A2 through 2018 and into 2019. Newington High Street was closed completely for 5 weeks in summer 2019 for further emergency work to replace pipework. A larger 42 week scheme to replace all pipework began in September 2019 with one-way operation on different stretches since. The High Street was closed again in the early summer of 2020 to relocate a main valve and there have been several closures since due to emergencies and the new road junction to Watling Place. There was also lighter traffic due to the Covid-19 emergency. We therefore submit that air pollution readings over the past two years are not typical and cannot be considered as a baseline when estimating future pollution levels.

b) Air Quality Management Area in Newington.

Newington Parish Council is working with MidKent Environmental Services and and new, more accurate (PM10 and PM 2.5) monitoring equipment has recently be installed in the village centre. In addition to the vehicle numbers please consider also recent evidence of increased harm to those who have suffered Covid-19 from vehicle pollution. We note that the submitted Air Quality assessment proposes no significant mitigation measures.

c) Air quality concerns immediately East of Newington

The 20 April 2020 Environmental Protection Report informs the intention for the ...

declaration of an AQMA in the Keycol Hill area in response to exceedances shown in 2019.

Therefore, I would recommend that a revised AQA is necessary to include 2019 data and the additional tubes to be included in the model. This is due to the significant air quality sensitivity that exists currently in the area and the need to address the worst case scenario.

Receptors that show moderate or substantial are R4; R5; R7; R14; R15. All receptors which show the highest impact on air quality are within the Newington AQMA.

There are therefore concerns about air pollution to the east and west of this proposed development, currently in open countryside, with AQMA 300 yards and 2 miles west and the proposal for a new AQMA 1 mile to the east.

d) Air Quality concerns West of Newington – as traffic through Newington passes to and from Rainham.

please see:

Letter from Head of Planning Medway Council to Planning Officer at Swale Borough Council 24 February 2017 in response to the application for 124 homes on the A2 – now Watling Place

Neither the submitted Air Quality Assessment, as amended, nor the letter from the applicant's Air Quality Consultants, has assessed the impact of the development on the Rainham Air Quality Management Area, which is located approximately 1.8 miles (2.9km) west of the application site. Without evidence to the contrary and in the absence of an appropriate assessment Medway Council is unable to assess the full impact the development would have upon the Rainham Air Quality Management Area and as such, the development would be contrary to the provisions of paragraph 124 of the National Planning Policy Framework, the National Planning Practice Guidance in regard to Air Quality and Policy BNE24 of the Medway Local Plan 2003.

e) Relevant case history in Newington

The potential effect on air quality in Newington was one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016

See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

‘even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)’

The Court of Appeal decision [EWHC 2768 (Admin)] 12 September 2019 (between Gladman Developments and Secretary of State for Communities and Local Government, Swale Borough Council & CPRE Kent

71. It was not unreasonable to think that the section 106 obligations represented the basis on which he was being invited to conclude that the financial contributions and proposed mitigation measures were adequate and would be effective. His conclusions show very clearly that he was unconvinced by both parts of the mitigation strategy – the financial contributions and the mitigation measures themselves.

77.... As Dr Bowes submitted, an essential purpose of the air quality action plans was to improve air quality in the Air Quality Management Areas, which, as the air quality action plan for Newington made quite clear, might require planning permission to be refused where effective mitigation could not be secured. Proposed development such as this, judged likely to worsen air quality in a material way because the proposed mitigation had not been shown to be effective, was inevitably inconsistent with the air quality action plans.

As well as this planning inspectorate decision we cite the Planet Earth decision and the Coroner verdict following the tragic death of Ella Adoo-Kissi-Debrah in Lewisham. We wish to protect the health of residents, especially young children and the vulnerable elderly in our village.

As the effect of air-quality is given such scant consideration in the applicant's documents we note there are no proposed mitigation measures.

f) Conditions recommended on a current planning application in Newington  
We note that for the current planning application for 20 dwellings (20/505059/FULL: Willow Trees, 111 High Street, Newington ME9 7JJ, Highways England have commented comments on the effect of the application to the proposed improvements to A249 junctions:

It is therefore necessary, via the imposition of a condition, to ensure that there are no occupancies in this development prior to the completion of the junction improvements at M2 J5.

We are puzzled why there are no similar comments on this larger planning application a few hundred yards north-west of the High Street site above.

Newington Parish Council is concerned that, if/when improvements to the A249/M2J5 junction are made, this will result in increased traffic flow through the village, impacting through increased pollution within our AQMA

## Planning Statement

5.6.1 Air Quality The site is located within the vicinity of an area designated by Swale Borough Council as experiencing elevated pollutant concentrations. Subsequently, there is potential to introduce future site users into an area of poor air quality as well as to cause air quality impacts at nearby sensitive locations.

5.6.2 Based on the assessment results, air quality is not considered a constraint to planning consent,

We note there are no proposed mitigation measures that would effectively prevent an increase in traffic pollution.

## 6 Transport

We believe the transport assessment does not present a true picture of services provided: There is a poor train services and buses do not operate in the evening, Sundays or Bank Holidays. It should be noted that bus services are roughly hourly, with ‘direct’ routes alternating with those via other local villages and taking an hour to Chatham. On weekdays the last bus to

stop at Newington is 18.36 and 18.29 on Saturdays. There is a three hour gap between the more direct service to Chatham at 06.31 (terminates at Medway Hospital) and the next at 09.11.

The Transport Statement states that services to London Victoria are provided hourly. From Monday to Friday there is a service to London Victoria at 05:50, 06.20, 06.49, 07:18, 07:50, 08:20, 08:48 and 09:20 (also 06.31 and 08.01 to Cannon Street). Trains are then hourly until schools close when there are 2 additional trains at 16.52 (London-bound) and 16:36 (Dover-bound), hourly thereafter and hourly at weekends.

Therefore it is unclear how this Transport Statement meets the requirements of Paragraph 110 of the NPPF

“Applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”

We question the effectiveness of measures proposed to encourage cycling and walking (welcome packs etc).

There is nothing here to address the needs of those with disabilities of reduced mobility; indeed, a development outside the village built-up area is very unhelpful to these.

## 7 The five year supply

We understand that Swale currently has a 4.6 year supply (ie an annual shortfall of 310 homes) and would submit that this is close enough for the harm from this proposed development to outweigh the need.

We repeat the December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265)

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

The principle of consistency within planning decisions requires that a previous decision is capable of being a material consideration in a subsequent similar or related decision.

## 8 Not a Sustainable development

The proposal does not meet the definition of sustainable development in rural areas

*“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*

It does not provide housing for agricultural workers in the neighbouring fields and so is contrary to the principle.

Para 108 of the NPPF - In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

This site was not put forward in the call for sites and has not been recommended for allocation in the draft plan. Indeed the Swale Local Plan Panel on 29 October 2020 followed the officer recommendation that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review. This was accepted unanimously at full council.

The Transport Statement does not actually state how *appropriate opportunities to promote sustainable transport modes* have been– or can be – taken up, given the type of development and its location.

The December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265)

there is no specific evidence to suggest that the need for affordable homes in Upchurch is particularly pressing. In the short term, the school would face difficulties accommodating the extra 11 children

We believe the same argument applies to Newington.

The reference to electric vehicle charging points is a requirement of all local applications and so a token gesture here. There is no mention of heat source pumps, so presumably these new homes will rely on polluting gas boilers; we also regret the absence of solar panels; these omissions presumably on grounds of cost.

The proposed housing development outside the established built-up area of the village cannot be described as ‘sustainable development’ as defined by the NPPF. We believe residents would drive to schools, doctors, shops and the better rail services from Rainham and Sittingbourne; that they would choose not to take the 10 minute walk to access the bus service which is very limited in terms of route and regularity; therefore increasing pollution further.

The proposal does nothing to improve the *economy* of Newington, there are no obvious *social* benefits and clear *environmental* harm through increased pollution and the loss of farmland.

Newington Parish Council requests that, in the event of the planning officer recommending approval, this response be forwarded to all members of planning committee as well as the customary summary in the officer report.

Appendix 1:

Properties with planning permission in Newington since 2011

<b>Known As</b>	<b>Properties Count</b>	<b>Decision Issued Date</b>	<b>Planning Reference</b>
Playstool Close	4	Feb-11	SW/10/1630
Vicarage Court	10	Jul-11	SW/10/1629
Hidden Mews	4	Dec-12	SW/12/0637
<b>Total 2011 pre 2014</b>	<b>18</b>		
School Lane (Parsonage Farm)	14	May-15	SW/14/0486
Tractor shed (Bull Lane)	1	Oct-15	15/504706
Church Lane	1	Oct-16	16/505663
Former Workingmen's Club	11	Jul-17	16/506166
Chesley Oast	5	Aug-17	16/506159
Eden Meadow	9	Sep-17	16/505861
High Oak Hill (Harbex)	6	Nov-17	17/504376
The Willows (?9 London Road)	1	Dec-17	17/503349
Land N. of the High Street (Persimmon)	124	Apr-18	60/501266
Callaways Lane	1	Sep-18	18/503564
The Tracies	5	May-19	18/505315
Car Wash (studio flat)	1	Jul-19	17/504813
Cromas (Land Adjacent)	1	Jan-20	19/506356
<b>Total 2014 to 2020 (March)</b>	<b>180</b>		
<b>Overall Total Since 2011</b>	<b>198</b>		