Application: 20/505059/FULL Willow Trees 111 High Street Newington ME9 7JJ
Revised proposal: Retention of existing chalet bungalow with amended residential curtilage and erection of 10 dwellings (7 x three bedrooms and 3 x four bedrooms) with associated access, parking, amenity, and landscaping

At the 17 June 2022 Newington Parish Council Planning Committee meeting it was unanimously agreed to oppose this revised application.

The reasons for our objection remain as stated in our February 2021 response, augmented in December 2021, together with an air quality report commissioned from the University of Kent Centre for Health Services Studies.

1 Most of the proposed development is outside the defined urban boundary of our village.

In the three most recent appeals to the planning inspectorate the appeals have been rejected on the grounds of being outside the urban boundary. (see 148 High Street, 6 Ellen's Place, 132 High Street (PINS refs. APP/V2255/W/20/3245359; APP/V2255/W/20/3250073; APP/V2255/W/20/3247555).

The Applicant's Planning Statement stresses that Swale has only a 4.6 year housing supply; this may have been correct at the time of submission of the application; it is our understanding that Swale can now demonstrate a 4.8 year supply (18 July 2022)
Based on the assumption of 4.6 year supply, in 3.5.22 the applicant states.
… local planning authorities should grant planning permission unless the application of policies in the framework prove clear reason for refusing the development, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits

We draw attention 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.

We refer also to the Appeal Court Decision (Case No: C1/2020/0542/QBACF) published 3 February 2021
Paragraph 8 of the judgment clarifies that the NPPF

> Paragraph 12 confirms that "[the] presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making".

This application is against the principles of the Swale local planning authority's development plan and Swale can now demonstrate a 4.8 year housing supply.

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.

We would also note that the original Eden Meadow application (opposite) 16/505861/OUT, for (9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers. The reasons for rejection apply fully to this application.

The (November 2020) Preliminary Ecological Survey indicated:

> 6.3.2 The traditional orchard on the site qualifies as a NERC s41 priority habitat. Therefore, further consideration into the retention, protection and enhancement of the habitat is required

Kent County Councils Ecological Advice Service (February 2022) reports

> The revised plans will result in a greater loss of orchard to what was originally proposed in 2021. priority habitats are: "Capable of being a material consideration in the…making of planning decisions." (Paragraph 84, Government Circular (ODPM 06/2005)). Traditional orchard (a priority habitat) is present throughout the site, and therefore mitigation would be required. As part of the original application it was proposed to retain approximately a quarter of the orchard but the revised site plan indicates that only 3or 4 trees will be retained within the site. We advise that the proposal will result in the loss of a priority habitat and we recommend that additional information is provided demonstrating how the loss of the orchard will be mitigated.

There is currently no response from the Developer.

2 The site is not included in any of the relevant, recent, Swale plans.

- 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.

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%. The 2017 edition of the Local Plan reiterated the restrictions on growth with the single exception of "Land North of the High Street": a development of 124 homes now complete.

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%**

3 Infrastructure and Transport

Newington Parish Council had previously (May 2022) commissioned Railton Consulting to advise on the likely transport/highways effects of another proposed development in our village (22/500275/OUT). In June 2022 we asked Railton to report on the likely effects of this application for 10 additional homes at 111 High Street; this report is on the planning portal. In summary:

The cumulative effect of developments in Newington

- However, there have recently been numerous planning applications for residential and other developments in and around Newington and there is concern locally that the cumulative impact of these developments may be severe.
- In total, including the 111 High Street development, 216 dwellings are proposed within Newington. The Paradise Farm brickearth extraction will generate 101 vehicle movements including 85 HGV movements per day, albeit over a limited period.
- In addition, four committed developments in the wider area have been identified that will generate additional vehicle movements on the A2 through Newington.
- the trip generation of the various consented and proposed developments in the area… shows that developments within Newington will generate 1,123 new vehicle trips per day on the local highway network. To this will be added 1,182 vehicle movements along the A2 associated with other committed development in the area.
- In relation to existing traffic flows on the A2, this additional traffic represents a 13% increase on a daily basis.
- In transport environmental terms, an increase in excess of 10% is deemed to be potentially significant in sensitive areas.
- Newington is a sensitive area as evidenced by the presence of an Air Quality Management Area (AQMA) covering the whole of the village.
- The recently implemented 20mph zone on the A2 in the village centre also points to the sensitivity of the area to traffic impact.
- From the data that is available it is clear that in cumulative terms, the proposed development has the potential to lead to significant adverse impact.
- The only mitigation that is proposed relates to the Keycol junction. No further mitigation is proposed to deal with the adverse impacts associated with increased traffic levels on the A2 through Newington village.

A specific and significant concern:

- The proposed site access has been subject to a Road Safety Audit. This identified two areas of concern; the gradient of the access road adjacent to the A2 and the uncontrolled crossing point east of the proposed site access that lacks tactile paving and includes a central beacon column that sits on the pedestrian desire line. These issues can be overcome relatively easily.
- It is noted that the Safety Audit cites only two drawings as references….It is therefore unclear whether the safety auditor had access to the full set of swept path drawings.
- because of the length of the right turn lane being limited by the presence of the pedestrian refuge, an 11.4m refuse vehicle is unable to wait to turn right into the site without its rear protruding into the path of westbound traffic on the A2:
- It is likely that a vehicle wishing to turn into the site will frequently be forced to wait in this hazardous position both because of the high eastbound traffic flows on the A2 and also because an inbound vehicle is forced to wait for any exiting vehicle to clear the access road since a large vehicle is unable to pass a smaller vehicle on the southern section of the site access due to the bends. The risk is exacerbated if any other vehicle is waiting to turn right into the site.

And the Conclusion

- I conclude that, in cumulative terms, the proposed development has the potential to lead to significant adverse transport and air quality impacts in Newington and that the proposed site access presents a significant highway safety issue due to the inadequate length of the proposed right turn lane.

Newington Parish Council also has real concerns about potential drainage and sewerage issues. There have been several instances of flooding of neighbouring properties in recent years, even before work commenced on the Persimmon development.

The Applicant's May 2022 Flood Risk Assessment

> 4.5 The proposed development is deemed to have a Flood Risk Vulnerability Classification of 'More Vulnerable'

The Planning Statement:

> 4.10.3 The FRA …states that the proposed development has the potential to increase the flood risk on and off site if not properly mitigated.
> 4.10.4,… the surface water would need to be stored on site and released at 2l/s to the existing land drain along the site's western boundary.
> 4.10.5 … ground levels through the site are to be subtly be reprofiled to encourage excess surface water runoff through the site to be across the landscaped areas and roads, away from the properties. Finished floor levels should also be raised by + 450 mm above surrounding ground levels.
> 4.10.9 The surface water drainage infrastructure should be maintained by a management company post development.

These seem to acknowledge the real potential for future problems. The structure, funding and operation of the management company is undefined.

From the May 2022 Flood Risk Assessment

5.8 The layout of the properties along the site's northern boundary have been arranged to allow surface water to flow northwards. Two large gaps between proposed buildings have been created to maintain flow routes.

Figure 5 appears to indicate that the surface water will flow from the site to the edge of the Watling Place site.

Local knowledge suggests that a culvert runs north through this site.
This part of the A2 is known to flood – both surface water running down the hillside and foul sewage. The 124 homes of the Persimmon Development have exacerbated the problem, possibly causing the recent landslide on the railway embankment. 'Willow Trees' refers to the trees planted at 111 High Street both as a species that tolerates flooding and also in order to assist naturally in soaking up floodwater. We are concerned that the May 2022 Lustre Consulting Flood Risk Assessment concludes that

> 6.3 The site is generally at 'low'risk' from surface water flooding

However, some of the proposed measures suggest this is not the case. We are concerned that housebuilding on this orchard site will simply pass on the danger of flooding to neighbouring properties.

4 Air Quality

Newington is an Air Quality Management Area. There are further AQMAs one mile to the east and two miles to the west of the village.

The proposal may be for a relatively modest development of 11 homes but there is a cumulative effect of all developments. We would remind officers and councillors that any recent readings must be seen in the light of two long periods during summer 2019 and spring 2020 of closure of our High Street (emergency and scheduled gas works) and the greatly reduced traffic during the Covid emergency.

We are well aware 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.

From the applicant's Air Quality Mitigation Statement:

> 5.0 …A total damage cost of £4077 for the proposed development has been determined.

Table 6 suggests that the proposal includes mitigation measures worth £24,368.55 through 3 months of travel vouchers, EV charging points in visitor bays, welcome (information) packs to new households, and cycle storage facilities.

The Pond Farm decision to reject Gladman's application (Planning Inspectorate and upheld by the Court of Appeal) was because there was no clear proposal for mitigation measures and no evidence that these would improve air quality in Newington. There is no evidence that the proposals above would improve air quality in our village.

Highways England commented on the original application for 20 homes regarding 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.

This is repeated in the KCC Highways June 2022 letter

Newington Parish Council remains concerned that, when improvements to the A249/M2J5 junction are complete as well as the Key Street roundabout this will result in increased traffic flow through the village, impacting through increased pollution within our AQMA.

Electric vehicle charging points are a requirement of all local applications and so a token gesture here. There is significant evidence that the cost of electric vehicles makes them unaffordable for the majority of those in affordable and social housing and that as well as their own cars, these residents often have to accept the works van provided by their employer. We remain unconvinced that the overall provision of parking spaces is sufficient to meet potential demand. There would be no nearby alternative overspill parking.

The applicant's position on heat source pumps is confusing. The May 2022 Design and Access Statement (page 9) has pictures, presumably from a manufacturer's catalogue, of heat source pumps yet the Air Quality Mitigation Statement (4.0) states All gas-fired boilers to meet a minimum standard of $<40 mgNO_x/KWh$

The references to cycle sheds and to electric cycle charging are an illusion. The village has a national cycleway through the back lanes and is reasonably popular for leisure purposes. It is unlikely that residents of the new development would choose to regularly cycle to work along the busy A2.

At the end of 2021 Newington Parish Council commissioned The Centre for Health Services Studies at The University of Kent to comment on a variety of housing applications in Newington including the proposal to construct 20 dwellings at "Willow Trees" 111 High Street (20/505059/FULL), specifically on the AQA constructed by enSAFE Consultants. We have since commissioned revised comments on this recent application. ***The full comments can be seen on the planning portal.***
To summarise the report:

1. The applicant has reduced the number of dwellings to 10 and have included a new AQA

2. The new AQA suffers from the same problems as the previous one, namely that the initial (unadjusted) model is poor. The average % difference is 23.75.

3. Lustre compares NO2 values in Table 12 and not NOx.

6. It is our view that the initial model is not accurate enough to proceed to the adjustment step.

7. enSafe acknowledges this inaccuracy when it states on page 47 of [2] that: "it is difficult to have the model represent these specific localised conditions. It is also important to note that the accuracy of diffusion tubes monitoring is considered to be +/- 20% and as such, this can make it difficult to accurately represent this variance within the model."

8. We are in agreement with enSafe here, in that line-source emission models such as that used are not good at predicting reality accurately. So the question that should be asked is, why should the local authority accept such models as evidence when even the authors of such models admit their inaccuracy?

9. In summary, the air quality assessments recommendations are based on a model with a poor initial accuracy and so we cannot draw any firm conclusions as to the impact of this individual development or its contribution cumulatively.

5 This is not a 'sustainable' development

There is a confused and confusing narrative on the overall concept behind this application.

The original application (November 2021, January 2021) had initially included reference to affordable housing with some indication that this would be for local people; consequently there was support from the Council's Affordable Housing Manager. There is no mention of this in the revised application.

Newington Parish Council was told that, on completion of the development, the applicant intended to ensure preference would be given to village residents. It is hard to see how this would work in reality. Anyway, there would be no way to ensure that these local purchasers then sold their existing home to village residents. Therefore there is no clear advantage to local people.

In contrast the Planning Statement includes the paragraph

> 3.5.27 … consideration of recent amendments to the London Plan have identified that the City's housing need and is increasing more difficult to deliver *(sic)* and therefore areas outside London will be faced with having to absorb more housing. Consequently Swale Borough Council has a duty to explore if it can accommodate this overspill of London's unmet need.

This would suggest that such a development may benefit those from outside the area instead of local people.

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In the applicant's Planning Statement:

> 1.3.1.The site enjoys access to several local facilities and services which are within a reasonable walking distance. These include schools, local shops, healthcare, employment and public transport links

However, in reality: the village school is full; there is one convenience store and a joint pharmacy/post office; the GP surgery is not accepting new patients; there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. The 10 minute walk to the village is along narrow pavements besides the busy and polluted A2.

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 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 ignore 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 – Section 106 money for schools is going to schools in Sittingbourne as the local primary school cannot expand and is full further increasing car usage through the Bobbing AQMA.

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.**

Please see:

- **University of Kent Centre for Health Services Studies comments on the applicants Air Quality assessment (21 June 2022)**
- **Railton Transport Planning Consultancy Ltd comments on the applicants transport assessment (13 July 2022)**