

Item 2.3

Land At Lomas Road Bapchild Kent ME9 9BD

SITE LAYOUT



2.3 REFERENCE NO - 20/506066/OUT	
APPLICATION PROPOSAL Outline application for the development of up to 14 no. residential dwellings with associated parking and landscaped areas (all detailed matters are reserved for future consideration).	
ADDRESS Land at Lomas Road Bapchild Kent ME9 9BD	
RECOMMENDATION Approval subject to the prior completion of a s106 Planning Obligation to secure the heads of terms set out in the report and the imposition of conditions also set out in this report with delegated authority given to officers to negotiate the s106 agreement as necessary and to amend and add to the list of conditions as appropriate	
SUMMARY OF REASONS FOR RECOMMENDATION The scheme is part of the allocated MU2 local plan site and complies with this local plan policy and other relevant policies. The access, amended to be from an extended Swale Way/Northern Relief Road, rather than originally Lomas Road, is considered acceptable as is the scale of development. As an outline scheme' only the quantum of development and details of the means of access are sought at this stage.	
REASON FOR REFERRAL TO COMMITTEE Interlinked with other agenda items. Cumulative impacts of three close by schemes sharing infrastructure or mitigation schemes. No call in.	
WARD Teynham And Lynsted	PARISH/TOWN COUNCIL Tonge
APPLICANT Bowl Reed Enterprises Ltd AGENT Mark Carter Design	
CASE OFFICER: Andrew Lainton	
DECISION DUE DATE 05/04/21	PUBLICITY EXPIRY DATE 15/12/22

1. PLANNING HISTORY

There is no planning history relevant to this application.

2. DESCRIPTION OF SITE

- 2.1 The site lies around 1,800m East of Sittingbourne Town Centre and 2,500m East of Sittingbourne Railway station.
- 2.2 The site lies along Lomas Road which is a rural lane but not specifically designated in the Bearing Fruits Local Plan. The site lies in a currently rural location around 70m east of the current furthest eastwards extent of Sittingbourne at the edge of the Great East Hall Estate. The site is currently accessed via a farm track at its western end which also serves the fields to the North. This track is also a public footpath.
- 2.3 However, the built-up area boundary of Sittingbourne has been expanded eastwards with the Southeast Sittingbourne urban extension (site MU2), which includes all of this site and the much larger site to the North, and the built-up area boundary extended to include all this site bar a small area at its easternmost extent.
- 2.4 The site has an area of approx. 0.48ha being around 10m in width and 170m in depth.
- 2.5 The site comprises an area of agricultural land located at the eastern fringe of Sittingbourne site and is surrounded by agricultural land to the north, east and south (beyond Lomas Road and the railway), and residential development to the west. The site itself is made up of areas of hardstanding, semi-improved grassland, scrub, and an agricultural shelter.
- 2.6 The site is bounded by hedgerows and no trees are present on the site. The site is currently informally accessed off Lomas Road and the building on site is located adjacent to the entrance whilst the main area of the site is clear. The site has not been used for agricultural purposes for some time and is overgrown.

3. PROPOSAL

- 3.1 The revised proposal is described as “residential development of up to 14 dwellings with associated access and landscaping.” All detailed matters are reserved for later consideration. The area of the proposed means of access has been revised to come from the adjoining item 2 site West of Church Road, deleting a previously proposed access off Lomas Road
- 3.2 In the revised application there would be no access off Lomas Road and all access would come from the wider MU2 site to the North.
- 3.3 The revised layout shows 14 detached units all accessed from the larger part of the MU2 site from the North, with gardens backing onto Lomas Road and no access via Lomas Road.

- 3.4 The site has no statutory planning constraints within or adjoining it.
- 3.5 The site is located in flood zone 1 (area at lowest risk of flooding) and is not located within any restrictive or protective designations.
- 3.6 With respect to heritage, there are three listed buildings in the vicinity of the site, including St Giles Church (grade I) and the Tonge old mill buildings (both Grade II), that are approximately 200 metres plus from the site. There is intervening vegetation and trees, and other features (including buildings, roads, a railway line) between the site and these listed buildings so there is no inter-visibility between them. No is there intervisibility to the Tonge Conservation area which lies to the South of the Chatham Main Line to the south of the site.

4. POLICY

Development Plan

Bearing Fruits 2031: The Swale Borough Local Plan 2017

ST 1 Delivering sustainable development in Swale

ST 2 Development targets for jobs and homes 2014- 2031

ST 3 The Swale Settlement strategy

ST 4 Meeting the Local Plan Development Targets

ST 5 The Sittingbourne Area Strategy

CP 2 Promoting Sustainable Transport

CP 3 Delivering a Wide Choice of High-Quality Homes

CP 4 Requiring Good Design

CP 5 Health and Wellbeing

CP 6 Community Facilities and Services to Meet Local Needs

CP 7 Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure

CP 8: Conserving and enhancing the historic environment

DM 6 Managing Transport

DM 7 Vehicle parking;

DM 8 Affordable Housing;

DM 14 General development criteria;

DM 17 Open Space, Sports and Recreation Provision

DM 19 Sustainable design and construction;

DM 21 Water, flooding and drainage;

DM 28 Biodiversity and geological conservation;

DM 29 Woodlands and Trees

Kent Minerals and Waste Local Plan (KMWLP) 2020

CSM 5 Land-won Mineral Safeguarding

DM 7 Safeguarding Mineral Resources

Supplementary Planning Documents:

Developer Contributions (2009);

Parking Standards (2020); (chapter 2 and standards in appendix a)

Landscape Character and Biodiversity Appraisal (2011)

Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020)

Kent Safeguarding Supplementary Planning Document Adopted March 2021

5. LOCAL REPRESENTATIONS

5.1 Letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. In response to this, we received three letters of objection from neighbours.

- Concern about safety in Lomas Road [no access to Lomas Road is no proposed]
- 'No more housing'
- In consideration of the development already under construction the environmental impact of additional building and impact on the infrastructure and the medical capability of the area already under strain.

5.2 **Tonge Parish Council (09.12.2022) - Objection**

Believe that Swale Borough Council Planning Department must consider the bigger picture and the cumulative impact of all these planning applications instead of having a piecemeal approach. Same objections as 22/502834/EIOUT for 380 houses on land west of Church Road Tonge.

There is also no indication as to how residents would be prevented from accessing Lomas Road which would be a much quicker route into Sittingbourne and on to the A2 that going via Swale Way. [The access to Lomas Road has been removed with access being via 22/502834/EIOUT West of Church Road to the North].

6. **CONSULTATIONS**

6.1 **Natural England (20.01.2021)– No objections subject to mitigation**

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance.

Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of [people over wind] ruling. In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

6.2 **Kent County Council (Highways Authority) – (06.01.23) No objection**

6.3 The initial response stated: (20.01.2021)

However, there is no footway along Lomas Road, which is narrow and has limited visibility in places. There is also no street lighting along this section of road, which would be an additional concern with regards to pedestrian safety.

For these reasons, any increase in pedestrian movements could be detrimental in terms of highway safety, for both pedestrians and vehicles. Consequently, I would recommend that this application be refused on highway

6.4 **Subsequently the access onto Lomas Road was removed and objection withdrawn.**

6.5 Note the objection to the access is removed and concern solely relates to parking, as layout is a reserved matter this will be dealt with at RMA stage. EV charging points are now dealt with through building regulations rather than planning.

6.6 Kent Minerals and Waste (05.01.2021)– Holding Objection

The planning application site coincides with an area of safeguarded economic mineral, namely Brickearth (Faversham - Sittingbourne), the mineral is safeguarded under Policy CSM 5 of the Kent Minerals and Waste Local Plan (KMWLP). The policy sets out the rationale for ensuring that mineral resources are not unnecessarily sterilised. In order to demonstrate an exemption from the presumption to safeguard

It is highly likely that safeguarded minerals are present at this site (as shown in the Kent Minerals and Waste Local Plan and on the Proposals Maps) and therefore the quality and quantity of the mineral and the practicalities of prior extraction should be investigated via a Minerals Assessment in line with the safeguarding mineral and prior extraction policies contained within the Kent Minerals and Waste Local Plan."

From reviewing the supporting documentation, it does not appear that such an assessment has been carried out and no reference is made to land-won mineral safeguarding or the KMWLP. In the absence of such information, we raise a holding objection to the planning application. Once a Minerals Assessment has been provided and considered, we would be happy to review this position.

6.7 Kent County Council Biodiversity (23.02.2022) – No Objection subject to mitigation*Designated Sites*

The development includes proposals for new dwellings within the zone of influence (6km) of The Swale Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. A recent decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS there is a need for an appropriate assessment to be carried out as part of this application.

6.8 Kent County Council- (07.09.22) Lead Local Flood Authority No objection-requirement for infiltration testing

The LLFA therefore advise for infiltration testing to be undertaken now at the outline stage as the layout design is dependent upon the results of ground investigations. We therefore recommend that the application is not determined until the investigations have been carried out. [this has now been carried out]

6.9 Kent County Council Infrastructure (21.01.2022) – No objection – set out planning obligation requirements*Primary Education*

The proposal gives rise to 4 additional primary school pupils during occupation of the development. This need, cumulatively with other new developments in the vicinity, can only be met through the provision of a new Primary School in Sittingbourne.

The County Council requires a financial contribution towards the new Primary School at £1700.00 for each 'applicable' flat & £6800.00 per 'applicable' house (x13)[now 14]

The County Council also requires proportionate contributions towards Primary School land acquisition cost at £506.56 per 'applicable' flat & £2026.22 per 'applicable' house (x13).

Secondary School Provision

A contribution is sought based upon the additional need required, where the forecast secondary pupil product from new developments in the locality results in the maximum capacity of local secondary schools being exceeded. The proposal is projected to give rise to 3 additional secondary school pupils from the date of occupation of this development. This need can only be met through the provision of a new Secondary school in North West Sittingbourne in accordance with Local Plan policy MU1.

The County Council requires a financial contribution towards construction of the new Secondary school at £1294.00 per 'applicable' flat & £5176.00 per 'applicable' house (x13)

The site acquisition cost is based upon current local land prices and any section 106 agreement would include a refund clause should all or any of the contribution not be used or required.

Community Learning

There is an assessed shortfall in provision for this service: the current adult participation in both District Centres and Outreach facilities is in excess of current service capacity, along with cost of mitigation. To accommodate the increased demand on KCC Adult Education service, the County Council requests £16.42 per dwelling (x13)[now 14] towards the cost of providing additional equipment and resources at Sittingbourne Adult Education Centre.

Youth Service

To accommodate the increased demand on KCC services the County Council requests £65.50 per dwelling towards additional resources for the Youth service locally including Sittingbourne Youth hub.

Libraries

To mitigate the impact of this development, the County Council will need to provide additional services and stock for Sittingbourne Library meet the additional demand to borrow library books which will be generated by the people residing in these Dwellings. The County Council therefore requests £55.45 per household to address the direct impact of this development

Social Care

The proposed development will result in additional demand upon Social Care (SC) (older people, and also adults with Learning or Physical Disabilities) services, however all available care capacity is fully allocated already, and there is no spare capacity to meet additional demand arising from this and other new developments which SC are under a statutory obligation to meet

To mitigate the impact of this development, KCC Social Care requires:

- a proportionate monetary contribution of £146.88 per [dwelling] towards specialist care accommodation in the Borough.*

Waste

Kent County Council is a statutory ‘Waste Disposal Authority’, responsible for the safe disposal of all household waste arising in Kent, providing Household Waste Recycling Centres (HWRC) and Waste Transfer Stations (WTS). A contribution of £183.67 per household is required towards improving access and flow round the Sittingbourne (Church Marshes) HWRC and WTS site to improve turnaround times for both District vehicles and householders due to the increased kerbside collections and householder use of the site because of the significant housing development locally.

Broadband:

Fibre to the premise/gigabit capable The NPPF (para 112) and The Department for Digital, Culture, Media and Sport requires full fibre connection to new developments being gigabit capable fibre optic to the premise connection for all. Please include a Planning Condition to provide ‘fibre to the premise’ (FTTP) broadband connections to all premises of gigabit capacity. Developers are advised to make early contact with broadband providers, as there can be a lead in time for cable installation and associated infrastructure. [condition include]

6.10 Lower Medway Internal Drainage Board (29.01.2021)– No objection subject to infiltration testing

The site is near to the Internal Drainage District (IDD) of the Lower Medway Internal Drainage Board (IDB) and is within the Board’s Watershed Catchment (meaning water from the site will eventually enter the IDD). No on-site infiltration testing has been undertaken. As such we would recommend that the proposed strategy is supported by

ground investigation to determine the infiltration potential of the site and the depth to groundwater. If on-site material were to be considered favourable then we would advise infiltration testing in line with BRE Digest 365 (or equivalent) to be undertaken to determine its efficiency. If (following testing) a strategy wholly reliant on infiltration is not viable and a surface water discharge proposed to a watercourse within the watershed catchment of the Board's IDD then we request that this be in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), specifically S2 and S4. Resultantly we recommend that the discharge from this site is attenuated to the Greenfield Runoff Rates wherever possible. The reason for our recommendation is to promote sustainable development within the Board's Watershed Catchment therefore ensuring that flood risk is not increased within the Internal Drainage District (required as per paragraph 163 of the National Planning Policy Framework).

6.11 Southern Water (25.01.2021)– No objection

The applicant has not stated details of means of disposal of foul drainage from the site. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. To make an application visit: southernwater.co.uk/developing and please read our New Connections Services Charging Arrangements documents which are available on our website via the following link: southernwater.co.uk/connection-charging-arrangements The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors. The design of drainage should ensure that no land drainage or ground water is to enter public sewers network. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. The proposed development would lie within a Source Protection Zone Water's public water supply sources as defined under the Environment Agency's around one of Southern Groundwater Protection Policy. The applicant will need to consult with the Environment Agency to ensure the protection of the public water supply source is maintained and inform Southern Water of the outcome of this consultation.

6.12 Kent Police (06.12.2022) No Objection

This application does not refer to or include Designing Out Crime measures from Crime Prevention Through Environmental Design or Secured by Design. Should it proceed to Full application, then we request a report to include this is submitted for our comment.

7. BACKGROUND PAPERS AND PLANS

- 7.1 The application has been supported by a number of drawings (though with the exception of the access drawings, these are illustrative), assessments, and reports. These include the following:

- Site Location Plan
- Illustrative Site Plan
- Proposed access
- Planning statement
- Design and Access Statement
- Transport Statement
- Preliminary Ecological Appraisal
- Drainage Statement

8. APPRAISAL

8.1 The main considerations in the assessment of this application are::

- a. Principle of Development
- b. Meeting the Need for Housing
- c. Meeting the need for Affordable Housing
- d. Means of Access
- e. Wider Traffic Impact
- f. Design and Landscape
- g. Drainage and Flood Risk
- h. Trees and Biodiversity
- i. Swale SPA Impact
- j. Brickearth Reserves
- k. Social Infrastructure
- l. Other Matters

a) Principle of Development

- 8.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan. At this stage, the Council can demonstrate a 4.83 year supply of housing and as such the presumption in favour of sustainable development at paragraph 11d is engaged.
- 8.3 The site lies within the built-up area boundary of the Bearing Fruits Local Plan (adopted 2017) which at that point relocated the built-up area boundary to the east at Church Road Tonge and allocated the site to the south (Stones Farm) for development, the site to the direct North (Great East Hall) being allocated specifically in the previous local plan.
- 8.4 The is within the existing built-up area boundary of Sittingbourne, the principal settlement within the Borough and the primary focus for growth in the Bearing Fruits Local Plan. Policies ST3, ST5 specifically on Sittingbourne, and CP3 of the adopted Local Plan seek to steer new housing development to land within defined built area boundaries.
- 8.5 Policy MU2 contains a list of requirements for development of the wider MU2 site including impact of heritage assets and landscaping of the parts of the area. These primarily relate to the much larger adjoining site (item 2), as this smaller and more visually isolated part of the allocation does not impact on these matters.
- 8.6 The site would be within 250m of the proposed new bus stop facility within the item 2 West of Church Road site.
- 8.7 As such the principle of development on this site is firmly established within national planning policy and local plan policies ST3 and MU2; providing access can be secured from Swale Way in line with allocation MU2 via the item 2 West of Church Road site.

b) Meeting the Need for Housing

- 8.8 At the time of writing, Swale's Housing Land Supply position is **4.83 years** (December 2022) which is for the monitoring year 2021/22 and includes a 5% buffer as expected to be determined by the HDT score for that monitoring year (see next paragraph).
- 8.9 The Councils 5-year land supply is derived using a calculation by which performance against the Government standard method for determining a Local Housing Need is

recorded, together with the addition of an appropriate buffer as set out by the Councils score in the Governments HDT. Data for the calculation is obtained by the monitoring of developments within Use Class C3 (residential) and C2 (residential care).

- 8.10 Due to the LPBF 2017 being more than five years old, the NPPF requires the use of the Government standard method for calculating the Local Housing Need for the Council. For Swale, this means that the target will increase to 1,078 (or whatever the standard method figure is for that monitoring year). Assuming a 5% buffer, this means that from July 2022, the annual housing supply is assessed against an annualised figure of 1,132 dwellings per annum. ($1,078 \times 5 \text{ plus } 5\% = 5,660$).
- 8.11 Prior to the introduction of the HDT in 2018, the Council had determined that a 5% buffer should be used through its Local Plan examination. However, paragraph 74c) and footnote 41 of the NPPF now requires the choice of buffer to be determined by the Councils performance against the HDT.
- 8.12 The Council anticipates a result of 108% against the Governments Housing Delivery Test (HDT) 2022 due to be published in early 2023, and this will enable the Council to choose to apply a 5% buffer to its 5-year housing land supply calculation.
- 8.13 The table below sets out the Councils 5-year housing land supply calculation in full. It shows that with a 5% buffer applied by the HDT results, the Council has **4.83 years** of deliverable sites within the 5-year period.
- 8.14 This change is in part due to: the Local Housing Need for the Borough now being determined by the Governments standard approach for all 5 years of the calculation; a pause on the Local Plan Review which was presenting a series of sites in addition to those covered in this position statement; and, an exceptionally high level of completions for the last monitoring year (34% higher than the previous three years average of completions¹) that whilst positive for the housing delivery test, has also reduced the housing supply by around 300 dwellings more than anticipated.

The calculation of Swale Borough Councils 5-year housing land supply 2021/22 – 2025/26

5-year housing requirement	
a. Annual Local Housing Need Target (Government standard method)	1,078
b. Five-year housing land supply require (1078×5)	5,390
c. Plus the required buffer of 5% requirement ($5,390 \times 0.05$)	270

¹ HDT confirmed completions for Swale Borough Council: 674 2018-19, 767 2019-20 and 668 2020-21 (average 703 dwellings), Swale Borough Council monitored completions 1065 2021-22

d. Total 5-year housing requirement	5,660
Housing land supply 01/04/21 to 31/03/26	
e. Extant planning permissions	3,555
f. Local Plan Allocations	1,047
g. Sites awaiting completion of S106	360
h. Windfalls	500
i. Total Supply (e+f +g+h)	5,462
Five-year housing land supply position	
j. Total five-year housing land supply (i. 5,462/d. 5,660 x5)	4.83 years
k. Shortfall in dwellings	-198

8.15 The scheme would make a modest contribution towards meeting housing needs in the borough in a location in accordance with the local plan policy ST2 and national policy, which weighs modestly in favour of the scheme in the planning balance.

c) Meeting the need for Affordable Housing

8.16 The NPPF establishes that the requirement for affordable housing provision should be reflected in planning policy. The Framework goes on to require that affordable housing should be provided on site unless specific circumstances are met (Paragraph 63). Paragraph 65 of the NPPF establishes that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

8.17 As per Policy DM8 of the Council's adopted local plan 'Bearing the Fruits', a minimum of 10% of the total number of dwellings should be rounded up, so that a reasonable and proportionate mix of 2 affordable homes are provided that meet local housing need.

- 8.18 The Written Ministerial Statement (WMS) of 24 May 2021 and National Planning Policy Guidance (NPPG 2021) states that a minimum of 25% of all s106 affordable housing units should be provided as First Homes. Therefore 3 homes should be provided as First Homes, with the remaining home delivered in line with the Council's local plan and National First Homes policy and guidance that states: "Once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the local plan". The Council's Local plan (7.3) requires a tenure split of 10% intermediate housing with 90% affordable/social rented housing. This now means that when considering the 25% First Homes requirement, the remaining 75% should be secured as 25 social rented homes.
- 8.19 As supported by policy's DM8 and CP3, the affordable homes should be designed for use by disabled and made available for a variety of groups including families, vulnerable and older persons households. Along with housing need demonstrated on the Council's Housing Register and with the requirements of the Equality Act, these should be provided as Part M4(2) standard (accessible and adaptable dwellings).
- 8.20 The starting point for planning applications in Swale is to provide on-site affordable housing. As such and if required, I am able to provide a list of Registered Providers (RP) and other investment partners to enable delivery. However, in exceptional circumstances and where supporting evidence demonstrates a Provider cannot be secured, consideration can be given to providing the affordable housing off-site or if this is not possible, require a commuted sum in lieu of delivery. Due to the small size of this scheme and the resulting low number of s106 affordable homes required on site, it is reasonable to suggest that it may be difficult to secure a Provider and therefore with supporting evidence, alternative provision may be considered.
- 8.21 Swale's Housing Register demonstrates a need for all types and sizes of accommodation for those in housing need in the Sittingbourne and Bapchild areas, including supported older persons housing and adapted homes.
- 8.22 In line with policy, and confirmed by the affordable housing officer, one social rent and one low cost home ownership (first homes) unit are proposed. This meets the requirement of policy DM8 and weighs in favour of the scheme in the planning balance.

d) Means of Access

- 8.23 Originally the scheme proposed access via Lomas Road. This was unacceptable to the Borough, and Kent County Council as Highway Authority because Lomas road lacks footways and so would present unacceptable highway safety issues to pedestrians. The scheme has been revised to provide access via the other MU2 site to the North – item 2 on the Agenda Land to the East of Church Road Tonge. This resolves this issue.
- 8.24 The Highways Authority is satisfied with these access arrangements. The acceptable nature of the means of access is in line with local plan policy DM8 and counts towards the scheme in the planning balance.

- 8.25 Swept path analysis of the proposed access has been undertaken demonstrating the suitability of the proposed road arrangements for the use by a large refuse vehicle.
- 8.26 Car and cycle parking including provision for EV charging will be provided to meet the relevant standards as per the SBC's adopted Vehicle Parking Standards SPD. The layout has been revised to meet concerns about the geometry of some spaces.

e) Wider Traffic Impact

- 8.27 The applicant has been accompanied by a traffic assessment. The calculated trip generation hourly flows would amount to the maximum two-way movements per hour of 8 in the AM peak and 6 in the PM peak. These are equivalent to less than one vehicular movement every 7 minutes in the peak hours. This is a very marginal increase, and although it is acknowledged that Lomas Road and the A2/Church Road junction are far from ideal the level of increase in traffic is very slight and certainly well below the threshold set in national Policy NPPF para 111 that:
- 8.28 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'
- 8.29 The key concern is regarding safety as the residual cumulative impacts would not be severe. The reorientation of the scheme to provide access from the north rather than Lomas Road would largely deal with this problem.
- 8.30 In the light of the lack of footways along Lomas Road (which is not designated as a rural lane under policy DM26) and its importance as a cycle route part of the National Cycle network safety improvements in the form of a Quiet Lane scheme is proposed. Quiet Lanes are signed areas Quiet Lanes are minor rural roads that pay special attention to the needs of pedestrians, cyclists, horse riders and those with mobility impairment. They are intended to enable such users to enjoy country lanes more safely. The cost of signage and orders for such a scheme here is estimated at £15,000 the cost of which is proposed to be split between this item and item 1 on Tonge Road.
- 8.31 The Highways Authority is satisfied with these access arrangements. The acceptable nature of the means of access is in line with the NPPF para 111 and local plan policy DM8, and this counts towards the scheme in the planning balance.
- 8.32 Note under the NPPG the site is too small with no impact on any AQMA for consideration of any impacts on air quality.

f) Design and Landscape

- 8.33 The rectilinear nature of the site dictates a layout broadly of a single row of houses which in this case is revised to face northwards and accessed from the wider MU2 site not from Lomas Road as originally planned, with house gardens backing onto Lomas Road. This orientation is considered acceptable as the scheme needs to address its

major partner and leave Lomas Road with a rural lane character, as well as retaining the thick southern boundary treatment.

- 8.34 The revised illustrative masterplan has larger landscape buffers along Lomas Road, which is the Southern boundary and to either side of the boundary of the site.
- 8.35 The landscape buffer consists of thick hedgerows, wildflower meadows with rows of new trees.
- 8.36 The scheme includes no details of sustainable design and construction. However, design is a reserved matter, and this can be assessed and included at this stage.
- 8.37 Overall, the scheme's layout and design, having regard to matters which are proposed for determination at this stage, meets national policy on design and local plan policy CP4 on good design. This weighs in favour of the proposal in terms of the planning balance.

g) Drainage and Flood Risk

- 8.38 With regard to flood risk and drainage considerations. The site is accompanied by a flood risk assessment. The Environment Agency's published flood mapping shows that the Application Site lies wholly within Flood Zone 1, which is land considered to be at low to very low risk of flooding from fluvial and coastal / tidal sources.
- 8.39 It shows how a sustainable drainage system will be implemented to prevent runoff from this development increasing flood risk to other areas. This will be fully detailed at the detail drainage design stage of the proposed development, although an indicative strategy to demonstrate that SuDS can be delivered is provided. The indicative strategy consists of two surface water networks working independently of each other. Both networks utilise infiltration techniques to the ground. This is achieved via porous paving and cellular storage. It is proposed to have all the private roads of the development constructed with permeable paving, providing treatment at source to all highway run-off. Surface water run-off from roofs will be collected in gutters and discharged directly to the sub-base of the permeable paving via, rainwater down pipes. Thus greatly reducing the risk of contamination to the existing groundwater aquifer. A total of 386m² of permeable paving, with a sub-base depth of 350mm, along with a 2 infiltrating storage tanks of 5.5m x 5.5m by 1.5m deep for network 1 and 3m x 10m by 2m deep for network 2 are required to provide sufficient storage for a 1 in 100yr+40% climate change storm event. Both tanks will discharge into the ground allowing all surface water run-off to be kept on site. Notwithstanding this it is noted that the site will be connected via road to the much larger site to the north, and at reserved matters stage in the detailed site design it may make sense to drain to the larger attenuation features to the north which have sufficient capacity.
- 8.40 In light of the above, the proposed development accords with the relevant policy and DM21 of the local plan. This weighs in favour of the scheme in the planning balance.

h) Biodiversity

- 8.41 The application is accompanied by a preliminary ecological survey.
- 8.42 The site is surrounded by arable fields, grassland and copses, with dwellings further away. The Integrated Habitat System (IHS) classification of the Kent Habitat Survey 2012 describes the site as: Improved grassland.
- 8.43 Historical aerial photos hint that the site was planted with orchard in 1940 and 1960 and then grass or arable land in 1990 (the Kent Habitat Survey 2003 qualified the site as “arable land”). By 2007, the site seemed to be split in two different areas, with the eastern area being more managed and regularly cut back than the west part near the buildings.
- 8.44 The site is surrounded by hedgerow to the south and scrub to the North and East, comprised of hazel, elm, hawthorn and bramble. None of these are substantial enough to meet the definition of a tree.
- 8.45 No evidence of protected species was found.
- 8.46 In line with draft national policy a biodiversity net gain of 10% will be required to be demonstrated and a proposed condition would secure this
- 8.47 Overall the scheme complies with local plan policy DM29 on biodiversity and this weighs strongly in favour of the scheme in terms of the planning balance.

i) Swale Special Protection Area Impact

- 8.48 Para 182 of the NPPF states

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

- 8.49 The site is within 6km of both The Swale Ramsar and Special Protection Area and Medway Estuary and Marshes Ramsar and Special Protection Area. Any residential developments within 6km of these internationally designated areas will need to contribute to the Strategic Access Management and Monitoring Strategy (SAMMS) to offset any potential impacts as a result of increased recreational activity over these areas. This is included in the proposed S106 heads of terms. Appendix 1 gives a full appropriate assessment of the scheme.
- 8.50 With the proposed mitigation the scheme is considered to fully comply with national policy and local plan policy DM28.

j) Brickearth Reserves

- 8.51 The site is within the safeguarded brickearth area in the Kent Minerals and Waste local plan and so policies CSM5 and DM7 of this plan applies.
- 8.52 This site is on a slightly elevated level than the rest of the MU2 site. As item 2 of this agenda states the adjoining land has had brickearth removed and only areas proposed for open space within that site are understood to have remaining brick earth reserves.
- 8.53 An isolated site of only approximately ½ Ha is unlikely to be economic for brickearth extraction. Therefore exemption 2 of policy DM7 applies, as extraction would not be viable or practical. This counts in favour of the scheme in the planning balance.

k) Social Infrastructure

- 8.54 Proposed heads of terms are set out for a range of social infrastructure including school places and GP provision are set out in the heads of terms. This should fully mitigate the impact of the scheme on social infrastructure and complies with national planning policy, regulations and local plan policies CP5 and CP6.
- 8.55 The scheme would also include a contribution to offsite sports facilities of a scale according to the councils open space strategy.
- 8.56 each of the required contributions would meet the tests in The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) i.e. they are:
1. Necessary,
 2. Related to the development, and
 3. Reasonably related in scale and kind
- 8.57 This is neutral in the planning balance. The new shopping and commercial facilities weigh in favour of the scheme in the planning balance.

l) Other Matters

- 8.58 There are no other significant planning matters.

9. PLANNING BALANCE AND CONCLUSION

- 9.1 Overall, the scheme is considered to be fully policy compliant. As the Borough still has not achieved a 5 year housing land supply when considered against the standard method the 'tilted balance' (NPPF Para 11d footnote 8) applies and the conformity with the development plan weighs further in favour of approval.

- 9.2 The findings of Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC [2021] EWCA Civ 104 were that the test of the NPPF can be encompassed under into the decision-making under s70(2) of the TCPA 1990 and s38(6) of the PCPA 2004 in one all-encompassing stage, as here the scheme is assessed as policy compliant and in accordance with the development plan the scheme is recommended for approval.
- 9.3 If members do not take the view that the scheme is policy compliant due to the scheme being outside the built-up area boundary, then this has two consequences. Firstly the ‘tilted balance applies’, Policy ST2 contains a clause that schemes in compliance with National Policy outside the built-up area boundaries are acceptable. Which means than the excess number outside the built-up area boundary is acceptable subject to the site being sustainable. Even so means that policies relating to the supply of housing cannot be considered up to date. This includes the Sittingbourne and Murston settlement boundary; so this would trigger a presumption ii factor of development under NPPF para 11d as the tilted balance has the effect of disapplying the built-up area boundary.
- 9.4 So as can be seen although this application raises complex issues of local plan and national policy interpretation, whether the scheme is local plan compliant and whether the tilted balance applies, whatever interpretation is applied the conclusion is the same, either a presumption in favour of the scheme because it is policy compliant or a presumption on favour of the scheme because it is not, but the para 11 d f the NPPF colloquially known as the ‘tilted balance’ then applies. This applies para 11(d) as follows:
- Granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 9.5 In this case the only ‘asset of particular importance’ are the heritage assets, which this scheme has no material impact upon. In terms of the second clause the benefits of the scheme as part of the wider MU2 proposal has significant planning benefits in terms of meeting housing need and implementing the local plan proposals to outweigh any harm.
- 9.6 In any interpretation then the same conclusion results, a recommendation in favour of the scheme.
- 9.7 Overall the scheme is fully compliant with national and local planning policy. The scheme lies within the built-up area boundary, has appropriate design and mitigates to ensure an acceptable mean of access, transport impact and impact on social infrastructure and on the Special Protection Areas.

10. RECOMMENDATION

GRANT subject to conditions as set out below and the signing of a suitably-worded s106 agreement to secure the developer contributions as set out above.

Delegated authority is also sought to amend condition wording and s106 clauses as may reasonably be required.

Proposed Planning Obligation Heads of Terms

	Per house (x 14h)	Total	-	Paid to	Project
Primary Education	£6,800.00 per applicable unit	£95,200		KCC	Towards a new 2FE Primary School serving this development and/or provision within the planning group (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
Primary School Land	£2,026.22 per applicable unit	£28,367		KCC	Towards the land acquisition costs of a new Primary School serving this development (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
Secondary Education	£5,176.00 per applicable unit	£72,464		KCC	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
Secondary School Land	£2,635.73 per applicable unit	£36,900		KCC	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups. (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).

Community Learning	£16.42	£230	KCC	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
Youth Service	£65.50	£917	KCC	Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the vicinity of the development.
Library Service	£55.45	£776	KCC	Contributions requested towards additional services, resources, and stock at Sittingbourne Library serving the development.
Social Care	£146.88	£2,056	KCC	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
Waste Management Facilities	£183.67	£2,571	KCC	Towards capacity at HWRCs and WTS' within the Borough
Waste Bins (Blue and Green)	£60 per property	£960	SBC	

Quiet Lane Scheme on Lomas Road		£7,000	KCC	Contribution, together with another scheme on Lomas Road
Affordable Housing	Provision in kind on or off site.	2 units , 1 low cost home ownership, one social rent	Na	Provision in kind on or off site.
Primary Care	£360.00	£5,040	CCG	Towards GP provision in the Sittingbourne Area
Sports Provision	£593.00 per dwelling.	£8,302	SBC	Off-site improvements to existing open spaces
Affordable Housing	Provision in kind on or off site.	1 First home, 1 social rented home	Na	Provision in kind on or off site.
SPA Strategic Access Management and Monitoring Strategy	£281.00	£3,934	SAMMs	SAMMS management

Total		£257,718		
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Please note that these figures are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (Apr-20 Index 360.3)

Payments to be made prior to unit occupation.

CONDITIONS to include

1. Time Limit – Outline Schemes

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

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004. Seven years is given due to the phasing of phase 4 of the remainder of the MU2 site through which access will be formed.

2. Time Limit – Reserved Matters

Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

3. Reserved Matters

Prior to or contemporaneous with the submission of any reserved matters for **layout** referred to in condition (1) the following shall be submitted to and approved by the local planning authority: finished site levels, proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture

Prior to or contemporaneous with the submission of any reserved matters for **appearance** referred to in condition (1) the following shall be submitted to and approved by the local planning authority: finished site levels: the palette of building materials and elevational designs.

Prior to or contemporaneous with the submission of any reserved matters for landscaping referred to in condition (1) the following shall be submitted to and approved by the local planning authority: details of both hard and soft landscape works. 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.

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for **heights** referred to in condition the following shall be submitted to and approved by the local planning authority: Heights above ordnance datum including completion of finished levels.

Reserved matters details of the layout, height, scale, appearance, and landscaping for the development hereby permitted, shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

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

4. Approved Drawings

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

- Site location Plan
- Revised site access plan – 3127 -013C

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

5. Pre-occupation: Access through MU2 site

None of the hereby approved units shall be occupied until the access road to the north through the phase IV of the MU2 site (permitted under consent 22/502834/EIOUT) and connecting to Swale Way has been completed.

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

6. Details of Materials

Notwithstanding the submitted details, no development beyond the construction of foundations shall take place until details of the external finishing materials of the dwellings has been submitted to and agreed in writing by the Local Planning Authority. The details shall include brick, roof tiles and front wall and gate materials. The details as approved shall thereafter be implemented.

Reason: In the interests of visual amenities.

7. Restriction of Permitted Development Rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that

Order), no development shall be carried out within Classes B and C and of Part 1 of Schedule 2 of that order

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

8. Details of Parking and Cycle Parking

The reserved matters for layout submitted pursuant to condition (1) above shall include details of the provision of vehicle parking and permanent retention of secure covered cycle parking facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with the approved details.

Reason: In the interests of highway safety and active travel.

9. Pre-commencement: High Speed Broadband

Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.

10. Landscape Management and Maintenance

Prior to the commencement of works, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority

- a. Description and evaluation of features to be managed;
- b. Ecological trends and constraints on site that might influence management;
- c. Aims and objectives of management;
- d. Appropriate management prescriptions for achieving aims and objectives;
- e. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period;
- f. Details of the body or organisation responsible for implementation of the plan;
- g. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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, or ten years for the structural planting along the southern and eastern boundaries, shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interest of biodiversity and visual amenities.

11. Pre-Occupation: Completion of Roads and Footways

Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall have been completed: (a)Footways and/or footpaths, with the exception of the wearing course; (b)Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highway safety and amenity.

12. Pre-Commencement: SUDS/Drainage

No development shall not take place until the layout reserved matters details submitted as required by Condition 1 and as approved have:

- a. demonstrated that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.
- b. demonstrated that an effective outfall for surface water is provided for the development layout. This information may include details of surveys of watercourses and culverts and / or details of any works that may be necessary to deliver an effective outfall for surface water.

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

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

The development hereby permitted shall not be occupied until a Verification Report, pertaining to been submitted to and approved by the Local Planning Authority. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

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

13. Pre-Commencement: Land contamination

- 1) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
 - a. A preliminary risk assessment which has identified:- all previous uses- potential contaminants associated with those uses- a conceptual model of the site indicating sources, pathways and receptors- potentially unacceptable risks arising from contamination at the site.
 - b. A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c. A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - d. A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (3). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure the development does create risks to health and safety from contamination.

14. Pre-Occupation: Noise Insulation

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against externally generated noise from the Chatham Main Line and proposed Sittingbourne Northern Relief Road to standards in the Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020) in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development is insulated to an acceptable level in accordance with national Policy and local guidance.

15. Pre-Commencement: Biodiversity Net Gain

Development shall not commence on until there has been a biodiversity gain plan submitted to and approved by the local planning authority; to demonstrate how the proposal shall contribute to the development achieving a post development biodiversity value with be a minimum of 10% higher than site pre-development biodiversity value. The calculation shall be in accordance with biodiversity metric 3.1 and based on the biodiversity net gain calculations submitted to Kent County Council Ecology and the local planning authority. This will include recommendations in section 4.10 in the Preliminary Ecological Appraisal (KB Ecology December 2020) and native species planting within any landscaping scheme. The approved details will be implemented and thereafter

retained. The post development biodiversity value may include off-site biodiversity gain under the control of the applicant and purchased biodiversity credits. This gain shall thereafter be maintained for a minimum period of 30 years in line with the biodiversity gain plan.

The development shall be carried out in full accordance with the approved biodiversity gain plan.

Any off site credits must demonstrate in the biodiversity gain plan:

- That it is on land made available by a site provider with sufficient rights to the land;
- That it will be delivered by a specified person or body considered fit and proper to undertake the enhancement works;
- The land will be suitably managed to meet the required enhancement;
- That Work commenced 30 January 2020 or later;
- That the enhancement will be maintained for at least 30 years after the completion of those works;
- That the credit is measured using the most up to date biodiversity metric against a baseline metric assessment;
- That the credit may be allocated to development in accordance with the terms of the conservation covenant or planning obligation;
- That the credit is available to be allocated to this development;
- That it complies with rules on additionality and stacking including on protected sites;
- That it is in England, and;
- Monitoring and reporting for that site over the 30 year period.

Reason: To meet national and local policy on biodiversity net gain.

16. Pre-occupation: lighting details

Prior to the occupation of any of the hereby approved units details of all external lighting shall be submitted to and approved by the local planning authority and the approved details so implemented..

Reason: To ensure no unacceptable impact on any protected species of bat.

17. Construction Hours of Working

No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730-1800 hours, Saturdays 0800–1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

18. Piling Hours of Working

No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

19. Pre-Commencement: Construction Environment Management Plan

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

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

- Measures to prevent the transfer of mud and extraneous material onto the public highway • Routing of construction and delivery vehicles to / from site, including the number of vehicles
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- Provision of wheel washing facilities
- Temporary traffic management / signage
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works

Reason: In the interests of residential amenity, highway safety (on the local and national networks) and amenity.

20. Pre-Commencement: Construction Logistics Management plan

Prior to the commencement of the development, Construction Logistics Management Plan shall be submitted to approved by the local planning authority and so implemented, on site to include the following:

- a. Routing of construction and delivery vehicles to / from site
- b. Parking and turning areas for construction and delivery vehicles and site personnel
- c. Timing of deliveries
- d. Provision of wheel washing facilities
- e. Temporary traffic management / signage

Reason: To protect amenities.

21. Completion of Access

The access shown on the hereby approved plans - -shall be completed prior to occupation.

Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Reason: To ensure proper and safe access.

1. Wheelchair Accessible Dwellings

The homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).

Reason: To ensure inclusive access.



INFORMATIVES

i. Highways

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. 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

ii. Code of Development Practice

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected. This can be found at: <https://tunbridgewells.gov.uk/environmental-code-of-development-practice>

iii. Surface Water Disposal

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 in consultation with Southern Water.

iv. Crime Prevention

Please note the advice of the police crime prevention design advisor in the detailed design of the scheme.

v. SAMMs

This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.

vi. Sewers

The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk in order to progress the required infrastructure.

vii. Broadband

Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high-speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk

viii. SUDS

The following points should be noted wherever infiltration drainage (such as soakaways) is proposed at a site:

- Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water
- should drain directly to the system entering after any pollution prevention methods.
- No infiltration system should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.
- A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.
- Where infiltration SuDS are proposed for anything other than clean roof drainage in a Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply.

Given the impermeable nature of the site we will expect for clarification to be provided as part of the detailed design submission as to how surface water from the 'undeveloped areas' is prevented from entering the positively drained network and exceeding its designed capacity.

Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and we would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.

ix. Contaminated Soils

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: Duty of Care Regulations 1991 Hazardous Waste (England and Wales) Regulations 2005 Environmental Permitting (England and Wales) Regulations 2010 The Waste (England and Wales) Regulations 2011. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

x. Breeding Birds

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation needs to be removed during the breeding season, mitigation measures need to be implemented during construction. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged. We suggest the following informative is included with any planning consent:

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.

Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present. Ecological Enhancements In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. The

ecology report recommends suitable enhancements, such as hedgehog gaps in closeboard fencing and provision of bird boxes. We also highlight that any landscaping should consist of native species only. To secure the implementation of enhancements, we advise that a condition is attached to planning permission if granted. [Biodiversity Net Gain Condition included]

xi. Highways Approvals and Consents

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. 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 road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 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.

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

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale 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. 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. The proposal thus 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 (NE) 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 advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, 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 (NKEPG).

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 (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), your officers 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 (normally to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. Your officers therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme Page 30 Report to Planning Committee – 10 March 2022 ITEM 2.1 (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. The Agent has confirmed agreement to pay the SAMMS fee subject to the outcome of the Committee.

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.

Plans, Drawings and Photos

Location Plan



Illustrative Layout

SITE LAYOUT





Eastern edge of site



Western edge of site