

**PLANNING COMMITTEE – 9 MARCH 2023****PART 2**

Report of the Head of Planning

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

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| <b>2.1 REFERENCE NO – 22/505618/FULL</b>   |  |   |
| <b>APPLICATION PROPOSAL</b><br>Erection of 25no. residential dwellings with enhanced renewable energy features and the provision of a 20-space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works (Resubmission of 21/504028/FULL).  |  |   |
| <b>ADDRESS</b> Land at School Lane, Newington, Kent, ME9 7JU   |  |   |
| <b>RECOMMENDATION</b> Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and of conditions as may reasonably be required.   |  |   |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION</b><br>The proposed development would provide additional housing both market and affordable adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. The proposal would also provide a car park for drop off and parking for the local school. Due to the Council's lack of 5-year housing supply the tilted balance in accord with the National Planning Policy Framework applies. The proposal benefits are considered, on balance, to outweigh the harm. |  |   |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Parish Council Objection  |  |   |
| <b>WARD</b><br>Hartlip, Newington, and Upchurch  | <b>PARISH/TOWN COUNCIL</b><br>Newington    | <b>APPLICANT</b> Fernham Homes<br><b>AGENT</b> DHA Planning |
| <b>DECISION DUE DATE</b><br>07/03/2023   | <b>PUBLICITY EXPIRY DATE</b><br>13/02/2023 | <b>CASE OFFICER:</b><br>Alex Jelley                         |

**1. RELEVANT PLANNING HISTORY**

## 1.1. 21/504028/FULL

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

Refused for the following reasons:

*"1. The proposed development would represent unjustified and unnecessary residential development within the countryside resulting in an urbanising impact, outside of the defined built-up area boundary, in a manner which is significantly and demonstrably harmful to the character, appearance, and intrinsic amenity value of the countryside. The proposal is therefore contrary to policies ST1, ST3, ST5, CP4, DM14, DM24, and DM26 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017, and the National Planning Policy Framework.*

*2. In the absence of a completed S106 agreement to secure relevant contributions and obligations, the development fails to mitigate the impacts of the additional residential*

*units on local services and infrastructure, fails to secure the provision of affordable housing, and fails to mitigate ecological impacts on the Swale and Medway Estuary Special Protection Areas and Ramsar sites, contrary to policies DM6, DM8, CP5, CP6, CP7, DM17 and DM28 of "Bearing Fruits" - The Swale Borough Local Plan 2017. Such contributions being required towards the following infrastructure - Highways, Air Quality, Primary Education, Secondary Education, Special Education Needs, Community Learning, Youth Services, Library Bookstock, Social Care, Waste, refuse bin provision, healthcare (NHS), Swale SPA and Ramsar Sites, open space and off site sport and recreation."*

## **2. EXECUTIVE SUMMARY**

- 2.1 Whilst the site is located outside of the defined boundary of Newington and therefore is located in the countryside, it is well located for housing in respect of future occupants being able to access services and facilities via sustainable travel methods including walking and cycling. This weighs in favour of supporting the principle of the development, subject to other relevant planning considerations.
- 2.2 It would boost housing supply providing 25 units towards the Council's 5 Year Housing Land Supply. These factors carry significant weight in favour of the scheme.
- 2.3 It is considered that the proposals would not cause substantial harm to landscape character.
- 2.4 The S106 Agreement for SAMMS contributions and infrastructure costs will mitigate against the impact of the proposals on key services.
- 2.5 In terms of sustainable development, there would be some clear positive social impacts through the provision of housing and affordable housing, and some positive economic impacts through construction and local spending by future occupants.
- 2.6 Overall, the scheme is 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.
- 2.7 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.
- 2.8 If members do not take the view that the scheme is policy compliant due to either the quantum of development and/or part of the scheme being outside the built-up area boundary, then this has two consequences. Firstly, as the 'tilted balance' applies in any event Policy ST2 contains a clause that schemes in compliance with National Policy outside the built-up area boundaries are acceptable. Which means then the excess number outside the built-up area boundary is acceptable and as such policies relating to the supply of housing cannot be considered up to date. This includes the Newington settlement boundary so this would trigger a presumption in favour of development under NPPF para 11d as the tilted balance has the effect of disapplying the built-up area boundary.

- 2.9 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 in favour of the scheme because it is not but with tilted balance then applying as part of the presumption in favour of development. The balance applied to the scheme is covered in Section 11, below.
- 2.10 The size of the scheme is useful in terms of the 5 Year Housing Land Supply, as the 25 units would likely take no more than 18 months to 2 years to complete – resulting in an almost immediate positive impact on supply. Getting the Borough back above 5 years would be a major achievement; placing it back in control over schemes not complying with the local plan.
- 2.11 The scheme is assessed and being in conformity with national policy and the local plan. It is recommended that planning permission be granted for the proposal subject to conditions and the completion of a Section 106 agreement.

### **3. DESCRIPTION OF SITE**

- 3.1 The application site is located to the west of the Newington Church of England Primary School and gains access from the junction between School Lane and Breach Lane. The site forms the north-east corner of the field networks which lie to the south of Breach Lane. The eastern boundary of the site which separates the school from the site is subject to heavy vegetation.
- 3.2 The site is currently part of a wider agricultural unit and has informally been used as a temporary car park in connection with the adjacent school. The car park does not benefit from planning consent. A portion of the site is therefore not currently farmed and subject to compacted earth/hardcore. An informal access and gate are situated to the northern boundary.
- 3.3 The northern boundary of the site contains a degree of vegetation along Breach Lane which is subject to some gaps. Breach Lane and parts of School Lane are a designated rural lane under the Local Plan. Some temporary enclosure is seen to the southern and western parts of the site. However, this area is mainly open to views across the field network.
- 3.4 The site sits just outside of the built-up area boundary of Newington which terminates to the west of the school boundary (not including the western half of the school car park). The site is located outside of the Conservation Area and is not located within a countryside gap, or area of designated landscape.

### **4. PROPOSAL**

- 4.1 The proposed development would be seeking to change the use of the land to provide residential accommodation (C3) and the provision of a School Car Park.
- 4.2 The proposed School Car Park would be located to the eastern boundary of the site with a pedestrian link to provide access to the school. The approximate area of the car park including the soft landscaping would be around 0.18 hectares. The car park would have a north south linear form.

- 4.3 The car park would be for school use and would provide 40 parking spaces. The proposed car park would see retention of the eastern boundary trees and would incorporate tree planting, soft landscaping, and pedestrian link to the school grounds. The vehicular access would be access of the proposed residential development from the junction between Breach Lane and School Lane
- 4.4 The proposed residential development would be located to the western half of the site. The approximate extent of the residential areas of the site, including areas of soft landscaping, would be 1.7 hectares. The primary access would be located along Breach Lane slightly set in from the juncture with School Lane.
- 4.5 The proposal would provide 25 residential properties. The properties would be two storeys in height. Of the 25 units, 9 would be detached, 10 semi-detached, 6-terraced units. The properties would effectively be broken into three cul-de-sacs. However, pedestrian links would allow for pedestrian access around the perimeter of the site.
- 4.6 The proposal would provide 10no. on-site affordable units and 15no. market dwellings. Each unit would be provided with electrical vehicle charging points. The provision would include 9-no. 4-bedroom properties, 11no. 3-bedroom properties, and 9no. 4-bedroom properties.
- 4.7 The site would include two SUDs ponds located to the northern boundary, and a reptile mitigation area to the north-western corner of the site. The boundaries would be subject to landscaping and would include seating and natural play equipment. An access would be located to the south-eastern corner to the wider agricultural fields.
- 4.8 The application is a resubmission of application reference 21/504028/FULL, which was previously refused by the Planning Committee for the following reasons:
- 1. The proposed development would represent unjustified and unnecessary residential development within the countryside resulting in an urbanising impact, outside of the defined built-up area boundary, in a manner which is significantly and demonstrably harmful to the character, appearance, and intrinsic amenity value of the countryside. The proposal is therefore contrary to policies ST1, ST3, ST5, CP4, DM14, DM24, and DM26 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017, and the National Planning Policy Framework.*
  - 2. In the absence of a completed S106 agreement to secure relevant contributions and obligations, the development fails to mitigate the impacts of the additional residential units on local services and infrastructure, fails to secure the provision of affordable housing, and fails to mitigate ecological impacts on the Swale and Medway Estuary Special Protection Areas and Ramsar sites, contrary to policies DM6, DM8, CP5, CP6, CP7, DM17 and DM28 of "Bearing Fruits" - The Swale Borough Local Plan 2017. Such contributions being required towards the following infrastructure - Highways, Air Quality, Primary Education, Secondary Education, Special Education Needs, Community Learning, Youth Services, Library Bookstock, Social Care, Waste, refuse bin provision, healthcare (NHS), Swale SPA and Ramsar Sites, open space and off-site sport and recreation*
- 4.9 As part of this resubmission, it is proposed that photovoltaic panels would be installed on all plots to address the comments from Members at Committee and SBC's Climate Change Officer made during the previous application.

- 4.10 The applicant has also set out what they believe to constitute a material change in the planning policy context since the Committee made its resolution and the decision notice was issued. On the 19th October 2022 SBC made the decision – at the Policy and Resources Committee - to *“postpone Regulation 19 consultation until the LURB gains Royal Assent/ there is greater certainty regarding national policy direction in relation to the local plan system planning”*.
- 4.11 The applicants suggest that this delay will slow the identification and allocation of housing sites through the local plan process significantly, thereby reducing housing supply and delivery. This, they point out, is set against a backdrop that SBC acknowledges that it cannot demonstrate a 5-year supply of housing. The applicants argue that this fundamentally changes the approach that should be taken to the site.
- 4.12 It is also worthy of note that the Applicants have submitted an Appeal against the refusal, which is due to be heard in the next few months.

## 5. PLANNING CONSTRAINTS

- Outside of the Built-up area boundary of Newington,
- Designated Rural Lane to the north of the site DM 26,
- 500m Buffer from Local Wildlife Site,
- 6km Buffer Special Protection Area – SAMMs payment,
- Agricultural Land (Best and Most Versatile),
- Brickearth,
- Public Right of Way to the west of the application site, though not close to the application boundary,
- (Conservation Area and listed buildings to the east of the site).

## 6. POLICY AND CONSIDERATIONS

### **Bearing Fruits 2031: The Swale Borough Local Plan 2017 Policies**

- ST 1** Delivering sustainable development in Swale
- ST 2** Development targets for jobs and homes 2014- 2031
- ST 3** The Swale settlement strategy
- 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 demand and impact
- 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 20** Renewable and low carbon energy

- DM 21** Water, flooding and drainage
- DM 24** Landscape
- DM 26** Rural lanes
- DM 28** Biodiversity and geological conservation
- DM 29** Woodlands and Trees
- DM 31** Agricultural Land
- DM 32** Development involving listed buildings
- DM 34** Scheduled monuments and archaeological sites

### **Supplementary Planning Documents**

Developer Contributions (2009)  
Parking Standards (2020)  
Swale's Landscape Character and Biodiversity Appraisal (2011)  
Swale Landscape Assessment (2019)

## **7. LOCAL REPRESENTATIONS**

- 7.1 Letters were sent to neighbouring occupiers, a notice was published in the press and a site notice placed in the vicinity.
- 7.2 55 letters of objection received from residents raising the following concerns:
- Lack of footpath link to village
  - Parking/access
  - Lack of services
  - Not in draft Local Plan
  - Wrong location
  - Loss of agricultural land
  - Ecological impact
  - Flood risk
  - Design/character
  - Air quality
- 7.3 **Newington Parish Council** object for the following reasons: -
- Air Quality
  - Highways Impact
  - Outside of settlement boundary
  - False justification (i.e. parking for school)
  - Loss of hedgerows
  - Ecological impact
  - Loss of agricultural land
  - Lack of services
  - Flood risk (surface water and foul sewage)

## **8. CONSULTATIONS**

**Environmental Health:** No objection subject to conditions relating to air quality and contaminated land.

**Natural England:** No objection. SAMMS payment requested.

**KCC Flood and Drainage Management:** No objection subject to conditions relating to surface water drainage, verification report and infiltration testing.

**KCC Highways:** No objection subject to conditions relating to construction management plan, parking, EV charging, cycle storage, access, off-site highways works and traffic regulation order.

**KCC Developer Contributions:** No objection subject to contributions towards primary education, secondary education, youth services, libraries, social care and waste services being secured via Section 106 agreement to mitigate the scheme. Details of these are contained within Table 1, below.

**Drainage Board:** No objection.

**KCC Ecology:** Raised concerns with the biodiversity metric calculations. This matter can be dealt with by condition, as the concern relates to a technical matter rather than a principle issue.

8.1 **NHS:** No objection, subject to contributions towards refurbishment, reconfiguration and/or extension of Primary Care Estates Team Grovehurst Surgery and/or Maidstone Road Rainham Surgery and/or Green Porch Medical Partnership and/or Woodlands Family Practice and/or towards new general practice premises being secured by Section 106 contribution to mitigate impact.

**Kent Police:** No objection subject to conditions relating to Secured By Design principles.

**Southern Water:** No objection.

**SBC Housing Officer:** No objection subject to 40% Affordable Housing being provided on site with specific mix of tenures.

**SBC Climate Change Officer:** No objection subject to conditions to secure EV provision, energy strategy and water consumption.

**KCC Minerals and Waste:** No objection.

## 9. APPRAISAL

9.1 The main points of consideration as part of this application are:

- Principle
- Loss of Agricultural Land
- Landscape
- Design and Character
- Living Conditions
- Highways

- Biodiversity
- Water, Flooding, and Drainage
- Minerals
- Affordable Housing
- Sustainable Design and Construction
- Contamination
- Air Quality
- Archaeology
- Developer Contributions

### **Principle**

- 9.2 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.
- 9.3 Paragraph 10 of the NPPF states that at the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social, and environmental and to achieve sustainable gains these should be sought jointly and simultaneously through the planning system.
- 9.4 The mechanism for applying the presumption in favour of sustainable development is set out in paragraph 11 and states that for decision-taking this means:
- “c) approving development proposals that accord with the Development Plan without delay;  
and,  
d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, 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 Assessing the development against the development plan and specifically policies ST1, ST3 and ST6 of the Local Plan because the site falls outside of defined confines of Newington (or indeed any of the other settlements covered by ST 1) and as such the proposal conflicts with the Local Plan 2017.
- 9.6 When considering the Bearing Fruits Local Plan, the Inspector imposed a five-year period for reviewing the Plan, to ensure that it remained up to date and commensurate with national policy. That time period has passed, and the plan is therefore ‘out of date’.
- 9.7 Furthermore, the Council can only demonstrate a 4.83-year supply of housing and as such cannot demonstrate a 5-year supply.
- 9.8 In accordance with footnote 8 to paragraph 11 of the NPPF, its relevant policies for the supply of housing cannot be considered up-to-date, and the ‘Tilted Balance’ should apply to decision making.



- 9.9 This does not, however, lead to an automatic assumption that planning permission should be granted for residential development in locations that would otherwise have conflicted with Development Plan policies.
- 9.10 Rather in situations where the Development Plan policies have failed to secure a sufficient housing, the NPPF seeks to ensure that the ‘presumption in favour of sustainable development’ is duly applied. If the adverse impacts of the proposal significantly and demonstrable outweigh the benefits, then planning permission should still be refused.
- 9.11 Paragraph 80 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless there are special circumstances, to promote sustainable development in rural areas.
- 9.12 Whilst the site is located outside of the defined boundary of Newington and therefore is in the countryside, it is well located for housing in respect of future occupants being able to access services and facilities via sustainable travel methods including walking and cycling. Newington is defined as a Rural Local Service Centre by Policy ST3 (Swale settlement strategy). As such it is reasonable for this settlement to provide a tertiary, supportive role in the Council’s plans to deliver housing to meet its housing need.
- 9.13 Newington has a reasonable array of services within walking distance of the site, including a train station, pub, school, shops, access to bus routes, and a cricket club. As such, it can be said that the site is in a sustainable location for the purposes of Paragraph 10 of the NPPF.
- 9.14 The lack of a five-year housing land supply, and the fact that the Local Plan is out of date carries significant weights in favour of supporting the principle of the development, subject to other relevant planning considerations discussed in detail below.

### **Loss of Agricultural Land**

- 9.15 Policy DM 31 of Swale Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile agricultural land (specifically Grade 1, 2, and 3a which is referred to as best and most versatile land – BMV) will not be permitted unless three criteria have been met.
- 9.16 As stated above, the site is utilised for agricultural purposes. The land in question comprises approximately 1.88 hectares of arable field.
- 9.17 The application includes a Supporting Letter from George, Webb Finn in relation to the loss of agricultural land.
- 9.18 Based on the relatively detailed 1976 Soil Survey it is indicated that the land is likely to fall within the “Hamble” soil series. The soil identified by the soil is a fine sandy or silty loam which is of the highest quality in the area. The consultant considered that without evidence to the contrary the loss of the BMV land as a negative impact.

- 9.19 It was noted that third parties had raised concerns regarding further potential development on adjacent land. Such statements cannot be considered as planning applications have to be assessed on their own merits.
- 9.20 Policy DM 31 of the Local Plan includes a method for assessing proposals for development on agricultural land. The three criteria are as follows:
- A. The site is allocated for development by the Local Plan; or*
  - B. There is no alternative site on land of a lower grade than 3a or that use of land of lower grade would significantly and demonstrably work against the achievement of sustainable development work against the achievement of sustainable development; and*
  - C. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land*
- 9.21 The council cannot currently demonstrate a 5-year housing land supply. The local plan is also out of date. The allocation of land for housing is insufficient. A high proportion of the Borough is subject to BMV land. Currently windfall schemes are utilised as a means of providing housing to address the identified need in the Borough.
- 9.22 The site is in reasonable proximity to Newington, which is one of the higher settlements within Swale's settlement strategy. Newington contains a good degree of social amenities, public transport, and other infrastructure. The site is placed in an area which is not totally removed from existing infrastructure and the sustainability of the scheme will be further considered below.
- 9.23 The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.
- 9.24 The agent submitted a statement regarding the overall agricultural unit. The statement identifies that site forms part of a wider 1,252Ha landholding which is utilised for a diverse farming operation. Of this land 945.44 Ha is arable, 118.96 Ha is grass, and 87.74 Ha are coppice woodland. The statement identifies the loss of the site comprising 1.88 Ha would not have a negative effect on the farming operation regarding viability or operationally. The loss of land would equate to roughly 0.16% of the agricultural holding.
- 9.25 Given the wider scale of the agricultural holding it is not considered that the land loss would undermine the viability of the holding. The agent did put forward further benefits to the scheme including monetary re-investment in the wider agricultural unit including to biodiversity and net zero targets following DEFRA's Spring 25-year Environment Plan goals. These benefits will not be included in the balance as they are located outside of the red line boundary.
- 9.26 The proposal would be considered to retain the viability of the agricultural holding. The proposal would include an access to the remaining land which would support the continued farming of the land adjacent to the site. Further, there is no evidence to suggest that further land would be lost as a result of consideration of this application.

9.27 As such it is considered that the proposals are acceptable in relation to the loss of agricultural land and are in accordance with the requirements of Policy DM31 of the Local Plan and the NPPF in that regard.

### **Landscape**

9.28 Policy CP 7 of the Local Plan states that the Council will work with partners and developers to ensure the protection, enhancement and delivery, as appropriate, of the Swale natural assets and green infrastructure network. These include strengthening green infrastructure and biodiversity.

9.29 Policy DM 24 of the Local Plan states that the value, character, amenity, and tranquillity of the Boroughs landscapes will be protected, enhanced, and, where appropriate, managed. The policy is split into parts with part B applying to this site.

9.30 The application site is not located within either a national, Kent or local land designation.

9.31 Part B of policy DM 24 relates to non-designated landscapes. It states that non-designated landscapes will be protected and enhanced, and planning permission will be granted subject to;

1. The minimisation and mitigation of adverse landscape impacts,
2. When significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

9.32 With respect to the Swale Landscape Character and Biodiversity Appraisal 2011, the site is located within the Upchurch and Lower Halstow Fruit Belt landscape designation. The site sits on the edge of this designation due to its proximity to the built area of Newington.

9.33 The key characteristics of the area are detailed as being small to medium-scale rural landscape with a strong sense of enclosure, small, nucleated villages with historic centres and modern urban expansion on periphery, undulating landscape with occasional long views to north and south, fragmented structure of mature hedgerows and shelterbelts surrounding orchards, pasture, and arable fields.

9.34 The landscape condition and sensitivity of the landscape is moderate. The sensitivity identifies that structure is provided by the hedgerows and shelterbelts, while fragmented, assists in screening views. The undulating topography is also considered to assist in screening the areas of settlement. The area is moderately visually sensitive.

9.35 The application site forms a part of a wider field pattern which extends to the west of the Newington. The eastern boundary of the site is formed of a strong tree line which separates the school from the field. The site is not however currently separated by a natural boundary. The site would therefore be visible from views from the west and south.

- 9.36 The field due to the scale and undulating landscape has some typical elements of the Kentish countryside. The field boundaries are strong and do create a sense of enclosure when the site is viewed from public roads. However, the field itself has a more open character.
- 9.37 The development would sit against the strong tree line which sits adjacent to the school which currently forms a strong boundary between the site and containment of Newington. While the proposal would sit outside of this boundary its scale is not disproportionate to overall urban confines of Newington.
- 9.38 Screening has been proposed along the field boundary which would take a period to establish. However, this would mute the overall impact of the development to the wider rural views. A landscape scheme would be required via condition to ensure trees of a specific standard are secured. The additional benefit of additional trees and vegetation would see ecological gains.
- 9.39 The proposal would have more immediate impact rather than longer wider implications to landscape views. The undulation of the natural topography of the area would be retained and would work to aid in reducing the overall view/impact of the proposal.
- 9.40 To the west of the application site runs a Public Right of Way (namely ZR38, which is located a minimum of 267 metres from the application site) which sits at a higher level to the application site and runs in a west/east trajectory towards Newington. The Public Right of Way would provide a view of the development site.
- 9.41 The views from the Public Right of Way would result in some harm regarding visual impact as highlighted by Huskinson Brown. However, the elevated position of the right of way does place the development at a lower level to the natural rise and fall of landscape which would mean the proposal would not appear as a significantly prominent addition.
- 9.42 Comments from Huskinson Brown on the previous application also highlighted concerns relating to the setting of the Church tower. While this is addressed below against heritage assessment. The development is limited to 25 units, and this proportionately would leave a significant portion of the field. The rural setting would still be clear when traversing the Public Right of Way and from other public settings such as the transitory views from the railway.
- 9.43 Policy DM 26 of the local plan seeks to ensure that development would not physically or because of traffic levels harm the character of rural lanes. The lane to the north of the application site is a rural lane as identified by policy DM 26.
- 9.44 The proposal, as below, is not considered to result in a severe impact to the local highway network. Due to the narrow nature of the lane, it is likely that vehicles would travel to the east along School Lane. The traffic levels would not be considered so significant that the tranquillity of the lane would be significantly altered.
- 9.45 The developer has provided a section and a plan of the works to take place along the rural lane. A large degree of the existing vegetation would be retained along the road and then reinforced with native trees. Some section of the existing vegetation would be removed to allow for visibility splays. A hedge would be provided set back from the road to ensure vegetation is retained along the road.

- 9.46 The boundary adjacent to the lane would include post and rail fencing to reinforce the sense of ruralism. The character of the lane would be considered conserved and reinforced with additional planning.
- 9.47 The site would provide the opportunity for wide tree cover. Detailed landscaping plans have been provided and adjustments to the proposed layout were undertaken to ensure that residential pressure to reduce tree cover is reduced. Any approval would be conditioned to ensure that the proposal would retain existing tree coverage.
- 9.48 Having considered the submission and visited the site, it is considered that the LVIA thoroughly considers the baseline position, the impact of the proposed development on landscape character, and the impact of the proposals from a visual amenity perspective. The mitigation measures proposed will inevitably take some time to mature but would lead to an appropriate form of development that does not have a material negative impact on either the landscape character of the surrounding area or the visual amenity of those residing in it or visiting it for recreation.
- 9.49 As such it is considered that the proposals would not cause substantial harm to landscape character and are therefore in accordance with the requirements of Policies ST6, CP4, CP7, DM24 and DM29, as well as the NPPF, in so far as they have regard to matters of landscape visual impact.

### **Design and layout**

- 9.50 Policy CP4 of the Local Plan requires all developments to achieve high quality design, appropriate to its surroundings, that creates attractive places, promotes, and reinforces local distinctiveness and strengthens sense of places.
- 9.51 Policy ST5 seeks to provide housing in locations where the role and character of the Sittingbourne area is maintained / enhanced and where the character, appearance and setting of the towns heritage assets are protected and enhanced.
- 9.52 Policy CP7 seeks to ensure that development comes forward in a manner that conserves and where possible enhances the Borough's natural environment. Policy DM24 looks to restrict development where it would have a negative impact on valued landscapes. Policy DM29 provides protection for existing woodlands, trees, and hedges.
- 9.53 The Government at paragraph 127 (a) – (d) of the revised NPPF attach great importance to the design of built development. It goes on to advise that planning decisions should ensure that development will function well and add quality of the overall area; not just for the short term but over the life time of a development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the built environment and landscape setting, while not discouraging appropriate innovation and change; establish or maintain a strong sense of place, using the arrangements of streets, space, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

- 9.54 The National Design Guide illustrates how well-designed places that are beautiful, enduring, and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.
- 9.55 The proposed development would see the provision of a car park to be utilised by Newington Church of England School would be located to the east of the application site. The car park would sit in a linear form, soft landscaping treatments would be provided to around the car park and some trees would be located along side to break up the use of hard surfacing. The degree of landscaping and the linear form would ensure the car park would sit comfortably within the context of the site.
- 9.56 The proposal would see a main spine road utilised as the main access point to the development. Three cul-de-sacs would be located off the spine road. The cul-de-sacs would be connected by a pedestrian pathway to allow pedestrian movement across the site. The use of permitter blocks can provide continuous access, however, in a such a rural area this would increase the degree of hardstanding and placements of cars which would work against a sense of rural tranquillity and reduce the degree of walkable pedestrian only areas. A condition could be secured by Members to ensure rights for pedestrians to access this area is secured.
- 9.57 The development has been designed to ensure that the exposure of the rear elevations to the site are kept to the minimum. Some exposure will be seen to units 24 and 25 for which the rear elevations face the car park. These have been well detailed to ensure the face has interest and provides a degree of overlooking to the car park.
- 9.58 Corner turner units and details side elevations have also been used across the site to ensure overlooking of public spaces and provide interest along the public realm. Enclosure details would ensure brick walls facing the public realm and detailing to the rear of properties would ensure units with public facing rear elevations would retain sufficient detailing.
- 9.59 A character study of the area was undertaken as part of the proposal. The assessment did identify several building forms in the area. The assessment identifies several key characteristics of the area including facing brickwork (painted white), vertical tile hanging, and render. The assessment also identified an emphasis on well-proportioned wide fronted dwellings, a variety of roof forms with low eaves, secondary gables, and dormer windows.
- 9.60 The properties in the wider area do vary in form and the architecture derives interest in the street scenes. The materiality and fabric are however reflective of Kent which does see brick and tile hanging used constantly across the county. The proposals position behind the school would mean the dwellings would not continue a street scene but create an individual pocket of development.
- 9.61 The proposed dwellings would have a traditional bulk and massing. The properties would be two storeys and comprised of a variety of tenures including terraces, semi-detached and detached. The units market mix would see predominately 4no. and 3no.bedroom units which is a departure from the mix guidance under policy CP 3. However, when looking inclusive of the affordable units a good provision of 2no., 3no. and 4no.bedroom units has been provided.

- 9.62 The proposal would reflect the wider design and materiality of the local area. The use of tile hanging, and brickwork is typical of the Kentish countryside and indeed Newington. A condition would secure details of the proposed materials to ensure the quality of the bricks and tiles.
- 9.63 The dwellings would contain pitched roofs which would be broken up by gable detailing to several the units. Porches, brick banding, window coins, and proportionate openings (windows) would draw interest to the elevations. The properties would be considered to reflect the local architectural vernacular.
- 9.64 A varied use of hard surfaces would be applied across the site including block paving and tarmac. The materials would be used to differentiate shared spaces. The use of block paving would break up the use of tarmac. Further, details of the surfaces would be secured by condition to ensure high quality fabric across the site.
- 9.65 To ensure the site retained a sufficient degree of rural character enclosures would need to reflect the environment the site is located within. Details of means of enclosure around the site would be conditioned. Post and rail fencing, and landscaping would be required to ensure the character of the area is conserved as expected with rural development.
- 9.66 The proposal would provide a degree of open space around the peripheral parts of the site to allow landscaping and public areas within the site. The proposal has included natural play equipment within the open space to provide enhanced interaction with the space. SUDs ponds and wildlife areas would also add to the variety of the landscaping, which is lacking on site, except for the north and eastern boundaries.
- 9.67 Kent Police have responded without objection but have asked for a Secured by Design condition to ensure that the Reserved Matters application is accompanied by sufficient detail. This is a reasonable request, and one that will ensure the scheme meets the policy requirements in this regard.
- 9.68 As a result, it is considered that the proposals meet the requirements of Policies ST6, CP4, CP7, DM24 and DM29, as well as the NPPF, in so far as they have regard to matters of layout, design and character.

### **Heritage**

- 9.69 The council is required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
- 9.70 Policy 32 of the Local Plan sets out the policy background for the protection, preservation, and enhancement of listed buildings. Policy 34 does likewise for archaeological sites. Policy CP 8 of the Local Plan seeks to ensure that developments will sustain and enhance the significance of designated and non-designated heritage assets

- 9.71 Policy DM 33 of the Local Plan states that development affecting the setting of, or views into and out of a Conservation Area, will preserve or enhance all features that contribute positively to the area's special character or appearance.
- 9.72 With regards the revised NPPF, chapter 16 sets out government advice on conserving and enhancing the historic environment. Paragraph 195 sets out its guidance where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. Paragraph 196 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 201 informs that not all elements of a conservation area will necessarily contribute to its significance.
- 9.73 The applicant has provided a Heritage Statement within the application pack. The assessment identifies the relevant assets and provides the relevant descriptions of the assets in accord with the requirements of the National Planning Policy Framework. The application site is not subject to any designated heritage buildings and is not within the Newington Church Conservation Area. The application site is located approximately 170m from the Newington Church Conservation Area, which is located to the east of the application site.
- 9.74 The Newington Church Conservation Area is mainly focused on the Grade I listed Church, St Mary's. The significance of the Conservation Area is derived from it forming the historic core of the Parish of Newington, with the central focal point being the Church. As identified by the Conservation Officer Church Farmhouse and the Oast House, which are Grade II listed buildings, contribute to the special character and appearance of the Conservation Area through the group value associated with the Church.
- 9.75 An additional listed building, the Parsonage House is also located close to the application site but outside of the Conservation Area. Although the Conservation officer notes that its setting is dominated by existing housing.
- 9.76 The listed buildings, as a group, contribute to the character of the Conservation Area due to their associative relationship.
- 9.77 The Conservation Officer provided comments in relation to the previous scheme which are relevant to this one.
- 9.78 The Conservation Officer considers the functional and aesthetic relationship with each other and the alignment with Church Road and Iwade Road add to the overall significance. The associations are considered to have positive contributions to the significance of these buildings, in providing a context in which an observer can appreciate the layout and hierarchy of the earlier settlement.
- 9.79 In assessing the Conservation Officers comments in relation to the Conservation Area, the listed buildings group association provide a visual understanding of the hierarchy of the historic core of the village. Indeed, the church and its associated buildings would have formed an important centre to the village. The area covered by the Conservation includes the Church, a few houses and the wider fields which extend to the north and north-east.



- 9.80 The value of the Conservation Area is therefore primarily seen within its centre and between immediate views of the group of listed buildings. The rural setting of the Church is important hence the inclusion, within the Conservation Area, of the fields to the north of the Church.
- 9.81 While the Conservation Officer's observation in relation to the rural setting of the Church is noted, the value of the rural setting has already been somewhat eroded by the post war development along Church Road and extending along School Lane. The development appears post war and significantly densified the approach along Church Lane.
- 9.82 The proposed development would be located some distance to the west of the Church and the associated Conservation Area. Further, the significant tree cover along the eastern boundary of the site would mean the development from within the Conservation Area would be limited. The development would not disrupt the group relationship of the listed buildings and the association with the Church.
- 9.83 The main area of concern relates to the setting of the Grade I listed Church. The Officer noted that the development was some distance from the church. However, identified that the Church is located on raised ground, which has the effect of making the tower a visible feature from the surrounding area. The tower is considered a key and notable feature in the wider landscape for many centuries.
- 9.84 The views of the Church tower can be derived from the public footpath which is located to the west of the application site which runs across the extent of the field in a west to east trajectory. The view from the field of the tower is considered, by the Conservation Officer, to result in an intervisibility between the Church and the application site. These are considered to contribute to the significance of the Church derived from its rural setting.
- 9.85 The Officer has considered 'less than substantial harm' would derive from the proposal erosion and urbanisation of the field and reduce the openness of the site, which in turn contributes to the rural setting of the Church. The identification that this harm is moderate on the scale of 'less than substantial' is made by the Officer.
- 9.86 The proposal would introduce built form into the north-east corner of the field, and views of the development would be derived from the public footpath (for which the tower can be observed).
- 9.87 However, it should be noted other residential development can be observed from the footpath and that due to the footpath's separation from the site and the village the views would still include the larger extent of the field.
- 9.88 The development would consist of 25 units and would be set with landscaped boundaries introducing tree cover and grassland. The expansion is not so significant as to be disproportionate to the twentieth and twenty-first century development which already forms part of the setting to the Church, Conservation Area, and listed buildings. The views would not therefore remove the semi-rural setting of the area given the wider extent of the field and the existing fields which surround the immediate context of the Church from within the Conservation Area.

9.89 The Heritage Statement submitted with the application considers the introduction of residential development in this section of the field broadly in line with the existing character and setting of the built heritage assets. It further concludes that the proposal aligns with much of the existing setting and contains measures to retain the semi-rural character. The report concludes no harm to the significance of the built heritage.

9.90 Paragraph 202 of the National Planning Policy Framework states that:

*'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.*

9.91 As less than substantial harm is evidenced, the public benefits of the proposals must be considered. In this instance it is determined that the public benefits of the proposals (i.e. the socio-economic benefits from the provision of housing) outweigh the less than substantial harm caused by the proposals.

9.92 As such I consider that the statutory test in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the associated policies of the NPPF and local plans are passed.

### **Living conditions**

9.93 Policy DM 14 of the Local Plan provided general development criteria and requires that development does not result in significant harm to amenity. Paragraph 130 of the NPPF states that decisions should ensure high standards of amenity for existing and future users.

9.94 As a rule, 21m is considered sufficient to prevent a significant impact upon living conditions relating to daylight/sunlight, visual intrusion to outlook and privacy. The closest existing residential development is located to the north-east of the site in the new development leading from School Lane and those dwellings extending to the east of the school.

9.95 No residential dwellings are near the northern, southern, and western boundaries. The impact would mostly be felt to the eastern boundary. However, a significant tree belt is located along the eastern boundary of the site which would be retained. The distance between the closets proposed residential unit and an existing property in Newington is sufficient to prevent a significant loss of daylight, sunlight, or privacy to existing units.

9.96 Views are not protected under planning legislation. The separation distance between the proposal would be sufficient to prevent the development, which would be limited to two storeys, resulting in visual intrusion to outlook. Overall, the proposal would not result in a loss of amenity pertaining to daylight/sunlight, outlook, or privacy.

9.97 The proposal would see an uplift in vehicle movements regarding the residential development. However, the upturn for 25 units would not be considered so significant as to result in unacceptable noise implications to residents. Further, the proposal would see a dedicated drop off and pick up location associated with the school which would relieve pressure on pausing and idling vehicles along School Lane during the working week.

- 9.98 The Environmental Health Officer has commented on the proposal and did not consider that a noise survey was required pre-determination. The buffer present by the trees and the local of the school to house would mean noise levels are unlikely to reach an unacceptable level.
- 9.99 The construction period of a development is not material to the acceptability of a proposal. However, details of dust management, construction hours, and construction management plan could be secured via condition to ensure that development mitigates impacts during a construction period.
- 9.100 The proposed units would have dual aspect views which would allow sufficient outlook and allow natural light to filter into the dwellings. Revised plans to align the dwellings to the eastern boundary have ensure limited impact from the adjacent tree belt to rear amenity spaces.
- 9.101 The dwellings have all been plotted to ensure external access to the front of properties to ensure that waste and refuse can be collected without the requirement to bring waste through the internal floor space.
- 9.102 The layout has been designed to achieve rear to rear alignment that would allow 21m which is the recommended distance to ensure sufficient privacy. In the places that a closer relationship exists the orientation of the properties reduces the overall overlooking with 11m achieved between side to rear alignment.
- 9.103 The proposed properties would all benefit from sufficient private outdoor amenity space. The site is also located in such a position that access to the countryside is readily available. The proposed access would include an extension of the footpath to School Lane allowing wider accessibility to Newington. The permeability of the site for pedestrians would also allow for access around the site which would be well landscaped.
- 9.104 The proposed car park would result in vehicle movements within the site. However, these movements would be isolated to specific times of the week and day and would not be considered overtly harmful to living conditions. Further, conditions to restrict lighting to the car park to bollard lighting could be applied by members.
- 9.105 Overall, the proposal is considered to harmful to the living conditions of existing and future occupiers. The scheme is considered, therefore, to meet the requirements of Policy DM14 of the Local Plan.

### **Highways**

- 9.106 Policy DM 6 of the Local Plan seeks to manage transport demand and impact. Policy DM 7 of the Local Plan provides guidance on parking standards alongside the Swale Borough Council Parking Standards SPD.
- 9.107 Paragraph 111 of the National Planning Policy Framework states that:

*'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or residual cumulative impacts on the road network*

*would be severe’.*

- 9.108 The revised Transport Statement indicates that the proposal would generate 12 two-way movements (4 arrivals and 8 departures) on Church Lane in the AM peak hour. In the peak PM hours 10 two-way movements (7 arrivals and 3 departures) would occur. The Highways Officer note that 1 additional movement every 5 minutes on average would be considered to have a negligible impact on the operation of Church Lane in the context of existing traffic flows (School drop off).
- 9.109 The proposal will impact the Key Street roundabout on the AM and PM peak hours due to the generation of 14 additional vehicle movements. As such, Highways have identified a financial contribution of £34,056.96 due to the additional traffic volume that would adjoin the Key Street roundabout. The amount is costed at £2,432.64 per movement.
- 9.110 The Highways Officer commented that the proposal would generate an additional 20 parking spaces and drop off area for the school. The assessment was based on the existing informal parking area. However, the existing parking area is not subject to planning permission and therefor the gain would equate to 40 additional spaces.
- 9.111 The Highways Officer considers that the circulation space that the proposal would generate would remove parking demand and pressure from School Lane. The provision of this this space would be considered to be an improvement to the current situation on School Lane.
- 9.112 The proposal would also secure additional improvements to School Lane, these would include the widening of School Lane between the school and the proposed access to allow two vehicles to pass one another without overrunning the verges. The addition of a 1.8m wide footway on the southern side of School Lane, and a crossing to a 1.5m wide footway on the northern side of School Lane. These improvements would allow pedestrians to walk along School Lane separated from vehicular traffic. This would allow continuous pedestrian access into Newington.
- 9.113 The alterations to School Lane would also include the introduction of waiting restrictions to prevent parents parking on the widened section of road. Further, the proposal would seek to extend the 30mph speed limit. These would be secured through Traffic Regulation Orders, which would need to be submitted by the developer to Kent County Council.
- 9.114 The proposal would allow for refuse vehicles to traverse through the site and exiting in a forward gear.
- 9.115 KCC Highways are satisfied with the degree of parking provided. Visitor spaces exceed the requirements and would allow for parking on site if required. The parking provides a balance between reducing the degree of hardstanding in the rural location and meeting parking guidance.
- 9.116 The proposal would also provide a car park for Newington Church of England School. The Swale Parking SPD recommended 1 parking space per staff member plus 10% for primary Schools. Based on current staff numbers a requirement for 38 parking spaces and the school has an under provision.

- 9.117 The proposal would increase the degree of staff parking and provide a dedicated drop off zone for parents and students. The benefits of this would be an improvement to the traffic flows along School Lane/Church Lane. KCC Education have responded to the preproposal indicating the current temporary parking area has seen improvements in traffic flows in peak hours and a reduction in idling cars in accord with the school.
- 9.118 KCC Highways have commented that the proposed car park would result in an improvement from the current situation. The additional parking spaces and circulation spaces away from School Lane would remove parking demand and pressure from the existing highway.
- 9.119 The proposal would not be considered to result in a severe impact to the local highway network and would see some improvements to the pressure on surrounding roads during peak hours in relation to the school.
- 9.120 Based on the above, I am content that had the scheme would not conflict with policies DM6 and DM7 of the Local Plan and would not lead to unacceptable highway impacts

### **Biodiversity**

- 9.121 Paragraph 40 of the Natural Environment and Rural Communities Act, under the heading of 'duty to conserve biodiversity' states "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity."
- 9.122 The Local Plan at Policy DM28 seeks for proposals to conserve, enhance, and extend biodiversity and provide for net gains in biodiversity where possible.
- 9.123 The revised NPPF at chapter 15 'conserving and enhancing the natural environment' sets out government views on minimising the impacts on biodiversity, providing net gains where possible and contributing to halt the overall decline in biodiversity.
- 9.124 The application was accompanied by an Ecological Impact assessment. The site is currently mainly comprised of compacted earth for the car park and arable farmland with vegetation to the northern and eastern boundaries. The sites context means that there is little protected species of interest on site.
- 9.125 The report indicated the presence of a small population of slow worms. Mitigation in the form of on-site translocation to the proposed areas of grassland. KCC Ecology consider that this would be an acceptable form of mitigation and could be secured by condition if members were minded approving the application.
- 9.126 The potential for other protected species onsite including further reptiles, dormice, badgers for foraging and commuting. Further breeding bird may be located along the boundary vegetation. As a result, KCC Ecology have suggested a precautionary approach during construction. Again, this could be secured via condition, as suggested below.

- 9.127 Further to the use of the site for forging and commuting, to ensure mitigation against the potential adverse effects of lighting on bats a condition to secure the sensitive lighting design would be secured via condition.
- 9.128 Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.
- 9.129 The submitted biodiversity net-gain report shows that a net-gain can be achieved. Primarily, this is achieved through native species planting and creation of a variety of habitats, including wildflower grassland (one of the most valuable additions for biodiversity). The report indicates a net increase of 2.51 habitat units (69.03%) and a net increase of 7.43 linear units (50.24%).
- 9.130 While the landscape management could be secured through section 106 obligation. To ensure appropriate management to secure meaningful ecological enhancement a condition would be applied to any grant of consent securing a Landscape Ecological Management Plan.
- 9.131 As noted by both Natural England and KCC Ecology the site is located within a 6km buffer of the designated European sites the Swale SPA and Ramsar sites. The proposal would result in a net increase in residential dwellings which can have an associated recreational pressure on these sites. As a result, and appropriate assessment will be undertaken below.

### **Appropriate Assessment**

- 9.132 The application site is located within the 6km buffer of (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention.
- 9.133 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.
- 9.134 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 9.135 The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£275.88 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are ecologically sound.

- 9.136 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment.
- 9.137 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.
- 9.138 The proposal would have an impact upon the SPAs; however the scale of the development (25 residential units) is such that it would not be considered, alongside the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff, that the impacts would be significant or long-term.
- 9.139 Based on the potential of 25 residential units being accommodated on the site A SAMMS contribution of up to £6,897.00 could be secured under the Section 106 agreement. The legal agreement could be worded such that it sets out that the SPA mitigation contribution is to be secured prior to the occupation of any dwelling. Therefore, taking into account the above it is considered that there will be no adverse effect on the integrity of the SPAs.
- 9.140 Finally, 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 (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. (<https://birdwise.org.uk/>).
- 9.141 The County Ecologist has responded positively to the submission, raising no objection to it. They have asked for three conditions to be attached to any approval, as set out above. These are considered to meet the tests and will ensure that the scheme contributes positively to the Council’s aims in relation to ecological conservation and enhancement.
- 9.142 Natural England have responded to the scheme with a standard no objection response, requesting SAMMS contributions.
- 9.143 As such it is considered that the proposals are in accordance with the requirements of Policy DM28 of the Local Plan and the NPPF in so far as it has regard to ecology/biodiversity.

### **Water, Flooding, and Drainage**

- 9.144 The Local Plan as Policy DM21 sets out a raft of criteria aimed at preventing or reducing flood risk.
- 9.145 The revised NPPF at chapter 14 sets out government views on how the planning system should consider the risks caused by flooding. The planning practice guidance under the chapter titled ‘flood risk and climate change’ gives detailed advice on how planning can take account of the risks associated with flooding in the application process.

- 9.146 Local Plan Policy CP7 requires new development to be supported by the timely delivery of green infrastructure, including SuDS.
- 9.147 The NPPF at paragraph eight and elsewhere identifies the provision of infrastructure as part of the economic role as one of the three dimensions of sustainable development.
- 9.148 The PPG under the chapter entitled ‘water supply, wastewater and water quality’ at paragraph 20 provides advice on the considerations that apply in areas with inadequate wastewater infrastructure. The PPG explains that if there are concerns regarding the capacity of wastewater infrastructure, applicants will be asked to provide information as to how wastewater will be dealt with. The PPG goes on to provide advice on several scenarios regarding the preference to connect to the public sewerage system and the acceptable alternatives.
- 9.149 KCC Flood and Drainage have raised no objection to the scheme, subject to the imposition of conditions. The same is true of Southern Water and the Drainage Board. As such it is considered that the proposed development, with appropriate conditions, would have a suitable approach to flood water, surface water drainage and foul water.
- 9.150 The imposition of the required conditions ensures that the scheme is capable of meeting the requirements of Policies DM21 and CP7 of the Local Plan with respect to flood risk and drainage.

### **Minerals**

- 9.151 A Minerals Safeguarding Assessment was provided as part of the application by RPS Consulting service. The assessment provided an overlay of the Mineral Safeguarding Area as defined for Brickearth by the British Geological Survey. The overlay indicates that only a small corner to the north-west of the site is located within the safeguarding area, which includes a limited developed area.
- 9.152 The area within the Mineral Safeguarding Area is less than 0.25 hectares. As part of the application the only Brickearth user in the area was contacted (Weinberger Ltd). Weinberger Ltd stated that they were not interested in the site as a source of Brickearth as it would not be viable to extract the mineral.
- 9.153 Kent County Council Minerals and Waste were consulted on the application and found no objection to the proposal. The proposal would not present a viable extraction area and would not conflict with Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 2013-30.

### **Affordable Housing**

- 9.154 Policy DM 8 of the Local Plan identifies that for development proposals of 11 or more dwellings there will be a need to provide affordable housing. The policy requires the provision of 40% affordable units in rural areas. The size, tenure and type of affordable housing would be provided in accord with the needs of the area.



- 9.155 The proposal would provide a policy compliant on-site provision of 40% which would equate to 10 units. The units would be distributed across the site which would provide good social integration. The proposal would provide 5 – 2-bedroom units and 5 – 30bedroom units.
- 9.156 The guidance of policy CP 3 indicates a requirement for 1-, 2-, 3- and 4-bedroom dwellings. The split would not reflect this guidance. However, given the location of the site the provision of 1 bed units usually provided in a flatted form and 4- bedroom units might disrupt the grain of development and an onsite provision is welcomed.
- 9.157 Paragraph 7.3.8 of the Local Plan provides guidance for the tenure associated with the affordable housing requirement which seeks an indicative target of 90% affordable/social rent and 10% intermediate products.
- 9.158 The Housing Officer has indicated that due to a Written Ministerial Statement and amendments to the National Planning Policy Guidance a minimum of 25% of all affordable housing units should be provided as First Homes. When taking account of the new First Homes requirements, the remaining 75% of s106 affordable housing should be secured as social rented.
- 9.159 The provision of a 25% First Homes and 75% socially rented tenure was sought in line with the emerging government guidance. However, in regard to providing on-site provision which is the Council's preferred provision the Registered Providers would not accept the lower provision (7 units) they would be offered if implementing a 25% provision of First Homes.
- 9.160 As such, the offered position of 50% affordable rent and 50% shared ownership was considered acceptable by the housing officer in the provision of on-site affordable housing.

### **Sustainable Design and Construction**

- 9.161 Policy DM19 requires developments to address climate change and reduce carbon emissions in new developments. The policy does not include a threshold for such reductions. However, the Council's Ecological and Climate Change Emergency Action Plan sets out that new housing developments should achieve a minimum 50% reduction in emissions when compared to target rates in the current Building Regulations. Whilst this is not adopted planning policy, the Action Plan is a material consideration.
- 9.162 The application has provided enhanced information in relation to the energy and sustainability when compared to the previous scheme. One major difference between the two is that 100% of the dwellings will now have photovoltaic cells on the roof. This was altered following discussion at the last committee amongst Members in relation to the previous proposals.
- 9.163 The Climate Change Officer has advised that they have no objection but have asked for an Energy Strategy and Sustainability Strategy to be secured by condition.
- 9.164 On this basis the scheme is in accordance with DM19 of the Local Plan and the NPPF with respect to sustainability and climate change.

### **Contamination**

9.165 The Environmental Health Officer has commented on the proposal and recommended the inclusion of Contaminated Land Conditions. There is no obvious contamination issue related to the site other than in connection with the agricultural use and proximity to a graveyard.

9.166 A Phase 1 desk study would be required in association with any grant of consent, this could be provided in the form of a pre-commencement condition. The assessment would a historic background and potential contaminated land at the site. Should contamination potential be identified a phase 2 intrusive investigation and remediation would then be triggered by condition.

9.167 Pre-commencement conditions would be considered sufficient to ensure that development would provide safe habitable residential accommodation.

### **Air Quality**

9.168 Policy SP 5 of the Local Plan criteria 12 states that development will be consistent with local air quality action plans for Newington High Street and bring forward proposal for mitigation of adverse impacts. Swale Borough Council Air Quality Action Plan (2018 – 2022) sets out local AQAM Measures.

9.169 Policy DM 6 managing transport demand and impact criteria (d) states that:

*“integrate air quality management and environmental quality into the location and design of, and access to, development and, in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree especially taking into account the cumulative impact of development schemes within or likely to impact on Air Quality Management Areas”.*

9.170 Paragraph 186 of the National Planning Policy Framework states that:

*“Planning Policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan”.*

9.171 The locally focused measures within the Air Quality Action Plan identify those measures to be introduced into individual AQMAs are those which target:

- Initiatives that inform and protect local residents,
- Smooth traffic flows causing less congestion of all vehicles through the AQMAs,
- Access to cleaner alternative transport for residents and business.

9.172 The plan identifies local focussed measures will be implemented through ‘local’ measures set out in table 5.2. The table indicates for Newington these would consist of Local school and business travel plans and promoting travel alternatives.

- 9.173 The Newington Air Quality Management Area (AQMA) is located to the south of the site more than 400m from the site. The AQMA is located along the A2 High Street Newington. Further along the A2 Medway Council has also identified an AQMA on Rainham High Street.
- 9.174 An Air Quality Assessment was provided by the applicant. The assessment considers the development on an individual and a cumulative basis. The assessment also considers the impact of both the construction process and vehicle emissions.
- 9.175 The Air Quality assessment concluded that the impact as a result of construction process could be mitigated with regard to dust production. The proposal would need to implement mitigation, which would be secured via condition to ensure acceptable levels of dust during construction. Further, continuous visual assessment of the site during construction and a complaints log should be maintained during the development.
- 9.176 Regarding the vehicle emission impact the proposal in isolation has been assessed with proposed predicted levels in 2024. The impact when assessing the development in isolation would have a negligible impact to air quality with some receptors seeing a moderate impact. The impacts of the development on its own result in a less than a 1% change at existing receptors.
- 9.177 The proposed development's impact in isolation would not therefore be considered to have significant harm to human health.
- 9.178 In assessing the development cumulatively, the worst-case predicted scenario 2024 model indicated moderate or substantial impacts. The assessment is based on the proposed and committed developments in Newington only. The impact associated with committed development in Newington only is reduced due to changes in vehicle emission in 2024. Under this scenario the impacts from committed development in Newington are medium with the change to receptors as less than 5%.
- 9.179 As a result of the cumulative impacts of all committed development and the proposed development an Emissions Mitigation Assessment was undertaken. A damage cost was undertaken including NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. The damage cost (without mitigation) associated with the additional vehicle movements associated with the development over a 5-year period was considered to amount to £13, 000.00.
- 9.180 The applicant outlined how the damage cost mitigation of the £13, 000.00 which would be spent for on-site mitigation. The distribution of cost would be spent on a Travel Plan, welcome packs, car club etc. The damage cost calculation would be secured via section 106 and would in part be spent on an amount provided to each dwelling to be spent on subsidies public transport (bus/and or train travel tickets).
- 9.181 A further £5,000.00 above the required damage cost calculation would be provided for contribution towards the delivery of e-bikes or other approved schemes to combat air quality issues (this would rely on contribution from other development to reach a viable contribution pot. This will be secured via the section 106 agreement.

- 9.182 The technical transport note also provides mitigation measures through the Travel Plan which will encourage mode shifts. The provision of 12 month subsidised public transport for new residents would aim to increase use of public transport. Further, the Transport Plan would encourage the use of apps for journey planning.
- 9.183 The technical note identified that the Department for transport 'Sustainable Travel Towns', indicated that some projects involving a varied range of initiatives to reduce car reliance found an average reduction of car use of 7-10% per resident. The conclusion of the Transport note indicates that provided measures could see a reduction of trips by vehicles.
- 9.184 It should be noted that all dwellings would have the provision of an electrical vehicle charging point, but these are not considered as part of the mitigation package and low emission boilers would also be conditioned.
- 9.185 The proposal individually is not considered to have an individually a significantly negative impact. The concerns primarily derive from a cumulative impact with other committed development.
- 9.186 Paragraph 186 of the National Planning Policy Framework does make it clear that opportunities to improve or mitigate impacts should be considered at the plan making stage. The NPPF encourages the need for opportunities to be considered at plan making stage to ensure a strategic approach. Paragraph 186 state individual application is consistent with the local air quality management plan.
- 9.187 The proposal would be considered to provide an improvement to traffic flows due to the provision of a dedicated drop off zone preventing idling. The proposal would also see the provision of an extended pedestrian path to local transport networks in Newington, and mitigation would provide residents with discounted tickets. The proposal would be considered to meet with the Local Air Quality Management Plan.
- 9.188 The proposal is considered acceptable in this regard subject to securing of mitigation package, and therefore in accordance with Policies SP 5 and DM6 of the Local Plan and NPPF.

### **Archaeology**

- 9.189 The application site is not located within an area of Archaeological Potential, as this extends to the north-east in a north-west/north-east trajectory. However, the local area has been subject to archaeological finds. The Archaeological assessment submitted with the application does not identify either designated or non-designated archaeological remains on site.
- 9.190 The assessment was based on a walkover study. No response has at this stage been provided by Kent County Council Archaeology, though I hope to be able to update Members at the meeting. The site does lie near an area of archaeological potential. Given the potential a condition would be applied to secure investigation prior to commencement to rule out conclusively the potential for remains on site.

### **Developer Contributions**

9.191 Policy CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met.

9.192 The following contributions have been identified as reasonable and necessary to mitigate the impacts of the development on the surrounding area / infrastructure –

| <b>Requirement</b>  | <b>Value</b>         | <b>Towards</b>  |
|---------------------|----------------------|---|
| SAMMS payment       | £250.39 per dwelling | North Kent Strategic Access Management and Monitoring Strategy  |
| Primary Education   | £170,000.00          | Towards a new Primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in the Sittingbourne North planning Group   |
| Secondary Education | £129,400.00          | Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups                        |
| Secondary Land      | £65,893.33           | 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. |
| Community Learning  | £410.50              | Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.  |
| Youth Service       | £1,637.50            | Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the vicinity of the development.   |
| Library Bookstock   | £1,386.25            | Contributions requested towards additional services, resources, and stock at Sittingbourne Library or any other serving the development.  |
| Social Care         | £3,672.00            | Towards Specialist care   |

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|             |  | accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.   |
| Waste       | £4,591.75  | Towards additional capacity at the HWRC & WTS in Sittingbourne   |
| NHS         | £26,028  | Towards refurbishment, reconfiguration and/or extension of Primary Care Estates Team Grovehurst Surgery and/or Maidstone Road Rainham Surgery and/or Green Porch Medical Partnership and/or Woodlands Family Practice and/or towards new general practice premises development in the area |
| Highways    | <p>£34,056-96 towards Key Street roundabout highway improvement. Grampian condition to restrict occupations until the Key Street highway improvement contract has been awarded (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>Completion of the off-site highway works to provide a footway and the carriageway widening along School Lane as shown on drawing 15058-H-01 revision P7, including the proposed extension of the speed restriction, prior to the use of the site commencing (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>An application made to progress a Traffic Regulation Order associated with the waiting restrictions shown on the approved drawings, and the scheme implemented in accordance with the outcome of the Order prior to the occupation of any dwellings hereby approved (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> |  |
| Refuse Bins | <p>1 x 180ltr green refuse bin @ £46.60 per bin<br/> 1 x 240ltr blue recycling bin @ £46.60 per bin<br/> 1 x 23ltr black food bin @ £10.80 per bin<br/> 1 x 5ltr kitchen caddy @ £5.40 per bin<br/> <b>Total cost = £109.40 per dwelling = £2,735</b></p>  |  |

**Table 1 – S.106 Heads of Terms**

**10.** These Heads of Terms have been provided to the applicant and agreed upon.

## **11. CONCLUSION**

11.1 Whilst the site is located outside of the defined boundary of Newington and therefore is located in the countryside, it is well located for housing in respect of future occupants being able to access services and facilities via sustainable travel methods including walking and cycling. This weighs in favour of supporting the principle of the development, subject to other relevant planning considerations.

- 11.2 It would boost housing supply providing 25 units towards the Council's 5 Year Housing Land Supply. These factors carry significant weight in favour of the scheme.
- 11.3 It is considered that the proposals would not cause substantial harm to landscape character.
- 11.4 The S106 Agreement for SAMMS contributions and infrastructure costs will mitigate against the impact of the proposals on key services.
- 11.5 In terms of sustainable development, there would be some clear positive social impacts through the provision of housing and affordable housing, and some positive economic impacts through construction and local spending by future occupants.
- 11.6 Overall, the scheme is 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.
- 11.7 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.
- 11.8 If members do not take the view that the scheme is policy compliant due to either the quantum of development and/or part of the scheme being outside the built-up area boundary, then this has two consequences. Firstly, as the 'tilted balance' applies in any event Policy ST2 contains a clause that schemes in compliance with National Policy outside the built-up area boundaries are acceptable. Which means that the excess number outside the built-up area boundary is acceptable. Even so means that policies relating to the supply of housing cannot be considered up to date. This includes the Newington settlement boundary so this would trigger a presumption in favour of development under NPPF para 11d as the tilted balance has the effect of disapplying the built-up area boundary.
- 11.9 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 with tilted balance then applying as part of the presumption in favour of development.
- 11.10 The size of the scheme is useful in terms of the 5 Year Housing Land Supply, as the 25 units would likely take no more than 18 months to 2 years to complete – resulting in an almost immediate positive impact on supply. Getting the Borough back above 5 years would be a major achievement; placing it back in control over schemes not complying with the local plan. The ability of this and other schemes on this agenda towards regaining a 5-year housing land supply counts strongly in favour of the scheme in the planning balance. This is additional to the assumptions in bearing Fruits and the current 5YHLS which assumed the plan review and decision on the SNRR would come before delivery of this site.

11.11 The scheme is assessed and being in conformity with national policy and the local plan. It is recommended that planning permission be granted for the proposal subject to conditions and the completion of a Section 106 agreement.

## 12. RECOMMENDATION

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

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

### 12.3 S.106 Heads of Terms

| Requirement         | Value                | Towards   |
|---------------------|----------------------|---|
| SAMMS payment       | £250.39 per dwelling | North Kent Strategic Access Management and Monitoring Strategy  |
| Primary Education   | £170,000.00          | Towards a new Primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in the Sittingbourne North planning Group   |
| Secondary Education | £129,400.00          | Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups                        |
| Secondary Land      | £65,893.33           | 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. |
| Community Learning  | £410.50              | Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.  |
| Youth Service       | £1,637.50            | Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the  |



|                   |  |  |
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|                   |  | vicinity of the development.   |
| Library Bookstock | £1,386.25  | Contributions requested towards additional services, resources, and stock at Sittingbourne Library or any other serving the development.   |
| Social Care       | £3,672.00  | Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.   |
| Waste             | £4,591.75  | Towards additional capacity at the HWRC & WTS in Sittingbourne   |
| NHS               | £26,028  | Towards refurbishment, reconfiguration and/or extension of Primary Care Estates Team Grovehurst Surgery and/or Maidstone Road Rainham Surgery and/or Green Porch Medical Partnership and/or Woodlands Family Practice and/or towards new general practice premises development in the area |
| Highways          | <p>£34,056-96 towards Key Street roundabout highway improvement. Grampian condition to restrict occupations until the Key Street highway improvement contract has been awarded (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>Completion of the off-site highway works to provide a footway and the carriageway widening along School Lane as shown on drawing 15058-H-01 revision P7, including the proposed extension of the speed restriction, prior to the use of the site commencing (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>An application made to progress a Traffic Regulation Order associated with the waiting restrictions shown on the approved drawings, and the scheme implemented in accordance with the outcome of the Order prior to the occupation of any dwellings hereby approved (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> |  |
| Refuse Bins       | <p>1 x 180ltr green refuse bin @ £46.60 per bin<br/> 1 x 240ltr blue recycling bin @ £46.60 per bin<br/> 1 x 23ltr black food bin @ £10.80 per bin<br/> 1 x 5ltr kitchen caddy @ £5.40 per bin<br/> <b>Total cost = £109.40 per dwelling = £2,735</b></p>  |  |

Table 2 – S.106 Heads of Terms

12.4 Conditions

- 1) The developments to which this permission relates must be begun no later than the expiration of three years beginning with the date on which the permission is granted.

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

- 2) The developments hereby approved shall be carried out and maintained in accordance with the following approved plans:

- Site Location Plan – 030/001,
- Entrance Landscape Sketch 1594/001 Rev F,
- Proposed Access – 15058-H-01 P8,
- Vehicle Swept Path Analysis 11.4m Refuse – 15058-T-01 P4,
- Vehicle Swept Path Analysis Pantehnicon – 15058-T-02 P3,
- Vehicle Swept Path Analysis Fire Tender – 15058-T-03 P3,
- Play Strategy – 1594/003 Rev A,
- Landscape Masterplan – 1635/002,
- Proposed Site Plan – 030/010,
- Floor Plans – plot 1 – 030/100,
- Floor Plans – plot 2 – 030/102,
- Floor Plans – plot 11&12 – 030/113,
- Floor Plans – plot 13&20 – 030/114,
- Floor Plans – plot 14 – 030/116,
- Floor Plans – plots 17&18 – 030/118,
- Floor Plans – plot 19 – 030/120,
- Floor Plans – plot 21 – 030/122,
- Floor Plans – plot 22 – 030/124,
- Floor Plans – plot 23 – 25 – 030/126,
- Floor Plans – plot 3&4 – 030/104,
- Floor Plans – plot 5 – 030/106,
- Floor Plans – plot 6&7, 15&16 – 030/109,
- Floor Plans – plots 8 – 10 – 030/111,
- Elevations – plot 1 – 030/101,
- Elevations – plot 11&12 – 030/112,
- Elevations – plot 13&20 – 030/115,
- Elevations – plot 14 – 030/117,
- Elevations – plots 17&18 – 030/119,
- Elevations – plot 19 – 030/121,
- Elevations – plot 2 – 030/103,
- Elevations – plot 21 – 030/123,
- Elevations – plot 22 – 030/125,
- Elevations – plot 23 – 25 – 030/127,
- Elevations – plot 3&4 – 030/105,
- Elevations – plot 5 – 030/107,
- Elevations – plot 6&7, 15&16 – 030/108,
- Elevations – plots 8 – 10 – 030/110,
- Boundary Treatment Strategy Plan – 030/011,
- Tenure Strategy Plan – 030/012,
- EV Charging & Parking Strategy Plan – 030/013,
- Refuse Strategy Plan – 030/014,
- Fire Strategy Plan – 030/015.

Reason: For the avoidance of doubt and interest of proper planning.

- 3) Prior to reaching damp proof course of the development hereby approved a detailed sustainable surface water drainage scheme for the site has been submitted to (and

approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and the Drainage Strategy prepared by Fairhurst dated July 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

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

Reason: To ensure that flood risks from development to the future users of the land and neighboring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

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

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

- 6) Prior to the first use of the car park details of the proposed lighting associated with the proposed car park as illustrated on plan Proposed Site Plan Dwg. No. 030/010 shall be submitted to and approved in writing by the local planning authority. The details shall ensure low level lighting. The development shall be carried out in accord with the approved plans, prior to bringing the development into first use and maintained as such thereafter.

Reason: In the interest of the dark skies of the countryside and neighboring amenity.

- 7) From the commencement of works (including site clearance), all mitigation measures for protected species will be carried out in accordance with the details contained in sections 8.5 through to 8.16 of the 'Interim Ecological Assessment' (Bakerwell February 2022).

Reason: In the interests of protected species.

- 8) Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter. No external lighting other than agreed subject to this condition shall be installed on site without the prior consent of the local planning authority.

Reason: In the interests of protected species.

- 9) Prior to completion of the development hereby approved, A Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved in writing by, the local planning authority. The LEMP will be based on the 'Landscape Masterplan' Dwg. No. 1635/002 (Murdoch Wickham November 2022) and will include the following.
  - 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 the 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.

Reason: In the interest of ecological enhancement of the site.

- 10) No development approved by this permission shall be commenced on site prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority. The Contaminated Land Assessment shall comprise:
  - a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy maybe be required, based on the results of the desk study, in which both shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.

Reason: In the interest of amenity.

- 11) Prior to the commencement of the development hereby approved, details of a Dust Management Plan (DMP) shall be submitted to and approved in writing by the Local

Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interest of amenity.

- 12) Prior to first occupation of each dwelling hereby approved the Electric Vehicle Charging point shown on the approved plan EV Charging and Parking Strategy Pan Dwg. No. 030/013 for that dwelling shall be provided and thereafter retained. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved ChargePoint model list.

Reason: In the interest of air quality.

- 13) Prior to reaching damp proof course details of the proposed materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accord with the approved details.

Reason: In the interests of visual amenity.

- 14) Prior to reaching damp proof course of the development hereby approved a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be based on the landscape strategy drawing 'Landscape Master Plan Dwg. No. 1635/002 and should provide images together with relevant sizes/ dimensions of the relevant shrubs, trees, surfacing materials (hard surfaces) and boundary treatments to be used. The development shall indicate a landscape buffer along the western boundary of the site which shall include a strong mix of native species trees. The development shall be carried out in accord with the approved details and in accordance with a program that shall first have been agreed in writing by the Local Planning Authority.

Reason: In the interest of enhancing the visual amenity of the area.

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

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

- 16) Prior to the commencement of the development hereby approved details of the proposed tree protection measure across the site shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the commencement of any development and maintained throughout the course of the development.

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

- 17) Prior to first occupation of the development hereby approved details of the proposed play equipment and seating shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on plan 'Play Strategy 1635/003'. The

approved details shall be implemented prior to completion of the development and maintained as such thereafter.

Reason: In the interest of open space and recreation.

- 18) Prior to the first use of the car park hereby approved, details of a parking management scheme for the proposed school car park shall be submitted to and approved in writing by the local planning authority. The car park shall be managed in accordance with the approved details thereafter.

Reason: In the interest of highway safety.

- 19) Prior to the commencement of the development the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable shall be submitted to and approved in writing by the local planning authority. Should the watching brief indicate remains of interest no development shall take place until details have been provided securing safeguarding measures to ensure the preservation of archaeological remains and recording. The development shall be carried out in accordance with the approved details.

Reason: In the interest of the archaeological interest.

- 20) Prior to reaching damp proof course of the development hereby approved, further details of all means of enclosure shall be submitted to and approved in writing by the Local Planning authority. These details shall be in accord with the Landscape Master Plan 1635/002 and the Boundary Treatment Strategy Plan 030/011 and include the proposed materials, overall height, and siting. For enclosures around dwellings the approved details shall be implemented prior to first occupation of that dwelling and maintained as such thereafter. For enclosures elsewhere on the site they shall be implemented prior to the completion of the development and maintained as such thereafter.

Reasons: In the interest of visual amenity and conserving the character of the rural lane.

- 21) Prior to the occupation of any of the units hereby permitted the visibility splays as shown on the approved plans shall be provided with no obstructions over 1.2m above carriageway level within the splay, street nameplates and highway structures if any and maintain as such thereafter.

Reason: In the interest of highway safety.

- 22) The approved parking as illustrated on plan EV Charging and Parking Strategy Plan Dwg. No. 030/013 shall be provided for each individual dwelling prior to the first occupation of that dwelling and retained thereafter. The approved parking and drop off/pick up area shall be provided before the completion of the development and retained thereafter.

Reason: In the interest of highway safety.

- 23) Prior to reaching damp proof course of the development details of all proposed secured, covered cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The approved cycle parking provision shall be supplied in accord with the approved details prior to first occupation of the individual dwellings to which

they relate, and elsewhere on the site prior to completion of the development hereby approved.

Reason: In the interest of sustainable transport.

- 24) Prior to the occupation of any of the units hereby permitted the approved access as show on the approved plans including Proposed Site Plan Dwg. No. 030/010 shall have been completed and brought into use and maintained as such thereafter.

Reason: In the interest of the local highway network.

- 25) Prior to the occupation of any units as approved by the development hereby approved the completion of the off-site highway works to provide a footway and the carriageway widening along School Lane as shown on drawing 15058-H-01 Rev P8, including the proposed extension of the speed restrictions shall have been completed and brought into use.

Reason: In the interest of highway safety.

- 26) Prior to the commencement of the development hereby approved details of the 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 to be laid out and constructed shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accord with the approved details and maintained as such thereafter.

Reason: In the interest of highway safety.

- 27) Prior to the occupation of any of the units as approved by this development details 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 interest of highway safety.

- 28) Prior to reaching damp proof course of any individual dwelling hereby approved details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and measures.

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

- 29) Prior to the commencement of the development hereby approved a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management shall 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) dust management and compliant log,
  - (d) Timing of deliveries,
  - (e) Provision of wheel washing facilities,

(f) Temporary traffic management / signage,

The development shall be always carried out in accord with the approved Construction Management Plan.

Reason: In the interest of highway safety.

Informative

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



## 1. Appendix 1 – Newington Parish Council Comments:

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

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

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Newington Parish Council objects to this application.

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

### 1 False justification given for this proposal

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

### The applicant's Design and Access Statement

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

There are 21 parking spaces on the spacious school site with a total 42 teaching and support staff in the school and adjacent Cherries pre-school. Prior to the temporary parking/drop off area being provided, during peak times the roads easily became congested, causing tension between parents, increased pollution due to idling cars and increased safety risks.

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

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

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

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

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

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

'Following the successful establishment of the drop off zone, we wanted you to know that the current arrangement is up for review. Under a new scenario, and with enough support, we would potentially be provided with a fully tarmacked and fit for purpose car park, drop off zone and paved path in to school. This would be provided in perpetuity by a community contribution from a Developer as part of a potential housing development adjacent. Please complete and submit the form below so your voice can be heard and will be considered in any future developments. Kind regards, Newington CEP School'

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

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

## 2 The location of the proposed development

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

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

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

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

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

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

Boxted Lane floods for much of the year as water flows from adjacent fields. Attempts at alleviation through roadside grips have not been successful. Kent County Council

have confirmed that the cost of a modern drainage system would be prohibitive; residents and road users are left with the situation where, on request, floodwater is pumped into tankers when necessary. This has been confirmed as policy by the KCC Cabinet Member for Highways and Transport.

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

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

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

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

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

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

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

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

3 Swale Borough Council and NPPF Policies relevant to this proposal

- It is not part of the existing Swale Borough Council Plan

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

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

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

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

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

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

1)

In reality: the village school has vacancies only in specific year groups; there is one convenience store, a public house and a joint pharmacy/post office; the GP surgery is not accepting new patients (extensively covered by recent media reports highlighting difficulties for Newington residents to obtain the services of the doctor locally by telephone or face-to-face); there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. This was one reason for the Local Plan Panel October 2020 decision not to progress allocations in the local plan review.

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

This application is outside the built-up (see policies E6 RC3). The exception – where a proposal is 'able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities'. does not apply.

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

The proposal does not meet the definition of sustainable development in rural areas "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

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

The land is not a 'brownfield' site; it is agricultural land Policy DM31: Agricultural Land – confirms development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up areas.

Development on BMV will not be permitted unless:

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

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

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

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

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

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

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

Appeal Ref: APP/V2255/W/16/3157268 Decision date 6 March 2016 Application 15/509664/OUT

29. The site comes within the Iwade Arable Farmlands as identified by the Swale Landscape Character and Biodiversity Appraisal SPD. This area is characterised by very gently undulating rural landscapes that may traditionally have supported fruit growing. The SPD refers to the large arable/horticultural fields with regular field patterns and rectangular shapes predominating, and a sparse hedgerow pattern.

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

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

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

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

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

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

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

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

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

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

Extract from Officer report

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

The reasons for refusal, above, apply to the current proposal.

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

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

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

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

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

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

b) 148 High Street, Newington (2 appeals)

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

Decision date 17 January 2018 Appeal Ref: APP/V2255/W/17/3185369 Application17/500946/FULL

4 ...the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.

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

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

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

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

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

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

A further appeal was also dismissed

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

6. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities".

7. Given that the site's location would be outside the built-up area boundary of Newington, the appeal site would not be an appropriate location for residential development.

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

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

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



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

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

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

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

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

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

7. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement hierarchy within the Borough. It is the fifth element of this policy that is pertinent in this case: "5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities". Policy DM9 sets out exceptions under which new dwellings will be permitted within the countryside, none of which are applicable here.

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

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and

other benefits of the best and most versatile agricultural land, and of trees and woodland;” NB: This is retained in the July 2021 version of the NPPF at Para 174 (b).

9. In respect of providing for housing, Framework chapter 5 deals with delivering a sufficient supply of homes. Within this chapter, under the heading Rural housing, are paragraphs 77 and 78. These state, as relevant here, “In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, ...”; and, “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services”. As far as the appeal proposal is concerned, whilst it may be in a reasonably sustainable location to access shops, public transport and community facilities, there is no local need, particular to the area, that has been identified.

Furthermore, it cannot be said to provide an opportunity for the village to grow and thrive, and it would not support local services to any material extent. The appeal site is not isolated, and therefore Framework paragraph 78 dealing with isolated homes is not relevant.

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

#### Conclusions

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

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

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

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

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

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

15...I conclude that the proposed development would not be an appropriate location for a new dwelling having regard to the spatial strategy of the development plan.

Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, to resist development in the countryside and to conserve and enhance the countryside.

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

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

e) Land Off Jubilee Fields, Upchurch

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

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

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

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

Consistency of decision making is a fundamental principle of planning law and local authorities can only depart from it if they give cogent reasons for doing so.  
<http://www.bailii.org/ew/cases/EWCA/Civ/2018/1519.html>

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

“At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape

setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities”.

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

#### 5 Newington Air Quality Management Area

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

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

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

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

We are not aware of a separate report on

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

‘Based on the assessment results, air quality is not considered a constraint to planning consent and the proposed development is considered suitable for residential use’ The assessment results do not seem to be in the public domain and we are unsure by whom the development is seen as suitable.

In the absence of this data we note the following:

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

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

b) Air Quality Management Area in Newington.

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

c) Air quality concerns immediately East of Newington

The 20 April 2020 Environmental Protection Report informs the intention for the ... declaration of an AQMA in the Keycol Hill area in response to exceedances shown in 2019.

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

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

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

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

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

Neither the submitted Air Quality Assessment, as amended, nor the letter from the applicant's Air Quality Consultants, has assessed the impact of the development on the Rainham Air Quality Management Area, which is located approximately 1.8 miles (2.9km) west of the application site.

Without evidence to the contrary and in the absence of an appropriate assessment Medway Council is unable to assess the full impact the development would have upon the Rainham Air Quality Management Area and as such, the development would be contrary to the provisions of paragraph 124 of the National Planning Policy Framework, the National Planning Practice Guidance in regard to Air Quality and Policy BNE24 of the Medway Local Plan 2003.

e) Relevant case history in Newington

The potential effect on air quality in Newington was one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016 See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

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

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

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

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

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

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

f) Conditions recommended on a current planning application in Newington

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

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

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

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

#### Planning Statement

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

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

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

#### 6 Transport

We believe the transport assessment does not present a true picture of services provided:

There is a poor train services and buses do not operate in the evening, Sundays or Bank Holidays. It should be noted that bus services are roughly hourly, with 'direct' routes alternating with those via other local villages and taking an hour to Chatham. On weekdays the last bus to stop at Newington is 18.36 and 18.29 on Saturdays. There is a three hour gap between the more direct service to Chatham at 06.31 (terminates at Medway Hospital) and the next at 09.11.

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

Therefore it is unclear how this Transport Statement meets the requirements of Paragraph 110 of the NPPF "Applications for development should:

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

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

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

#### 7 The five year supply

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

We repeat the December 2020 planning appeal decision

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

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

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

#### 8 Not a Sustainable development

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

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

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

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

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

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

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

The December 2020 planning appeal decision 19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265) there is no specific evidence to suggest that the need for affordable homes in Upchurch is particularly pressing. In the short term, the school would face difficulties accommodating the extra 11 children

We believe the same argument applies to Newington.

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

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

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



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

Appendix 1:

Properties with planning permission in Newington since 2011

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

Further comment:

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

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

These comments are in addition to those previously submitted by Newington Parish Council. Newington Parish Council has commissioned an independent report from the University of Kent Centre for Health Service Studies to examine the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington. The report is on the Midkent planning portal.

In summary this says, of the Land at School Lane report submitted by the applicant:

4.3.1. Consideration of committed development is incomplete

72. The AQA for School Lane [3] does not include 20/505059/FULL (Willow Trees), Eden Meadow (20/501475/FULL), or 21/505722/OUT (128 High Street) as part of the proposed development scenario.

73. Both Willow Trees and Eden Meadow were submitted prior to School Lane so these could have been included. 128 High Street was submitted after School Lane so it is not unusual for this to be missing. However, it is still worth noting that it is not considered.

4.3.2. Initial model does not meet minimum requirements for model adjustment

75. Out of 15 locations, 11 (73%) have an error of 25% or more. The model systematically under-predicts (every location), with an average underprediction of 11.25 µg/m<sup>3</sup>

76. Following the same argument outlined for Eden Meadows given above under the same subsection heading “Initial model does not meet minimum requirements for model adjustment”, the model inputs should have been re-examined and the model re-ran.

4.3.3. Model uncertainty statistics not reported

77. It is usual to report uncertainty statistics concerning the final model, at least RMSE. This has not been done.

78. The pre-adjustment model has weak correlation, an RMSE in excess of 25% of the objective reference of 40 µg/m<sup>3</sup> and a poor fractional bias.

80. As we have already outlined, the initial model should not have proceeded to adjustment via a factor without revision and re-execution.

In conclusion

93. ...It is not possible to conclude that any of these models are an accurate representation of reality

4. each of them displays varying degrees of flaw in air quality modelling and model uncertainty which needs addressing

5. The predictions computed for each of the AQAs for these developments are inconsistent

7. Proposed mitigation for cumulative impact are simply vague suggestions with not reasoning or rationale provided as to their impact of implementation feasibility

8. Current levels for NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> within Newington exceed WHO guidelines for health.

9. The Newington AQMA has exceed NO<sub>2</sub> objectives in the last reliable year

10. the planning applications should be rejected on the grounds of air quality at this time

This shows the likely damage to the health of Newington residents from the cumulative effect of further housing development in the village.

Please see the independent report from the University of Kent Centre for Health Service Studies which examines the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington.

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

