

PLANNING COMMITTEE – 9 NOVEMBER 2023**PART 3**

Report of the Head of Planning

PART 3Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO – 22/505646/OUT		
PROPOSAL Outline application with access being sought for the erection of up to 290no. dwellings, the formation of a new means of access onto Minterne Avenue, new footpaths and cycle routes, the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure.		
SITE LOCATION Land At Ufton Court Farm, Tunstall.		
RECOMMENDATION Refuse		
APPLICATION TYPE <i>Large Major Other</i>		
REASON FOR REFERRAL TO COMMITTEE Cllr Clarke has requested that the application be reported to the Planning Committee.		
Case Officer Simon Dunn-Lwin		
WARD West Downs	PARISH/TOWN COUNCIL Tunstall and Borden	APPLICANT Hallam Land Management Ltd AGENT LRM Planning Ltd.
DATE REGISTERED 19/12/2022	TARGET DATE 15/03/2023	
BACKGROUND PAPERS AND INFORMATION: <u>22/505646/OUT Outline application with access being sought for the erection of up to 290no. dwellings, the formation of a new means of access onto Minterne Avenue, new footpaths and cycle routes, the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure. Land At Ufton Court Farm Tunstall Kent (midkent.gov.uk)</u>		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is an existing commercial orchard measuring approximately 27.5 hectares in area and located to the south of Minterne Avenue and Woodside Gardens and to the west of Sterling Road. Agricultural fields and allotments lie beyond Starveacre Lane to the west and south. The site is situated approximately 2km to the southwest of Sittingbourne Town Centre. Several public footpaths run along the edges of the site in the north, east and south.
- 1.2. The site borders the rear gardens of houses on Minterne Avenue, Woodside Gardens, Sterling Road and Hale Road. Public footpaths ZR140 and ZR143 run along the southern border with agricultural land beyond. ZR136 runs along the eastern boundary from Woodside Gardens down to Sterling Road in the south for approximately 300m behind residential properties

located in the latter. Starveacre Lane which is a farm track forms the western boundary and provides access into the orchard at its southern end where there is a single storey barn and a silo. Allotments are located to the west side of Starveacre Lane and to the south side of Riddles Road.

- 1.3. The site is located mainly within the parish of Tunstall, but part of the north and an inverted triangular area of land on the north western boundary of the site falls within the parish of Borden. In the wider context, the site is surrounded by the built confines of Sittingbourne to the north and east, and by mainly agricultural land to the west and south. and the site is approximately 300m north of Tunstall hamlet and 300m east of Harman's Corner (which forms part of the village confines of Borden). The site is situated within Flood Zone 1 with a low probability of flooding.
- 1.4. The site is not allocated for development within the local plan and falls outside of any built confines and within the countryside. It is affected by the following Local Plan designations: -
 - Part of the site in the north sits within the Kent Minerals Brickearth Area
 - Outside the built up area boundary of Sittingbourne (Policy ST3)
 - The southwestern corner of the site abuts the northern boundary of the Tunstall Conservation Area (Policy DM33).
 - Important Local Countryside Gap (Policy DM25).
 - Grade 1 to 3 agricultural land (Policy DM31)
 - Within the SPA 6km buffer for SAMMS (Policies CP7 and DM28).

2. PLANNING HISTORY

- 2.1. There is no recent planning history associated with the site. There is an appeal decision from 1994 listed below.

SW/92/0747

Residential development of 149 dwellings to cater for first time buyers, local and other needs together with community and other associated facilities and 11 acre landscaped area on land between Riddles Road and Stirling Road, Sittingbourne, Kent.

Application called-in by the Secretary of State and refused on 25/08/1994.

3. PROPOSED DEVELOPMENT

- 3.1. Outline planning permission is sought for the erection of up to 290no. dwellings, the formation of a new means of access onto Minterne Avenue, new footpaths and cycle routes, the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure.
- 3.2. The proposed main vehicular access to the site is from Minterne Avenue where a new roundabout will be formed at the junction of College Road/Riddles Road. The bulk of the build development is located to the east and southern portions of the site adjoining existing built development in Woodside Gardens and Sterling Road as shown on the illustrative masterplan layout. The build development will cover approximately 33% of the site area with the remainder retained as open space with landscaping and trees to mitigate the impact on the open

countryside. The layout and indicative heights are discussed further below in the design section.

4. REPRESENTATIONS

4.1. One round of notification and publicity has been undertaken, during which 403 letters were sent to neighbouring occupiers; site notices were displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

4.2. A total of 191 letters of representation were received in relation to the consultation, 190 of which objected to the application with one neutral response. Concerns were raised in relation to the following which are summarised: -

- Impact on the local highway network, including Riddles Road – Traffic congestion.
- Increase in traffic levels will increase traffic accidents e.g., lack of crossings, traffic bottlenecks – highway safety.
- Air pollution from traffic emissions
- Traffic noise and disturbance
- Insufficient parking provision
- Requirement for safe access into the site
- Pedestrian safety concerns due to absence of pavements on Riddles Road
- Impact on Public Rights of Way.
- Exacerbate public transport provision
- Impact on infrastructure such as education/ healthcare social services with insufficient capacity
- Impact on the existing fields, paddocks, and the loss of countryside
- Loss of wildlife and impact on protected species.
- Loss of prime agricultural land and fruit production
- Over development
- Loss of Countryside Gap (Conflict with Policy 25)
- Development is not allocated in the Local Development Plan
- Loss of trees
- Impact on living conditions of existing houses including views
- Loss of privacy
- Noise and light pollution
- Loss of light and overshadowing existing homes
- Impact on security of existing neighbouring back gardens
- Location of the play area too near existing houses and gardens
- Flood risk
- Impact on water supply and sewage capacity
- Drainage capacity
- Merging of villages will lead to loss of individuality and identity – coalescence
- Loss of greenspace impacting on health and wellbeing

- Lack of involvement in consultation process e.g., did not receive letter
- Need to reduce carbon and climate change e.g., EV charging/renewable energy
- Question whether the affordable housing will be delivered
- Affordable housing attracting the wrong people to the area
- Shops are not within walking distance
- Over population in the area
- Design of houses will not be in keeping with existing houses
- How will the development achieve biodiversity net gain
- Use of 2011 census data in planning document is out-of-date
- Concern over access to allotments from Riddles Road
- No housing should be built until road networks are improved
- Negatively impact future generations - sustainability
- Impact on Heritage Assets – Listed buildings and conservation area
- Impact on safeguarded mineral area - Brickearth Swale area
- Construction traffic impact

4.3. **Borden Parish Council** point out that the proposal is not within Borden but object to the application on the following grounds: -

- Inadequate roads
- Inadequate provision for water supply and disposal of foul water/sewerage
- Proximity to conservation area
- Impact on archaeology
- Inadequate emergency access from Starveacre Lane
- Loss of Grade 1 agricultural land
- Traffic congestion on inadequate local roads
- Impact on local wildlife habitat and protected species

4.4. **Tunstall Parish Council** is currently inquorate, and therefore unable to meet to make a decision regarding this.

5. CONSULTATIONS

SBC Conservation: - No objection. Comment that *“All of the potentially affected designated heritage assets have been correctly identified in the Heritage Statement supporting the application. From my knowledge of the locality, principally in relation to the recent review of the Tunstall Conservation Area, I share the view set out in the Executive Summary to that Statement, that there would be no material impact on any of these assets in terms of any significance that any of them derive from their wider setting.”* Furthermore, *“This is however based on the juxtaposition of the open landscaped areas and parcels of housing being retained/developed as shown in the submitted parameter plans and on the illustrative masterplan. This limits incursion of the built form into the countryside gap (adopted Policy DM25 applies) between Sittingbourne and the settlement groupings making up Borden and also serves to*

prevent the coalescence of the southernmost part of Sittingbourne with the small conservation area settlement of Tunstall.”

SBC Tree Officer – No objection subject to condition

SBC Climate Change Officer – No objection.

SBC Housing Officer – Comments are covered within the affordable housing section below.

SBC Active Travel Officer – No objection. Suggests improvements to coordinate with KCC PRoW comments for improved connectivity via public footpaths to Tunstall.

Mid Kent Environmental Health: - No objection subject to conditions

KCC Infrastructure – Comments are covered in the S106 section below for S106 contribution.

KCC Archaeology – No objection subject to a condition.

KCC PRoW – No objection subject to conditions and a S106 contribution..

KCC Ecology: - No objection subject to conditions. Comment that *“we are satisfied with the conclusions of the ecological surveys and are satisfied no additional surveys are required to determine the planning application. An overview of the ecological mitigation required has been provided and we are satisfied that if the habitat creation is carried out largely as indicated within the illustrative plan and BNG assessment it is likely that the species interest of the site can be retained. We state largely as the badger survey has confirmed that active badger setts have been recorded within the western boundary and there may be a need for additional scrub planting to be carried out along the western boundary to ensure that the setts will not be disturbed. Therefore we advise that the detailed mitigation strategy may result in changes to the layout depicted in the illustrative plan (if planning permission is granted).”*

KCC Flood and Water Management: -No objection subject to conditions

KCC Minerals – No objection

KCC Highways: - No objection subject to conditions. Comment that *“Following Highway comments submitted 13th April, the HA have had an opportunity to discuss the proposals in further detail especially that regarding the partial closure of Riddles Road. The applicant has derived several scheme options to discourage development traffic from using Riddles Road however these have been deemed unfitting given the proportion of development traffic presented on the development distribution diagrams. Two traffic calming schemes have been reviewed, which included the introduction of traffic calming measures and a segregated footway. However, due to the narrow*

nature of Riddles Road and the constrained junction with Borden Lane, a physical closure through the implementation of a Traffic Regulation Order is considered essential to prevent increased traffic movements associated with the development on Riddles Road and an associated S.278 agreement subject to detailed design and technical approval.”

National Highways – No objection subject to conditions

Environment Agency - No objection subject to conditions

Swale Footpaths Group: - No objection

Natural England - No objection subject to HRA assessment on SPA recreational impact.

Southern Water: - No objection subject to a condition and informatives.

Lower Medway Internal Drainage Board – No objection. Comment that *“the development does not impact on the Board’s interests or fall within its remit.”*

Kent Police: - No objection subject to condition on Designing Out Crime.

NHS: - Seek S106 contribution for GP services covered by the S106 section below.

Historic England – No comments to make on the application.

6. **DEVELOPMENT PLAN POLICIES**

6.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 –**

- ST 1** Delivering sustainable development)
- ST 2** Development targets for jobs and homes 2014- 2031
- ST 3** The Swale settlement strategy
- ST 5** 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
- 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, sport 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 25** Separation of settlements and – Important Local Countryside Gaps
- DM 28** Biodiversity and geological conservation
- DM 29** Woodland, trees and hedging)
- DM 31** Agricultural land
- DM 32** Development involving listed buildings
- DM 33** Development affecting a conservation area

6.2. **Supplementary Planning Guidance/Documents**

- Developer contributions (2009)
- Parking Standards (2020)
- Swale Landscape Character and Biodiversity Appraisal (2011)
- Air Quality and Planning – Technical Guidance (Updated May 2021)
- Planting on New Developments

7. ASSESSMENT

7.1. This application is reported to the Committee because at the request of Cllr Clarke. It is recommended that the Committee carefully consider the following points which are the main considerations of this application.

- Principle of Development
- Loss of Agricultural Land
- Landscape and Visual Impact
- Design and Layout
- Heritage Impact
- Archaeology
- Ecology/Biodiversity
- Transport and Highways
- Air Quality
- Flood Risk and Drainage
- Contamination
- Living Conditions
- Sustainability / Energy
- Minerals
- Affordable Housing
- Developer contributions
- Other matters

7.2. **Principle**

7.2.1. 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.

7.2.2. 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.

7.2.3. 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.”*

7.2.4. Assessing the development against the development plan and specifically policies ST1, ST2 and ST3 of the Local Plan, this identifies Sittingbourne as a 1st Tier Settlement and the primary focus for development in the borough. The Council can a 4.83-year supply of housing and as such cannot demonstrate a 5-year supply.

7.2.5. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the ‘Tilted Balance’ in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is clear from the status of Sittingbourne as a 1st tier settlement, as identified in Policy ST 3 of the Local Plan, that it is the most appropriate settlement for large scale development.

7.2.6. The proposals map for Sittingbourne identifies the defined built-up area boundaries of the town. The site lies adjacent to but wholly outside of the settlement boundary. The proposal is therefore in conflict with policies ST1, ST2 and St3 of the Local Plan 2017.

7.3. Loss of Agricultural Land

7.3.1 Policy DM31 of the Local 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. The site comprises 42.6% Grade 1, 25.5% Grade 2, 21.1% Grade 3a and 9.3% Grade 3b agricultural land.

7.3.2 The land is an apple and pear orchard. Most of the land in Swale is classified as BMV land, which amounts to approximately 16,000 hectares including land surrounding Sittingbourne. The site taken as a whole is BMV land would translate to approximately 0.17% of this total. The proposal would encompass 37% of the site for housing with 63% of the land retained for green infrastructure. While the loss of BMV agricultural land counts against the scheme, it would represent only a very small percentage of overall BMV land in Swale. The proposal would have a low to moderate adverse effect on agricultural land and conflict with Policy DM 31. The harm identified is attributed limited weight in the overall planning balance.

7.4. Landscape and Visual Impact

The NPPF requires decisions to ensure that development is 'sympathetic to... landscape setting'. The application site is located within a countryside gap, which seeks to avoid the coalescence of Sittingbourne with the neighbouring villages at Borden and Tunstall. While the site is located within the countryside gap, the landscape itself is not subject to a local plan designation. The Local Plan 2017 sets out that the Council will seek to prevent encroachment and piecemeal erosion by built development or changes to the rural open character. Policy CP 7 requires that in the first instance proposals should seek to minimise and mitigate adverse impacts and where these impacts cannot be mitigated any impact should be weighed against the social and/ or economic benefits of the scheme.

A Landscape and Visual Impact Assessment has been submitted. The methodology used in the assessment is based upon the guidance set out in the 'Guidelines for Landscape and Visual Impact Assessment' (GLVIA), which is the generally recognised methodology.

The nature and scale of the proposed development is such that there would inevitably be a significant change to the landscape character. The housing will be located to the Sittingbourne side of the site and as such is located to ensure that any impact is reduced, in addition to green infrastructure provision and the retention of existing planting where possible. However, notwithstanding this encroachment into the country side will occur. The scheme has also been designed to ensure that planting used where possible to mitigate the development over the lifetime of the development. This approach is appropriate, albeit that both in the short and medium term the landscaping will soften the effects of the proposal but will not significantly reduce the visual impact of the development until year 15.

While the layout and green infrastructure would help to mitigate the overall adverse effect of the loss of open land, the adverse harm identified would result in conflict with policies DM 24 and DM 25

7.5. Heritage Impact

- 7.5.1. The National Planning Policy Framework (NPPF) states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. 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 that may arise and this is endorsed by the Local Plan.
- 7.5.2. The proposed housing development has the capacity to impact on the setting of Tunstall Conservation Area (adjoining the SE tip of the application site), Hearts Delight (Borden) and Harman's Corner (Borden) conservation areas to the west and southwest, along with several listed buildings in the wider locality, notably including the grade I listed Tunstall Parish Church of St. John the Baptist located on Tunstall Road.
- 7.5.3. All the potentially affected designated heritage assets have been correctly identified in the Heritage Statement supporting the application. The Heritage Statement has been reviewed by the Council's Conservation and Design Manager who concurs with the view set out in the statement that there would be no unacceptable impact on any of these assets in terms of any significance that any of them derive from their wider setting because of the distances involved with the location of the assets from the proposed built boundary.

In considering the impact of this proposal on designated heritage assets, Officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990. The setting of the listed buildings in Tunstall nearby (Grade 1 Listed Church of St. John and Grade 2 Listed Cedar House) would be preserved. The submitted scheme would also preserve the character and appearance of the Tunstall, Hearts Delight (Borden) and Harman's Corner (Borden) Conservation Areas.

7.6. Archaeology

- 7.6.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.6.2. Policy DM 34 of the Local Plan sets out that for planning applications on sites where there is or has the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.6.3. KCC Archaeology has considered the supporting Archaeological Desk-Based Assessment which provides a reasonable baseline account of the archaeology of the area though it hasn't noted the cropmarks of the barrows at Minterne School nor the potential significance of the high land to the west of the site in particular. It is however,

acknowledged that the development proposals involve a combination of housing focused on the eastern side of the site with open space on the western side.

- 7.6.4. It is noted that the submission does not include any supporting archaeological survey or evaluation to inform the planning decision. While this would be helpful to appreciate the archaeological potential of the site, meaningful investigation would not be possible given the present orchard planting on the site. KCC therefore agree that such an intrusive survey and evaluation can be secured through a planning condition before the reserved matters stage.
- 7.6.5. Given the above KCC do not raise an objection to the proposed development. In view of the above, officers consider that the proposal is capable of compliance with Policy DM 34, together with Section 16 of the NPPF, subject to the recommended condition.

7.7. Design and Layout

- 7.7.1. The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement under Policies CP 4 and DM14.
- 7.7.2. 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 which has been considered above. Policy DM29 provides protection for existing woodlands, trees, and hedges. The Council's Tree Officer has considered the impact on existing trees and hedges and raises no objection subject to a tree protection methodology.
- 7.7.3. NPPF paragraph 130 (a) to (d) attaches great importance to the design of built development. It advises 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; optimise the potential to accommodate and sustain an appropriate mix of development (including green and other public space); create places that are safe, inclusive and accessible which promotes health and well-being with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.7.4. 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.
- 7.7.5. The Illustrative Masterplan and Land Use Access Framework (LUAF) plan shows a landscape-led design to preserve much of the site area for green infrastructure including border planting across the site. The main access is proposed on Minterne Avenue where a new roundabout is formed with a curved spinal road to serve the

building plots, with a series of pedestrian and cycle routes across the green open spaces forming the majority of the layout to the west and south and linked to the existing PRow network surrounding the site. In particular this would link with footpaths ZR136, 140, 143 and ZR154.

- 7.7.6. The plans show two distinct clusters of housing situated adjacent to the built-up edge of Sittingbourne in the north to the rear of Woodside Gardens and to the south adjacent to properties on Sterling Road in the east. The houses immediately to the rear Woodside Gardens are shown to be comprised of bungalows with a ridge height of 5.7m above ground level (AGL). Houses to the east and west of the internal spinal road are up to 2.5-storeys in height (7.9m AGL) with the remaining houses up to 2-storeys in height (6.3m AGL).
- 7.7.7. The density is approximately 35 dwellings per hectare (dph) which is consistent with prevailing densities in the area. The built area comprises 8.87ha of land with the green infrastructure comprising 17.33ha in area (63%) which amounts to 26.2ha. The remaining 1.3ha which make up the total site area of 27.5ha consists of roadways and pedestrian/cycle routes across the site. The built area amounts to 37% of the site, including roads and pedestrian cycle routes.
- 7.7.8. The indicative housing mix is shown below which broadly complies with Policy CP3 and the latest Strategic Housing Market Assessment (SHMA) (June 2020),

House Size	Market Housing*		Affordable Housing*	
1 bed	14	6.9%	8	8.7%
2 beds	70	34.6%	33	38.2%
3 beds	83	41.0%	23	26.3%
4 beds	36	17.5%	23	26.7%
Total	203 no.	100%	87 no.	100%

- 7.7.9. The proposal would provide significant areas of open space particularly to the west, and south, to provide landscaping and public access within the site and which would link with public footpaths around the site for improved access contributing to the health and wellbeing of existing and future residents. The proposal includes a neighbourhood play area (NEAP) within the open space positioned centrally between the two clusters of housing. The overall green infrastructure across the site is shown in the table below which is considered compliant with Policy DM 17 of the Local Plan. Sustainable Urban Drainage (SUDs) ponds and wildlife areas would also add to the variety of the landscaping and enhance biodiversity.

Open Space / Green Infrastructure Typology	Policy DM 17 Requirement for 290 dwellings (ha)	Proposed (ha)
Parks and gardens	0.80	1.87
Amenity Green Space	0.33	2.82

Natural and Semi Natural Green Space	3.16	12.29
Provision for children and young people	0.06	0.35
Allotments	0.145	0*
Total	4.56	17.33

*The boundary is adjacent to existing allotments on Riddles Road, and it is considered this provides suitable local provision.

7.7.10. The proposal has good potential to deliver safe and attractive places. A condition is recommended to ensure that the Reserved Matters applications are accompanied by sufficient details for crime prevention and safety, in accordance with Policy CP4 of the Local Plan.

7.7.11. In view of the above it is considered that the proposal meets the requirements of Policies ST5, CP4, and DM14, and the NPPF, in so far as they have regard to matters of layout, design and character

7.8. Ecology/Biodiversity

7.8.1. The NPPF aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".

7.8.2. In terms of the Local Plan, policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

7.8.3. The application is accompanied by an Ecological Impact Assessment, including bat, badger, and bird surveys, a Biodiversity Net Gain (BNG) Matrix and a Shadow Habitats Regulations Assessment (HRA). These have been reviewed by the KCC Ecological Advice Service who are satisfied that the development would not be harmful to wildlife and biodiversity, subject to conditions to secure an Ecological Mitigation Strategy, Habitat Establishment and Enhancement Plan, Management and Monitoring Plan, and a Plan demonstrating ecological enhancement features to include *integrated* bird, bat and/or bee bricks into all buildings, hedgehog highway in all close board fencing and bat and bird boxes, log piles and insect hotels in to the open space.

7.8.4. KCC also acknowledge that the BNG assessment provided anticipates a BNG of 107% for habitat and 28% for hedgerows. However, it is reliant on the habitats being established, enhanced and actively managed and monitored in the long term. KCC recommend that if planning permission is granted there will be a need for an updated BNG metric assessment to be submitted with any reserved matters application to demonstrate that the proposed BNG can be achieved at the detailed design stage.

7.8.5. Natural England and KCC Ecology also note the site is located within a 6km buffer of the designated European sites of the Swale Estuary and Marshes 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. In accordance with established policy, mitigation for the development in the forms of a tariff payment (SAMMS) to manage impacts upon the SPA and Ramsar sites is required and has been agreed. In accordance with the Habitats Regulations, an Appropriate Assessment has been undertaken and attached as Appendix 2.

7.8.6. In view of the above, officers consider that there are existing conditional safeguards to protect biodiversity and the application should be supported on ecological grounds subject to the discharge of relevant safeguarding conditions referred above. Consequently, the proposal is Policy DM 28 compliant.

7.9. Transport and Highways

7.9.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver an integrated approach. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development on locations which are sustainable.”

7.9.2. The NPPF (para. 111) also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

7.9.3. Local Plan Policy DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM 7 of the Local Plan provides guidance on parking standards alongside the Swale Borough Council Parking Standards SPD.

7.9.4. The application site is in a sustainable location with access to local schools on Minterne Avenue (Minterne Junior School and The Oaks Infant School) within approximately 400m (5 minutes' walk) with Westlands School (0.6km to the north) and Fulston Manor School (1.15km to the northeast). Sittingbourne Town Centre and the train station are both within 1.14km and 1.5km respectively to the northeast. Retail food stores (Co-op, Lidl and Sainsbury's are approximately 1.4 to 2.3km distance.

7.9.5. The applicant has submitted a Transport Assessment and a Framework Residential Travel Plan in support of the application. The applicant also engaged with KCC Highways prior to formal submission in 2022.

- 7.9.6. KCC Highways considered the submissions and while the proposed access arrangement with a mini roundabout on Minterne Avenue is accepted they raised concern that a large proportion of traffic (approximately 63%) would be diverted west via Riddles Road. This is a narrow country lane unsuitable for two-way flow which would compromise safety on the local traffic distribution network, including the cumulative impact of the Wises Lane development to the west in Borden where contributions towards enhanced pedestrian and cycle routes are secured by the existing S106 agreement for that development.
- 7.9.7. The applicant has actively engaged with KCC Highways to resolve the issue. Amended plans and additional supporting information has been presented for the partial closure of Riddles Road to prevent traffic exiting towards Borden Lane and vice versa to be secured via a S278 agreement. A planning condition is necessary and recommended for the applicant to secure the associated Road Traffic Order to implement the partial closure of Riddles Road. Access to the allotments and existing fields on Riddles Road are not compromised.
- 7.9.8. Sufficient capacity via alternative routes in the local network has been demonstrated and KCC raise no objection to the proposal, subject to conditions and S106 obligations covered in the paragraph below. A secondary access for emergency vehicles from Starvacre Lane is also considered satisfactory.
- 7.9.9. National Highways have also considered the proposal and have no objection to the application subject to conditions on a Construction Management Plan and a Travel Plan, which is also requested by KCC Highways. The highway authority consider that the development will generate additional traffic movement in the local network and further afield at Key Street roundabout and contributions are requested to ameliorate traffic impacts which is considered reasonable and necessary as set out in the S106 table below.

Public Rights of Way (PROW)

- 7.9.10. KCC PRow officer has initial concerns on the impact of the proposal on surrounding public rights of way, particularly ZR51, ZR136 and ZR154. Other footpaths affected are ZR140, 141, 142 and 147. Following further clarification and an amended plan to locate the proximity of the footpaths to the proposal the PRow officer considers that the proposal can be accepted subject to conditions relating to the provision of a PRow management scheme to include further details of surface treatment, width, signage at the reserved matters stage. Details of a strategy regarding off-site connectivity for greater permeability and off-road connectivity is also required. A site survey of the PRow has been undertaken by KCC and a S106 contribution of £105,435 is requested to enable a package of improvements affected by the proposal. At the time of writing the report the applicant has not confirmed agreement to the requested sum.

- 7.9.11. The connectivity comments are also replicated by the SBC Active Travel Coordinator seeking the same outcome.
- 7.9.12. The applicant acknowledges that car and cycle parking provision should comply with SBC Parking Standards SPD. Additionally, visitor spaces and EV charging points should also comply with the SPD. They are to be determined at the reserved matters stage within the detailed layout to demonstrate compliance with the SPD and Policy DM 7.
- 7.9.13. In view of the above, the proposal is considered compliant with Policies DM 6 and capable of compliance with Policy DM7.

7.10. Air Quality

- 7.10.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.10.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.10.3. The Planning Practice Guidance on Air Quality states that
- “whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”*
- 7.10.4. The Local Plan at Policy DM 6 sets out that development proposals will 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.
- 7.10.5. The key impacts would be from vehicle and domestic boiler emissions. The applicant’s Air Quality submission propose measures to mitigate air quality impacts to include gas boilers that meet minimum emission standards, electric vehicle charging points with additional measures within the Framework Travel Plan to encourage sustainable travel modes (vouchers to purchase bikes and discounted bus tickets), as well as improvements to pedestrian routes to encourage walking.

The measures are considered acceptable to satisfy Mid Kent Environmental Health. The emissions mitigation assessment has also been completed in line with guidance and the damage costs amounting to £82,249 is to be secured via the S106 agreement.

- 7.10.6. The proposal is considered acceptable to accord with Policies ST5 and DM6 of the Local Plan and NPPF.

7.11. Flood Risk and Drainage

- 7.11.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Policy DM21 of the Local Plan sets out a raft of criteria aimed at preventing or reducing flood risk. Policy CP7 requires new development to be supported by the timely delivery of green infrastructure, including SuDS.

- 7.11.2. The applicant has submitted a Flood Risk Assessment. The site lies entirely within Flood Zone 1, and all dwellings would be in this zone. The Environment Agency have no objection to the proposal subject to conditions on piling and foul drainage disposal. KCC Flood and Water Management have raised no objection to the scheme, subject to the imposition of conditions on SuDS drainage. Southern Water require further details of sewerage disposal. This is conditioned for further approval. The Lower Medway Internal Drainage Board has not raised any concerns. As such it is considered that the proposed development, with appropriate conditions, would have a suitable approach to flood water, surface water and foul water drainage /sewerage disposal.

- 7.11.3. In view of the above, the proposal is considered to comply with Policies CP7 and DM 21 subject to details reserved by conditions for approval.

7.12. Contamination

The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.

- 7.12.1. The Mid Kent Environmental Health have considered the scheme and confirm that there are no records of contaminated land at this location. However, due to previous agricultural use and the scale of the development proposed a contamination condition is recommended to safeguard public health. They raise no objection subject to a contamination condition as set out at the end of the report.

7.13. Living Conditions

Existing residents

- 7.13.1. The Local Plan Policy DM 14 requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

- 7.13.2. The nearest residential properties lie to the north in Woodside gardens and to the east in Sterling Road. The layout of the proposed dwellings in a back-to-back arrangement. The proposed bungalows adjacent to Woodside Gardens would not give rise to amenity impacts on the living conditions of existing residents. The proposed two storey houses to the rear of properties in Sterling Road would exceed the 21m distance rule for facing windows above ground level to satisfactorily address issues of loss of privacy, light and outlook, notwithstanding the proposed tree planting along this edge.
- 7.13.3. In terms of the living conditions of future residents the illustrative outline layout suggests there is sufficient spacing between back-to-back housing to ensure adequate amenities in respect of privacy, daylight/sunlight and outlook. Details of dwelling sizes and private amenity space will be subject to assessment at the Reserved Matters stage. The proposal is therefore considered to comply with Policy DM 14.

7.14. Sustainable / Energy

- 7.14.1. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.14.2. The applicant has provided a Sustainability and Energy Strategy, which has been considered by the Council's Climate Change officer with the following salient points to note: -
- Build to the Future Homes Standard and achieve a saving of 31% emissions as required by Part L of the Building Regs 2022
 - Water use will meet DM19 requirement of 110 litres per person per day. A SUDs system will minimize run off.
 - Solar gain will be optimised with green buffers providing shading and cooling and carbon sequestration
 - The use of solar PV will be considered and the houses will have an electricity supply that can support the use of air source heat pumps.
 - Transport Strategy meets EV charging requirements.
- 7.14.3. The committee is asked to note that Future Homes Standard is expected to raise the bar to 'net zero ready' on carbon emissions by 2025. The interim Building Regs Part L came into force in 2022 before more significant changes in 2025 that will require a 75% reduction on CO2 emissions.
- 7.14.4. In view of the above officers consider it is reasonable and necessary to condition further details of the energy strategy at the reserved matters stage and the measures would comply with DM19 of the Local Plan, and the NPPF with respect to sustainability and climate change.

7.15. Minerals

7.15.1 Kent County Council Minerals and Waste were consulted on the application in December 2022, along with other statutory consultees, and initially objected requesting borehole sample testing for consideration. The sampling evidence provided to demonstrate that minerals present are not viable for extraction. KCC have confirmed that they no longer object and that the proposal would not conflict with Policy DM 7: Safeguarding Minerals Resources of the Kent Minerals and Waste Local Plan 2013-30.

7.16. Affordable Housing

7.16.1 The Government seeks to significantly boost the supply of homes as set out in the NPPF it is important that a sufficient amount and variety of land come forward where needed and that the needs of groups with specific housing requirements are addressed. The Council has undertaken a local housing needs assessment for the Borough, which identifies an acute need for affordable housing.

7.16.2 The approach to the delivery of affordable housing is set out in the Local Plan 2017 and is consistent with that set out in the NPPF. It seeks to secure affordable housing provision on major sites in order to provide a wide choice of quality homes including affordable housing. The quantum of affordable housing required for new development is set out in policy DM 8 of the Local Plan 2017. This sets out the affordable housing percentages that will be sought on proposals in different areas across the district. It is evident from the policy that viability is most affected in the housing market areas of Sheppey, Sittingbourne and Iwade, in these areas 10% affordable housing is required with 40% being required in rural areas.

7.16.3 The site constitutes a greenfield urban extension where the Local Plan is clear that higher development values can be expected. Considering this the characteristics of the site are not consistent with a site that officers would expect to see a 10% affordable housing provision for example a brownfield site in Sittingbourne town centre. The Local Plan is clear that in instances such as this it will seek a proportion of affordable housing closer to the assessed level of need, which given the sites location outside of the built-up area and within a rural parish is 40%. Furthermore, para 7.3.7 of the supporting text to DM8 provides that the percentages in DM8 are the “starting point for decision making in development proposals” and para 7.3.8 provides that *proposed characteristics of the development or its location...clearly demonstrate a positive change in the overall viability of development, the Council will seek a proportion of affordable housing closer to the assessed level of need, or at higher levels...*. An example given is “*the case of a greenfield urban extension*”.

7.16.4 At present the applicant has offered 30% affordable housing, however, this has not been subject to a viability assessment therefore the level of affordable housing that can be achieved across the site has not been robustly assessed by the applicant nor has it been independently assessed within the context of the site. Policy DM 8 is clear that a lower provision of affordable housing will only be allowed where a scheme has been subject to viability testing.

7.16.5 Taking this into account insufficient information has been provided to demonstrate that a policy compliant level of affordable housing cannot be provided. The proposal therefore fails to demonstrate that a variety of housing that meets local needs cannot be delivered on the site and as such conflicts with policy DM 8 of the Local Plan 2017 and the NPPF.

7.17. Developer Contributions

7.17.1 Policy CP6 of the Local Plan seeks to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met, including digital infrastructure to enable fast internet accessibility.

7.17.2 The following contributions and obligations have been identified as reasonable and necessary to mitigate the impacts of the development on the surrounding area / infrastructure. The table below sets out the detail of the contributions: -

Requirement	Value	Towards
Air Quality damage Costs	£82,249.00	Mitigation
SAMMS payment	£314.05 per dwelling	North Kent Strategic Access Management and Monitoring Strategy
Primary Education	£6,800.00 per applicable house	Towards a new Primary school in the Wises Lane development (17/505711/HYBRID) and/or increased capacity in the Sittingbourne South planning group
Secondary Education	£5,176.00 per applicable house	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	£2,635.73 per house	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups.
Community Learning	£16.42 per dwelling	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
Youth Service	£65.50 per dwelling	Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the

		vicinity of the development.
Library Services	£55.45 per dwelling	Contributions requested towards additional services, resources, and stock at Sittingbourne Library or any other serving the development.
Social Care	£146.88 per dwelling	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
Waste	£183.67 per dwelling	Towards additional capacity at the HWRC & WTS in Faversham
Wheelie Bins	£109.40 per dwelling;	To ensure the development is provided with facilities to meet waste collection requirements
NHS (Integrated Care Board)	£250,560.00	Towards provision of GP Services in the locality
KCC Highways	£174,432.58	Towards Key Street junction, A2/Swanstree avenue junction and signalised reconfiguration at Dover Street/Milton Road Junction 7
Affordable Housing	Provision of 30% affordable houses	In accordance with Housing Officer comments
KCC PROW	£105,435	To improve the surface and environment of public rights of way in the vicinity of the development site, including for improvements to Public Footpath ZR136 offsite, ZR145 offsite, ZR154 which runs along the boundary of the development site including ZR51 and the wider network
Monitoring fee	£50,108.92	Administrative SBC and KCC costs

7.17.3 The S106 agreement will also include provision for the management and maintenance of the open space/play space. Except for the updated KCC PROW request for £105,435 (previously agreed as an estimate at £90,000), all other contributions have been agreed by the applicant.

Other Matters

7.17.4 Members are asked to note that loss of a view is not a material planning consideration. Further consideration at the Reserved Matters stage relating to layout, appearance and scale will enable detailed consideration of living conditions of existing residents. It is considered that the outline layout satisfactorily address living conditions of existing neighbours impacted by the proposal.

7.18. Conclusion

- 7.18.1. The erection of 290 dwellings, including 30% affordable housing, would contribute towards the lack of 5-year housing land supply at Swale Borough Council despite the fact that the site is not allocated for housing development. As the Council cannot currently demonstrate a 5 YHLS, the presumption in favour of sustainable development applies and the “tilted balance” is engaged. The site is in the countryside and as such conflicts with the spatial strategy set out in the Local Plan. However, given the Council’s lack of a 5 YHLS, the defined boundary around Sittingbourne is not afforded full weight given the need for housing in general. The contribution towards market housing which is needed and is afforded significant weight.
- 7.18.2. The NPPF and the Local Plan seek to boost the delivery of housing including that of affordable housing, which in this location is 40%. The applicant proposes 30% affordable housing, which has not been justified via an independent assessment. Given the acute need for affordable housing within the Borough the shortfall in affordable housing is afforded significant weight. This coupled with loss of best and most versatile agricultural land, the identified landscape harm, which are given moderate weight all weigh against the scheme.
- 7.18.3. Taking the above into account the proposal fails to accord with the policies ST1, ST2, ST3, DM8, DM24, DM25, DM31, and CP6 of the Local Plan 2017 and the NPPF. This conflict overall is given significant weight.
- 7.18.4. Given the conflict with the Local Plan 2017 and the NPPF, the proposal is not considered to be sustainable development. This is because the benefits associated with the delivery of market housing are considerably and demonstrably outweighed by the harm arising from the social impacts of the under delivery of affordable housing coupled with the environmental harm.
- 7.18.5. It is recommended that planning permission for the proposal be refused.

REASONS FOR REFUSAL

1. The application is located outside of the settlement boundary for Sittingbourne and would result in the loss of best and most versatile agricultural land on a site that is not allocated site for housing development. Furthermore, the development would result in the encroachment of housing into the countryside and would harm the landscape character of the area. This harm taken together with the under delivery of affordable housing (as amplified in reason 2) would significantly and demonstrably outweigh the benefits of the development contrary to policies ST1, ST2, ST3, ST4, ST5, CP4, CP7, DM24, DM29 and DM31 of the Local Plan, together with the NPPF paragraphs 8, 11, 60, 81, 126, 130, 131, and 174.
2. Insufficient information has been provided to demonstrate that a policy compliant level of affordable housing cannot be provided. The proposal therefore fails to demonstrate that affordable housing that meets local needs cannot be delivered on

the site and as such the proposal conflicts with Policies ST1, ST2, ST3 and DM 8 of the Local Plan 2017 and the NPPF paragraphs 8, 11, 60, 65 and 81.

3. No legal agreement has been finalised to secure mitigation against community and ecological harm, and as such the proposal is unacceptable based on the unmitigated impacts that would be likely to result, contrary to the provisions of Policy CP6 of the Bearing Fruits 2031: The Swale Borough Local Plan (2017) and the NPPF paragraph 34, 55 and 57.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application. The applicant amended the proposal in response to officer requests but have not complied with the request for a viability appraisal in respect of the 30% affordable housing provision..

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

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

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

