

2.3 REFERENCE NO - 23/502056/OUT		
PROPOSAL Outline application for erection of 5no. detached and 2no. semi-detached residential dwellings (access and layout sought)		
SITE LOCATION Land Adjacent 113 Chaffes Lane Upchurch Sittingbourne ME9 7BB		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to completion of a S106 Agreement to secure off-site biodiversity measures, securing a SAMMS contribution and subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary.		
APPLICATION TYPE Minor residential development		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to committee by Cllr S Palmer Upchurch Parish Council raise objection to the application		
CASE OFFICER Rebecca Corrigan		
WARD Hartlip, Newington and Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT C&M Capital Ltd AGENT MSD Architects
DATE REGISTERED 02/05/23	TARGET DATE 16/01/24	
BACKGROUND PAPERS AND INFORMATION: 23/502056/OUT Outline application for erection of 5no. detached and 2no. semi-detached residential dwellings (access and layout sought) (Amended proposal) Land Adjacent 113 Chaffes Lane Upchurch Sittingbourne ME9 7BB (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site is comprised of an undeveloped parcel of land on the southern side of Chaffes Lane, roughly rectangular in shape. It measures 85m in length east to west with an average width of 42m and a total site area of 0.36ha. Access to the site is via Chaffes Lane which is a narrow country lane that runs along the northern boundary. The site is located on the southern edge of the village of Upchurch which is a Tier 5 settlement under the local plan settlement strategy (ST3). It falls just outside the settlement boundary of the village and is therefore classed as being within the countryside.
- 1.2 The site is bordered by open countryside to the south. There are residential dwellings to the north situated on the opposite side of Chaffes Lane and to the east of the site along the southern side of the road. All of the neighbouring dwellings have

large front gardens with the majority benefiting from off street parking. The site is bordered by Oak Lane to the west.

2. PLANNING HISTORY

- 2.1 There is no relevant planning history for the site. However the following decisions in the surrounding area are of some relevance regarding the principle of residential development in Upchurch.
- 2.2 19/501773/OUT – Erection of 41 dwellings at Jubilee Fields, Upchurch – Refused and dismissed at appeal.
- 2.3 20/501448/OUT – Erection of 7 dwellings on land at Oak Lane – Refused and dismissed at appeal.
- 2.4 20/505298/FULL - Erection of a dwelling on land rear of 91 and 93 Chaffes Lane – Refused and dismissed at appeal.
- 2.5 19/505938/OUT – Erection of two dwellings on land at Gore Farm, Chaffes Lane – Refused and allowed on appeal.

3. PROPOSED DEVELOPMENT

- 3.1 Outline permission is sought for the erection of 5no. detached and 2no. semi-detached residential dwellings. Matters relating to access and layout are also submitted for approval as part of this outline application. Details relating to appearance, scale and landscaping would be subject to reserved matters.
- 3.2 The application has been revised through the course of the application process. The revisions include changes to the layout and reduction of the number of dwellings from eight to seven.

4. REPRESENTATIONS

- 4.1 Neighbouring occupiers adjoining the site were notified in writing, a site notice was displayed at the application site. Full details of representations are available online.
- 4.2 Three rounds of consultation were undertaken. As a result of the public consultation, a total of 33 letters of representation were received. Of these, 25 were letters of objection and these were received from 12 separate households. A breakdown of each round of consultation is provided below:
- 4.3 15 letters of objection were received from the first round of consultation which took place on 4th May 2023
 - Outside of settlement – in conflict with local plan
 - Unsustainable location – position & accessibility to services & facilities
 - Impact upon existing residents including overlooking issues
 - Visual harm

- The appeal decision at Gore Farm does not set a precedent
- Chaffes Lane is a narrow road and development would give rise to highway safety concerns
- Parking provision
- Layout gives rise to anti-social behavior
- Drainage and sewage issues arising from being on the edge of the village
- Site clearance has taken place resulting in loss of trees and vegetation harmful to the visual appearance of the countryside
- Loss of habitat and wildlife including birds
- Gas main concerns
- Precedent for further development
- Potential for further housing at the rear
- Reduction of green space in a semi-rural area
- Low water pressure and sewerage problems
- No evidence for the need for further housing in Upchurch
- Increased light pollution
- Address is misleading. No connection to 113 Chaffes Lane
- Not consistent with the scale and character of the area
- Concerns as to how the soft landscaping along the site frontage would be maintained
- The primary school is oversubscribed and Upchurch doctors is not taking new patients

4.4 In addition, 8 representations were received in support of the application as follows:

- Much needed development
- Support growth of the local economy
- Logical addition for housing
- Edge of village resulting in limited traffic entering the village
- Sympathetically designed
- Road widening as proposed would be welcome

4.5 Following the submission of amended plans a second round of consultation was carried out on 10th August 2023. In addition to the above, a further 6 letters of objection were received, and the following additional comments were raised:

- Reduction in the number of units provides less cheaper and affordable housing
- Relocation of the footpath results in the loss of biodiversity
- The removal of the access path and relocation of visitors parking spaces increases highway safety concerns
- Issues concerning the road and field gate

4.6 Following receipt of additional Ecological Information and amended plans, a final round of consultation was carried out, dated 16th October 2023, and this resulted in a further 4 objections as follows:

- Inaccuracies within the report, namely the date the clearance occurred.
- Strong possibility that reptiles were harmed during land clearance

- Concerns relating to the base line for loss of biodiversity value

4.7 **Upchurch Parish Council** : Object to the application on the following grounds: -

- The site is not in a sustainable position within the village and so there will be a heavy reliance on private transport.
- This is a rural area where more parking is required
- The access road could be removed if all car parking was provided to the north of the development.
- There is no demonstrable need identified for this housing within the Parish.
- A Section 278 agreement, to be entered into by the developer, is required to ease the movement of high volumes and commercial traffic currently using this section of Chaffes Lane.

5. CONSULTATIONS

- 5.1 **KCC Ecology**: No objection in principle, subject to planning conditions which require further information relating to, Precautionary Mitigation Measures, Protection of Retained Habitats, Lighting and Biodiversity, Biodiversity Net Gain, Biodiversity and Enhancements
- 5.2 **KCC Highways**: No objection, subject to conditions which are set out in the relevant 'conditions' section below and subject to approval would be attached to the consent.
- 5.3 **KCC Flood and Water Management**: The application is for minor development and for this reason falls outside of KCC's remit as statutory consultee
- 5.4 **Environmental Health**: No objection in principle, subject to conditions as set out within the relevant 'conditions' section below.
- 5.5 **Natural England**: Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. The Local Authority is advised to complete an Appropriate Assessment to ensure suitable mitigation can be achieved.

6. DEVELOPMENT PLAN POLICES

6.1 **Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017**

- ST1** Delivering sustainable development in Swale
- ST3** The Swale settlement strategy
- ST5** The Sittingbourne Area Strategy
- CP2** Promoting sustainable transport
- CP3** Delivering a wide choice of high quality homes
- CP4** Requiring good design
- DM6** Managing transport demand and impact
- DM7** Vehicle parking
- DM14** General development criteria
- DM19** Sustainable design and construction
- DM20** Renewable and low carbon energy
- DM28** Biodiversity and geological conservation

Supplementary Planning Documents

6.2 The Swale Landscape Character and Biodiversity Appraisal SPD 2011. The site falls within character area 32: Upchurch and Lower Halstow which falls within the Fruit Belt Landscape Types. The landscape condition is described as 'moderate' with a 'moderate' sensitivity. The guidelines for this area are to conserve and create.

6.3 Swale Parking Standards SPD 2020

7. **ASSESSMENT**

This application is reported to the Committee because a Parish Council has objected to the proposal on relevant planning grounds. In addition, Cllr Palmer has referred the application to the Committee. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
- Location of the Development
- Character and Appearance
- Transport and Highways
- Ecology
- Living conditions
- Sustainability

Principle

7.1 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 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favor of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.3 The site is located within the countryside and outside of the built area boundary of Upchurch. The Council's spatial strategy is set out in Policy ST3 of the Local Plan which identifies a hierarchy of 5 types of settlement. Upchurch is one of a number of settlements identified in Tier 5 that display some sustainable characteristics and services to meet some day to day needs. The policy restricts development in these villages to minor infill and redevelopment within the built-up area boundaries only.

7.4 Policy ST 3, para 4.3.23, of the Local Plan states:

All other settlements and sporadic buildings are considered to sit within the open countryside where the primary objective will be to protect it from isolated and/or large scales of development. Some minor development may though be essential for the social, economic or environmental health of a community, but are not necessary to meet the Local Plan housing target. In doing so, they will be required to protect

and, where required, enhance, the intrinsic value, character, beauty, wildlife value, tranquility and undeveloped nature of the countryside and its communities and buildings.

- 7.5 Policy ST 5 provides further detail of the strategy for the Sittingbourne area, including that housing should be provided within urban and village confines or in accordance with allocations in the Local Plan. The site is located beyond the settlement confines of Upchurch and is not allocated for development, and the proposal would therefore conflict with Policies ST3 and ST 5 of the Local Plan.
- 7.6 However, the Council cannot currently demonstrate a five-year supply of housing land – the latest position being a 4.83 year supply of land. In addition, the current local plan is now more than 5 years old and, in relation to policies for the supply of housing, is “out-of-date”.
- 7.7 For these reasons, paragraph 11 of the NPPF applies. Paragraph 11 d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Location of development

- 7.8 The site is situated immediately adjacent to the edge of Upchurch. The village contains facilities including a primary school, village shop, public house, church, playing fields and allotments, and these can be accessed by existing footways from the site within a maximum distance of approximately 1km. Access to more comprehensive shopping facilities, employment and secondary schools would require journeys to Rainham and Sittingbourne. A bus service operates through the village but is limited. As such, it is likely that future occupants would rely on private car journeys to some degree for access to wider services and facilities.
- 7.9 The availability of services and facilities within Upchurch to accommodate new residential development has been subject to consideration in a number of appeal decisions relating to other sites within the village. An appeal for 41 dwellings at Jubilee Fields (Council ref 19/501773/OUT) was dismissed on the grounds that it would not represent sustainable development, taking into account the limited range of services in Upchurch. An appeal in Oak Lane (Council ref 20/501448/OUT) for 7 dwellings was also dismissed, but in this case the Inspector considered there was appropriate access to facilities within the village and some sustainable travel options. Although the Inspector recognised that access to wider services and facilities would likely generate a need for some journeys by private car, such harm was considered to be limited and was not identified by the Inspector as a reason to dismiss the appeal. The Inspector distinguished between this scheme and Jubilee Fields, noting the latter was a significantly larger development with different transport implications.
- 7.10 Two further appeal decisions relate to sites in Chaffes Lane (Council ref 20/505298/FULL and 19/505938/OUT), the former was for a single dwelling and

was dismissed, and the latter was for 2 dwellings and was allowed. The Inspectors reached different conclusions on the suitability of Upchurch to accommodate sustainable residential development. As such it is difficult to draw any clear or helpful parallels from these.

- 7.11 Taking the above referenced appeal decisions into account (which can be viewed in full on Public Access using the application references), a number of similarities can be drawn between the application site and the Oak Lane site, which was for the same number of dwellings as is proposed under this application. Whilst the application site is located further away from the facilities in Upchurch than was the case with the Oak Lane site, these would still be within reasonable walking distance via footways and accessible to residents of the development. On this basis, whilst there would be some conflict with Policy CP2 of the Local Plan and the NPPF due to the likelihood that a degree of reliance on the private car would remain, such harm would be limited by the potential for walking, cycling and use of bus services, and the distance to services and facilities available in the village.

Character and Appearance

- 7.12 Policies ST3, CP3, CP4 and DM14 of the Local Plan seek to ensure that development is steered to the right locations, is of high-quality design appropriate to its context, and strengthens / reinforces local distinctiveness.
- 7.13 The site forms part of the wider countryside to the south of the village and contributes to the undeveloped and verdant character and appearance of the land immediately beyond the village confines. Proposed residential development of the site would result in significant change to the character and appearance of the site and would not protect the intrinsic value, landscape setting, tranquility and beauty of the countryside. The extent of harm would however be limited by the location of the site immediately next to the village confines and the presence of existing residential development to the north and east of the site. The application site represents a small part of the wider countryside setting to the south of the village and the proposal would complete the development of built form on the southern side of Chaffes Lane and round off the village boundary. As such, whilst there would be conflict with policy ST3 of the Local Plan and some harm through the loss of open countryside, this would be a logical extension of the village with limited harm to the wider countryside.
- 7.14 The site does not form part of a designated landscape but the site falls within the Upchurch and Lower Halstow Fruit Belt Character Area in the Swale Landscape Character and Biodiversity Appraisal SPD. The landscape condition is described as 'moderate' with a 'moderate' sensitivity. The guidelines for this area recognise the effects of urbanisation on the landscape at the fringes of settlements and the overall guidelines are to conserve and create aimed at conserving existing landscapes and restoring elements to develop the existing structure. In this instance, landscape harm is considered to be limited given the given the small size and location of the site, bordered by Oak Lane to the west and Chaffes Lane to the east, and directly adjacent to existing residential development within Upchurch, and the proposal to

incorporate a landscaped buffer to the south and west of the development in addition to the landscaping that already exists to the south of the site.

- 7.15 The proposed layout is for 5 detached dwellings and a pair of semi-detached dwellings, which would be similar to existing dwelling types on Chaffes Lane. The layout includes a central access point leading to a car parking area to the rear of the site, and which allows the site frontage to be designed with large areas of soft landscaping. The building line of the dwellings would be similar to the line of the existing dwellings to the east of the site. Existing dwellings on Chaffes Lane vary in form and architectural design resulting in a mixed street scene. The development would achieve a density of 20 dwellings per hectare which is appropriate for this edge of village location.
- 7.16 The indicative elevation plans show a mix of housing type two stories in height, which would accord with existing development in the vicinity of the site. The development reflects the general character of the surrounding area that comprises of two storey detached and semi-detached properties. There is scope to provide a well detailed development which complements the existing built form.
- 7.17 There is no current defined boundary between the site and surrounding open land, but the proposed planting and boundary treatment would ensure that the development is well contained and prevent visual intrusion further into the countryside. Landscaping would also offer potential to screen, at least partly, the development to views from the surrounding area. This is indicated in the site plan that shows landscape buffers on three sides of the site and a biodiversity enhancement area. Further details will form part of a future reserved matters application.
- 7.18 Overall, whilst the development of the site would result in conflict with Policy ST3 of the Local Plan and harm to the character and appearance of the countryside and landscape, such harm is considered to be limited due to the location of the site immediately adjacent to the village boundary and existing housing, and the way in which the development would naturally round off this part of the village settlement. It is considered that seven dwellings can be accommodated on the site as an extension to the village and of appropriate density and layout to the edge of village location, in accordance with policies CP4 and DM14 of the Local Plan 2017.

Transport and Highways

- 7.19 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. 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 in locations which are sustainable.”

- 7.20 The NPPF 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

- 7.21 The development has been designed with a single access from Chaffes Lane to serve all dwellings, with parking to the rear of the site. The vehicle access point would have a width of 5m and includes a pedestrian footpath to the side of the access road. A new pedestrian footpath is also proposed along the site frontage with Chaffes Lane.
- 7.22 KCC Highways raise no objection to the additional vehicle movements generated by the development on the local network, and are satisfied with parking, turning and servicing arrangements.
- 7.23 The layout shows 19 available parking spaces with 2 further visitor parking spaces. The scale of the properties are indicative, however based upon the Council's SPD, 3 bedroom properties would require 2 spaces per unit and 4 bedroom properties would require 3 spaces, with a further 0.2 spaces per dwelling required for visitor parking. This amounts to a requirement of 21 spaces which is successfully achieved.
- 7.24 Overall the proposal would not be harmful to highway safety, it would provide appropriate access, vehicle parking and turning areas and pedestrian access, in accordance with policies DM6, DM7 and DM14 of the Local Plan.

Ecology

- 7.25 Paragraph 186 of the NPPF advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. It also advises that opportunities to incorporate biodiversity in and around developments should be encouraged.
- 7.26 The site was cleared of all vegetation prior to the submission of the application and no supporting biodiversity information was provided with the submission. Subsequently, a number of concerns were raised regarding biodiversity impacts. Further documents in the form of an Ecological Impact Assessment, Biodiversity Assessment and a reptile survey report have subsequently been submitted. The biodiversity report recognises that in order to achieve a gain in biodiversity, off-site enhancements will be required.
- 7.27 KCC Ecology have reviewed the supporting information and raise no objection subject to securing net biodiversity gains, precautionary mitigation, protection of remaining habitats and details of external lighting. Off site mitigation will be secured via a S106 Agreement.
- 7.28 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.29 Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-

site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £314:05 per dwelling. The applicant has paid the mitigation fee for the development via the SAMMS payment form. In accordance with the Conservation of Habitats and Species Regulations 2017, for completeness an Appropriate Assessment has been completed and is set out within the relevant section below.

Living conditions

- 7.30 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight,
- 7.31 Whilst scale and appearance, is a matter for future consideration, the layout of the development maintains sufficient distance and spacing between the proposed dwellings and existing neighbouring properties without causing any undue impacts upon the living conditions of these neighbouring dwellings. A gap of 7.5m would be provided between plot 7 and the nearest dwelling to the east, and distances of 25-30 metres would be maintained between the dwellings and existing properties to the north. As such the development would accord with Policy DM14 of the Local Plan.

Sustainable Design and Construction

- 7.32 The Council has declared a Climate Change and Biodiversity Emergency, and this is a material planning consideration. To ensure that the final development incorporates sustainable measures relevant conditions are recommended to ensure the scheme is designed in a way that takes steps to minimise the environmental impacts.

Conclusion

- 7.33 The site is located outside of the built confines of the village and within the countryside. In the absence of a five-year housing supply, the tilted balance under paragraph 11d) of the NPPF applies. This outlines that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 7.34 The adverse impacts of the proposal are the harm that would be caused to the landscape and character and appearance of the countryside. However, the level of harm would be limited based upon the proximity to existing residential development and the natural rounding off of the village settlement edge that would occur. Furthermore, in the absence of a 5-year supply of housing, the settlement strategy within the Local Plan is not meeting housing needs, and a rigid application of Policies ST 1, ST 3, ST 5 and CP 3 insofar as they seek in principle to generally prevent housing development outside of built-up area boundaries would frustrate attempts to address the housing supply deficit.

- 7.35 The development would offer opportunities for access to some services and facilities within the village and some sustainable transport choices, however some reliance on private vehicle trips would also be likely. Nonetheless, such harm and conflict with the Local Plan and NPPF would be limited.
- 7.36 In terms of benefits, the proposal would provide 7 additional dwellings to housing stock within the borough. The contribution would be modest but would still advance the Government's objective outlined within the Framework to boost significantly the supply of homes from a variety of sites as well as helping to meet local needs generally. The Framework also highlights that small and medium sized sites such as this can make an important contribution to meeting housing requirements and are often built out relatively quickly. As a result, and in light of the housing under-supply position moderate weight is given to the benefit of the additional housing.
- 7.37 The development would additionally result in some short-term economic benefits during the construction period, both direct and indirect. Expenditure in the area by future occupiers would offer some ongoing support for the local economy and help to maintain the viability of existing services within the surrounding rural area; matters which are supported by the Framework and which would be a social benefit. Additional weight is given to this.
- 7.38 The adverse impacts of the development would overall be limited, and in the context of paragraph 11(d) of the Framework, these adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies and is a material consideration that weighs in favour of the proposal. While the development would result in some conflict with Policies ST 1, ST 3, ST 5 and CP 3 of the Local Plan, there are material considerations which indicate that planning permission should be granted notwithstanding the conflict with the development plan.

RECOMMENDATION

- 7.39 That planning permission is Granted subject to the completion of a S106 Agreement, receipt of a SAMMS payment and subject to the following conditions
- (1) Details of the scale, appearance and landscaping of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
 - (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
 - (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case

of approval on different dates, the final approval of the last such matter to be approved.

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

- (4) The dwellings hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

- (5) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

- (6) Throughout the site clearance and construction period (as appropriate), precautionary mitigation for reptiles, amphibians, bats, badger, breeding birds and hedgehog shall be implemented strictly in accordance with Table 4 of the Ecological Impact Assessment by Arbtech dated October 2023

Reasons: In the interests of biodiversity.

- (7) No development shall take place until details of protection measures for hedgerows and trees to be retained within the proposed development have been submitted to and approved in writing by the Local Planning Authority. Such details shall be in accordance with BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction'. The approved details shall be installed on site before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those area shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To safeguard the existing landscaping to be retained and to ensure a satisfactory setting and external appearance to the development, and in the interests of biodiversity.

- (8) Prior to occupation of any dwelling, a lighting plan for biodiversity shall be submitted to, and approved in writing by, the local planning authority. Lighting will be designed in accordance with the Bat Conservation Trust's 'Guidance Note 8: Bats and

Artificial Lighting 08/23'. The Plan will show the type and locations of proposed external lighting, as well as the expected vertical and horizontal light spill in lux levels, to demonstrate that areas to be lit will not adversely impact biodiversity. All lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Reasons: In the interests of biodiversity

- (9) No development beyond construction of foundations shall take place until a Biodiversity Enhancement and Management Plan illustrating details of biodiversity enhancement measures for the site and details of ongoing management has been submitted to and approved in writing by the local planning authority. Enhancement measures will include those recommended in Table 4 of the Ecological Impact Assessment, Arbtech, October 2023. The Plan will include a habitat management schedule and details of persons responsible to evidence how enhancement will be achieved and maintained in the long term. The approved measures will be implemented prior to first occupation of the development and retained thereafter.

Reasons: In the interests of biodiversity

- (10) Other than as shown on the approved layout plan, no vehicle accesses, whether permitted by Class B Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be formed or constructed onto a highway .

Reason: In the interests of the visual amenities of the area

- (11) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any dwelling fronting onto a highway.

Reason: In the interests of visual amenity.

- (12) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

Reason: In the interests of the amenities of the area and highway safety and convenience.

- (13) No dwelling shall be occupied until the site access and the footpath adjacent to Chaffes Lane have been completed in accordance with drawing number 1542 P00E and made available for use. The access and footpath shall thereafter be retained for the life of the development hereby approved.

Reason: To secure a satisfactory form of development, in the interests of highway and pedestrian safety.

- (14) No dwelling shall be occupied until the visibility splays shown on the submitted plans drawing number 1542 P00E with no obstructions over 0.9metres above carriageway level, have been completed in accordance with the approved plans. The splays shall be maintained as such thereafter.

Reason: To secure a satisfactory form of development, in the interests of highway safety.

- (15) No dwelling shall be occupied until the EV charging points as shown on the submitted plans (drawing number: 22_130-PL07) have been installed and available for use. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing a 7kw output) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

- (16) The cycle parking facilities as shown on the submitted plans shall be provided prior to first occupation of the dwellings and shall be continuously available and retained for the life of the development hereby approved.

Reason: To provide adequate bicycle storage in the interests of sustainable transport provision.

- (17) The refuse storage facilities as shown on the submitted plans shall be provided prior to occupation of the dwellings and retained for such purposes thereafter.

Reason: In the interests of highway safety and residential amenity

- (18) The area shown on the submitted plans as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of any of the dwellings hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users

- (19) The access shall be constructed using a bound surface material for the first 5 metres of the access from the edge of the highway, and with drainage measures to prevent the discharge of surface water onto the highway.

Reason: To secure a satisfactory form of development, in the interests of highway safety.

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

Reason: In the interest of residential amenity.

- (21) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interest of residential amenity.

- (22) Prior to the commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition & Construction. 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 interests of residential amenity

- (23) All hard and soft landscape works submitted pursuant to condition (1) above shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.

- (24) 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 tree or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (25) No dwelling shall be occupied until a landscape management and maintenance plan for the ongoing management and maintenance of all landscaped areas beyond individual plot boundaries as shown on the site layout plan, has been submitted to and approved in writing by the local planning authority. The landscaped areas shall thereafter be managed and maintained in accordance with the approved details

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

INFORMATIVES

1. Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

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

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

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the

Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

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.

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. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*" The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.

Due to the scale of development there is no scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off-site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which has been secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

