

2.3 REFERENCE NO 22/504543/FULL		
PROPOSAL Extension of existing gypsy/travellers site and siting of 4no. additional mobile homes.		
SITE LOCATION Land At School Lane Iwade Kent ME9 8QE		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to securing an additional SAMMS payment 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 consequently necessary and appropriate.		
APPLICATION TYPE Minor Gypsy and Traveller Sites		
REASON FOR REFERRAL TO COMMITTEE Iwade Parish Council objection		
CASE OFFICER Guy Martin		
WARD Bobbing, Iwade and Lower Halstow Ward	PARISH/TOWN COUNCIL Iwade Parish Council	APPLICANT Mr J Smith AGENT A T Russell
DATE REGISTERED 10.10.22	TARGET DATE 15.12.22	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - Planning Statement All drawings submitted: AL100A Site Location Plan (uploaded 03.10.22) AL101A Existing Block Plan (uploaded 03.10.22) AL102C Proposed Block Plan (uploaded 10.11.23) AL103 Proposed Plans and Elevations (uploaded 03.10.22) The full suite of documents submitted pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RIB0DWTYHK400		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site is located within the countryside, approximately midway between the settlements of Iwade and Lower Halstow. The site lies within an Area of High Landscape Value (Swale Level) with School Lane being a designated rural lane. The site lies immediately to the north-east of an existing gypsy/traveller site which is bound by mature hedges adjacent to School Lane and along the north-eastern boundary. It is largely surrounded by agricultural fields to the north and east, a solar farm to the south, and a dwelling to the west of the existing Gypsy site. Another Gypsy site and Bassier Hill Farm are located nearby. The site is located approximately 1.6km to the east of Lower Halstow and 1.7km to the west of Iwade.

2. PLANNING HISTORY

SW/05/1477

- 2.1 Change of use to caravan site for five gypsy families and use of barn for ancillary storage and storage of touring caravans.

Grant of Conditional PP Decision Date: 02.07.2012

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for the extension of an existing gypsy/travellers site and siting of 4no. additional mobile homes.

- 3.2 The additional mobile homes would be located to the northeast of the existing traveller site with a new Hawthorn hedgerow to be planted to the northwest, northeast and southeast of the proposed mobile homes. Access would be via the existing vehicular entrance to the site. The extension is to accommodate family already on the approved site.

4. CONSULTATION

- 4.1 Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers and a notice was displayed at the application site. Full details of representations are available online.

- 4.2 No representations were received from neighbours.

- 4.3 Iwade Parish Council objected to the application on the following grounds: -

Comment	Report reference/
The Iwade area has already taken its fair share of Gypsy and Traveller sites in the borough.	See paragraph 7.10
Concern is raised that the site would become more permanent development siting the adjacent Basser Hill Farm site as an example.	Each application is determined on its own merits and the assessment for this proposal is set out below.

5. REPRESENTATIONS

- 5.1 **Health and Safety Executive** – No comment provided that the development is not a vulnerable building.

- 5.2 **KCC Highways** – No objection subject to a strategy for the delivery of the mobile homes to the site.

- 5.3 **KCC Minerals** – No objections.

- 5.4 **Natural England** – No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat site (SAMMS payment).

6.0 DEVELOPMENT PLAN POLICIES

- 6.1 The following policies, national guidance and supplementary / evidence documents are relevant to determination of the application:

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017

ST1	Delivering sustainable development in Swale
ST3	The Swale settlement strategy
DM6	Managing transport demand and impact
DM7	Vehicle parking
DM10	Gypsy and Traveller sites
DM14	General development criteria
DM24	Conserving and enhancing valued landscapes
DM26	Rural Lanes
DM28	Biodiversity and geological conservation
DM31	Agricultural land

- 6.2 Local Plan policy DM10 is most relevant and is a criteria-based policy for consideration of the acceptability of sites for use as Gypsy / Traveller accommodation. The Local Plan does not contain any site allocations for Gypsy / Traveller sites.

The National Planning Policy Framework (NPPF)

- 6.3 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for gypsy and traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition, there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.
- 6.4 Paragraph 11 of the NPPF sets a presumption in favour of sustainable development. For decision taking, it states that development should be approved if in accordance with an up to date development plan. Where there are no relevant development plan policies or those most important for determining an application are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.
- 6.5 Paragraph 63 sets out that to determine the minimum number of homes required, policies should be informed by housing needs assessments, and the size, type and tenure of housing needed for different groups should be assessed and reflected in planning policies – including travellers.

Planning Policy for Traveller Sites (PPTS) – Department for Communities and Local Government 2023

- 6.6 Paragraph 3 states - *“The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.”*
- 6.7 Paragraph 4 sets out (inter-alia) that LPA’s should make their own assessment of need for the purposes of planning, that private traveller site provision should be promoted, that the number of traveller sites in appropriate locations should be increased, that

travellers should have access to schools, healthcare and employment infrastructure, and that LPA's should have due regard for the protection of local amenity and the local environment.

- 6.8 Paragraph 10 states that Local Plans should identify and update annually a 5 year supply of Gypsy and Traveller sites against locally set targets.
- 6.9 Paragraph 14 states that *“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.”*
- 6.10 Paragraph 25 states that LPA's should consider the following issues when considering planning applications for traveller sites:
- a) *the existing level of local provision and need for sites*
 - b) *the availability (or lack) of alternative accommodation for the applicants*
 - c) *other personal circumstances of the applicant*
 - d) *that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
 - e) *that they should determine applications for sites from any travellers and not just those with local connections”*
- c) *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”*
- 6.11 Paragraph 27 states *“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).”*

The Swale Borough Council Gypsy and Traveller Accommodation Assessment 2023 (GTAA)

- 6.12 The GTAA comprises the latest available evidence to identify the accommodation needs of Gypsies and Travellers across the Borough. The GTAA identifies the forecast pitch requirements for Gypsies and Travellers that meet the definition in the PPTS. The Councils GTAA published December 2023 has identified an overall need for 114 additional Gypsy and Traveller pitches across Swale Borough over the period 2022/23 to 2037/38, with 80 in the five-year period 2022/23 to 2026/27 and 34 in the longer-term 2027/28 to 2037/38).
- 6.13 The report advises that the Council should consider the following to help meet identified residential pitch need. Firstly, regularising of sites that are not permanently authorised. Secondly, additional pitch provision through the use of existing sites.

Supplementary Planning Documents (SPD)

- 6.14 Swale Landscape Character and Biodiversity Appraisal

6.15 Swale Car Parking Standards

Other relevant legislation and Court Judgements

6.16 The Human Rights Act 1998 Article 8: Respect for your private and family life, and home

6.17 The Equality Act 2010

6.18 In *Smith v Secretary of State for Housing, Levelling Up and Communities [2022]*, the Court of Appeal ruled that the PPTS definition in 2015, which excluded Gypsies and Travellers who had permanently ceased to travel due to old age or illness from the PPTS definition, was unjustified and discriminatory. The Court determined that this discriminated against the ethnic and cultural identity of Gypsies who, as a result of age, illness or disability, are no longer able to travel. The PPTS definition was amended in 2023 as a result of this judgement.

7.0 ASSESSMENT

7.1 This application is reported to the Committee because Iwade Parish Council has objected to the proposal. 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
Impact upon the Landscape
Supply of G&T sites in the Borough
Residential Amenity
Highways and Access
Impact upon Special Protection Area (SPA)
Other Matters

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan. The PPTS is also a significant material consideration, representing the national policy position on Gypsy and Traveller sites.

7.4 The site falls within open countryside and as such development within this location is generally restricted. However, Gypsy and Traveller sites are invariably found in rural locations. Key issues with such sites generally relate to visual impact and sustainability objectives. Policy DM10 of the Local Plan sets out the circumstances under which Gypsy and Traveller sites will be acceptable, and requires such development to comply with criteria listed in the policy. The extent to which the application meets the criteria is set out in the sections below.

- 7.5 The GTAA identifies a significant need for 114 Gypsy and Traveller Sites in the Borough, with an immediate need over a 5 year period for 80 sites. The Council can only currently identify a 1.3 year supply of Gypsy sites. The significant need and shortfall in site provision are also highly material in the consideration of this application.

Location of development

- 7.6 Policy DM10 (1) sets out that proposals should accord with the settlement strategy under policy ST3 unless (inter-alia) the proposal is for an extension to or stationing of additional caravans at an existing site. The proposal would extend an existing site and meets this criteria. The existing site was found to be suitably located by the Council in granting permission in 2005.

Gypsy status

- 7.7 The proposed occupants of the mobile homes comprise of the son and nephews of the applicant. All the proposed occupants currently live on the site and have done so for over 17 years. The names provided are consistent with the names of children who were named on the 2005 application, when the gypsy status of the applicants was accepted and in consequence, it is considered that the applicant and the proposed occupiers of the mobile homes are Gypsies.

That the development can achieve an integrated co-existence between all communities

- 7.8 The site occupants have lived in this location for many years and seek an extension to allow family members who are now adults to have their own caravans and pitches.

Scale and impact on character of area

- 7.9 Criteria 4 of Policy DM10 states that Gypsy and Traveller sites should be of a scale to meet the accommodation need identified and not introduce a scale of development that singularly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area.
- 7.10 The size of the extended area is appropriate to the needs for 4 additional pitches. The site would remain relatively modest and discreet in scale and appearance. There is another Gypsy and Traveller site further to the west on School Lane, however the cumulative impact is not so large that the scale and impact would be dominating, taking into account the reasonably discreet nature of the existing site and limited landscape impacts as set out in the following sub-section. The Parish Council has commented that there are a number of Traveller sites in the local area. However, given high level constraints in large parts of the borough (e.g. AONB, areas liable to flooding). Gypsy and Traveller sites do tend to form in certain pockets of the Borough.

Landscape Impacts

- 7.11 The National Planning Policy Framework states amongst other matters that, planning policies and decisions should contribute to and enhance the natural and local environment by (inter-alia) protecting and enhancing valued landscapes.
- 7.12 Policy DM24 of the Swale Local Plan states that the value, character, amenity and tranquility of the Borough's landscapes will be protected, enhanced and, where appropriate, managed.

- 7.13 Areas of High Landscape Value (Kent and Swale Level) are designated as being of significance to Kent or Swale respectively, where planning permission will be granted subject to the:
1. conservation and enhancement of the landscape being demonstrated;
 2. avoidance, minimisation and mitigation of adverse landscape impacts as appropriate and, when significant adverse impacts remain, that the social and economic benefits of the proposal significantly and demonstrably outweigh harm to the Kent or Swale level landscape value of the designation concerned.
- 7.14 Criteria 7 of Policy DM10 states that Gypsy and Traveller development should not cause significant harm to local landscape designations that cannot be adequately mitigated.
- 7.15 As set out within the Swale Landscape Character and Biodiversity Appraisal the site is located within the Fruit Belt Type and lies within the Lower Halstow Clay Farmlands Character Area. The key characteristics of this area comprises of mixed agricultural land used for small-scale fields of pasture and localised orchards with settlements limited to isolated cottages, fixed mobile homes and isolated farms.
- 7.16 The guidelines for development is to conserve the landscape structure of enclosed small-scale fields, hedges, localised orchards, scattered trees and shelterbelts with the encouragement of appropriate planting of hedges such hawthorn, blackthorn, field maple and pedunculate oak standards. It is noted that the restoration and extension of the hedgerow network and arable field margins/buffers would provide improved habitat connectivity at the local scale, and that lower intensity farming practices should be encouraged.
- 7.17 In addition, School Lane is a Rural Lane, as identified under Policy DM26 of the Swale Local Plan. This policy states, '*planning permission will not be granted for development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes...development proposals should have particular regard to their landscape, amenity, biodiversity and historic or archaeological importance.*'
- 7.18 The proposal would result in the extension of the existing gypsy site and the siting of four mobile homes in a U shape. The site slopes upward from School Lane, with the existing gypsy site located on the southwestern side of the site with the proposal extending the site to the northeast. The whole of the existing site is screened by a mature hedge extending along School Lane with the hedge then extending along the north-eastern boundary of the site.
- 7.19 Currently there are views from the access to the site and oblique and limited views from School Lane to the north of the site. The proposal would result in encroachment into the underdeveloped countryside and landscape. However the proposal would benefit from existing screening and would incorporate additional screening, with the inclusion of a Hawthorn hedge around the extended site which would further act to screen and limit views of the new mobile homes and of the existing gypsy site. A condition can be imposed to ensure that the hedge is planted in the next planting season.
- 7.20 The proposed caravans would provide accommodation for existing residents of the site which would not result in any significant increase in traffic ensuring that there would not be any adverse impacts upon the rural lane.
- 7.21 The additional screening would ensure that the proposal would conserve the landscape character of the site and the proposal would not have an adverse impact upon the

adjacent rural lane ensuring the requirements of national and local planning policies are met.

Impact on amenities of occupants and neighbours

7.22 Policy DM14 of the Local Plan requires amongst other matters that development proposals will cause no significant harm to amenity. Criteria 6 of policy DM10 states that the site should cause no significant harm to occupants or others through noise, disturbance, air quality of other circumstances.

7.23 The proposal would extend the existing gypsy site to the northwest of the current site. The closest neighbouring property to the site, Tiptree Bungalow lies approximately 60m to the southwest at which distance the proposal would not adversely impact upon this neighbor's amenities. The site is otherwise considered to provide a suitable environment for occupants. In consequence the proposal would meet the requirements of policies DM10 (6) and DM14 of the Local Plan.

Providing for Healthy lifestyles

7.24 The extended site is of sufficient size to accommodate amenity space, and play areas for each pitch, in accordance with criteria 9 of Policy DM10

Flooding

7.25 The site lies within flood zone 1 where there is a low probability of flooding, as such the proposal would accord with criteria 10 of Policy DM10.

Access and parking

7.26 The NPPF 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.”*

7.27 Criteria 11 of Policy DM10 states that sites should provide safe parking and access without unacceptable impacts on highways safety.

7.28 The proposal would use the existing access onto the site. Whilst the proposal would result in an additional four mobile homes on the site, this would be to house existing occupants of the site which would mean that additional traffic movements would be unlikely to occur. Each caravan would be sited with sufficient parking for the additional mobile homes.

7.29 KCC Highways have confirmed that they have no objections to the proposal subject to a condition relating to a strategy providing details of how the mobile homes would access the site due to the traffic calming/priority system that is in place on School Lane. However, details of how mobile homes would be able to access the site using surrounding routes would fail the test of being enforceable, as the Council would have no powers to deal with this matter if the condition was breached. On this basis the condition would not be reasonable.

7.30 In consequence the proposal would not have an adverse impact upon the highway with sufficient parking on site.

7.31 Taking the above factors into account, it is considered that the extension to this site with appropriate further landscaping would accord with policy DM10 of the Local Plan.

Biodiversity and Impacts upon SPA

- 7.32 The NPPF states amongst other matters that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
- 7.33 Policy DM28 states that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.34 The proposal comprises of the siting of four mobile homes within a maintained open field which due to the nature of the proposal would not have any adverse impacts upon biodiversity. No existing hedges or trees are to be removed. The planting of additional hedges within the site will result in an enhancement on site.
- 7.35 An Appropriate Assessment is set out below. 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 £328.27 per pitch. A fee equating to £314.05 per pitch has been received and the required top up has been requested.

Loss of agricultural land

- 7.36 The site of the proposed extension comprises of a mix of grade 1 and grade 3 agricultural land. Iwade Parish Council have raised concerns regarding the loss of agricultural land. The site comprises of the existing gypsy site and the associated land under the same ownership which from the information available is not farmed and through its limited size would be unlikely to represent a viable agricultural unit. Policy DM10 of the Local Plan does expressly permit extensions to existing sites, although this also has to be weighed against Policy DM31 of the Local Plan which seeks to protect best and most versatile agricultural land.
- 7.37 Taking into account that the proposal is for an extension to the existing site to enable the extended family to continue to live together, the relatively limited size of the extended area, and the fact that this is not a new site but an extension to an existing site which is generally supported under Policy DM10, I consider that the harm arising through the loss of agricultural land and conflict with Policy DM31 would be limited.

8 Conclusion

- 8.1 The proposal would represent an extension to an existing site. Although the site is within an Area of High Landscape Value and would invariably encroach into the countryside and landscape, its visual impact is limited by the location next to an existing longstanding site and presence of existing landscaping, and can be further limited by additional landscaping as proposed. The development is considered to comply with the criteria under Policy DM10 of the Local Plan
- 8.2 The Council cannot demonstrate a 5-year supply of Gypsy and Traveller sites. The current supply figure is 1.3 years and as such the shortfall is significant. In addition, the latest GTAA demonstrates a significant need for sites, particularly for 80 pitches in the next 5 years. The provision of 4 units would make a modest contribution to the identified need for sites and is given significant weight.

- 8.3 The site would result in the loss of BMV land but this would be limited in size. Nonetheless, there would be conflict with policy DM31, albeit that extensions to sites are generally supported under Policy DM10.. Taking into account that the proposal is an extension to an existing site, together with the significant shortfall in site supply and the high need for sites, the loss of BMV land in this instance is not considered to outweigh the benefits of granting permission.
- 8.4 On the basis of the above, it is recommended that planning permission be granted, subject to the conditions below and securing the additional SAMMS payment for the additional pitches.

9 Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: AL100 revision A, AL101 revision A, AL102 revision C, AL103,

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

- (3) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (4) No more than eight caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended) shall be stationed on the site at any one time, of which only four caravans shall be a static caravan/mobile home.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (5) The mobile homes shall only be positioned in the location shown on the Block Plan drawing AL102 revision C – Proposed Block Plan.

Reason: In the interest of visual amenity.

- (6) The site shall only be used for residential purposes and not for any industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land and no vehicle over 3.5 tonnes shall be kept on the site.

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

- (7) Prior to occupation, a scheme of hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include

- existing trees, shrubs and other features,
- planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate.
- any other means of enclosure and hard surfacing areas;
- a programme of implementation.

The development shall be carried out in accordance with the approved details.

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

- (8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of 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 interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (9) No floodlighting, security lighting or other external lighting shall be installed or operated on the site other than in accordance with details which shall have been previously submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and biodiversity

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 dwellings are occupied.

Based on the correspondence with Natural England (via the NKEPG), it is concluded 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 will be 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.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others (<https://birdwise.org.uk/>).

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

