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| 2.2 REFERENCE NO - 23/504502/FULL | | |
| PROPOSAL Erection of a permanent agricultural dwelling with associated parking (Resubmission 21/504388/FULL). | | |
| SITE LOCATION Woodland Farm, High Oak Hill, Iwade Road, Newington, Kent, ME9 7HY | | |
| RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, completion of a S106 Agreement to tie the new agricultural dwelling to the surrounding farmland and securement of the additional SAMMS fee, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions. | | |
| APPLICATION TYPE Minor | | |
| REASON FOR REFERRAL TO COMMITTEE Newington Parish Council object and Cllr Richard Palmer has called in the application. | | |
| Case Officer Megan Harris | | |
| WARD Hartlip, Newington and Upchurch | PARISH/TOWN COUNCIL Newington | APPLICANT Mr JY Stedman AGENT Mr Peter Court |
| DATE REGISTERED 18/10/23 | TARGET DATE 13/12/23 | |
| BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted Design and Access Statement dated July 21 (uploaded on 03/10/23) Planning Statement dated October 23 (uploaded on 03/10/23) Ecological Appraisal dated 20/09/23 (uploaded on 03/10/23) All representations received 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=S1Y9IKTYHO400 | | |

1. SITE LOCATION AND DESCRIPTION

- 1.1 Woodland Farm is an established egg farm, and the land owned by the applicant extends to roughly 24 hectares. The south eastern section of the site is grassland that slopes steeply down towards High Oak Hill. The north western section of the site is woodland. The site is elevated and has wide ranging views over the Newington valley. The land included within this application is 0.2 hectares in size and is roughly rectangular. It includes the existing access onto the site from High Oak Hill and the area is located to the north east of the wider farm.

- 1.2 The existing farm buildings are comprised of two large poultry sheds housing 28,000 hens, a barn, storage building and mobile home. The mobile home is occupied by the applicant and his family and was originally granted temporary planning permission under application SW/10/0631. Temporary permission for the mobile home has been extended by a number of applications, most recently under application 14/506862/FULL, where a condition on this application required it to be removed from site on or before 10th December 2018. No further applications have been submitted to extend this time period and as such the mobile home is currently in breach of this condition.
- 1.3 The site lies within the countryside, 220m to the northeast of the Newington Church Conservation Area. The site also lies within an Area of High Landscape Value (Swale level). High Oak Hill, the highway off which the access to the site is taken, is designated as a Rural Lane. Wardwell Woods, the adjacent woodland to the north, is designated as a Local Wildlife Site whilst Hawes Wood also to the north is designated as ancient woodland. The surrounding area is mainly characterised by agricultural fields, with the closest dwelling, The Bungalow, lying to the east of the site.

2. PLANNING HISTORY

- 2.1 **23/500946/PNQCLA** – Prior approval refused on 17.05.2023 for ‘Prior notification for the change of use of agricultural barn to 5no. dwellings and associated operation development.’
- 2.2 **21/504388/FULL** – Planning permission refused on 05.06.2023 for ‘Erection of a permanent agricultural dwelling with associated parking.’
- 2.3 **14/506862/FULL** – Planning permission granted on 07.12.2015 for ‘Variation of condition No.1 of planning permission SW/12/1221 to extend permission for mobile home for a further 3 years.’
- 2.4 **SW/14/0502** – Planning permission granted on 24.10.2014 for ‘Erection of poultry shed and grain store, with associated access tracks, hardstandings, turning areas, land profiling and feed silos.’
- 2.5 **SW/12/1221** – Planning permission granted on 13.11.2012 for ‘Relaxation of condition (2) appended to planning permission SW/10/0631 to enable mobile home to be retained on site until the 25th January 2015’.
- 2.6 **SW/10/0631** – Planning permission granted on 03.09.2010 for ‘Erection of poultry house and temporary stationing of mobile home with associated improvement of existing access and provision of parking and turning areas.’

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for the erection of a permanent agricultural dwelling at the site, which will replace the existing mobile home. The new dwelling will be located to the south east of the mobile home, on an area of maintained grassland. A gravel track will be created from the existing access road through the site, to provide vehicular access to the dwelling. Two parking spaces are shown to the front of the new dwelling, although additional parking could be achieved along the gravel driveway.

- 3.2 The property consists of a 4 bed detached dwelling, with projecting gables on the front and rear elevations and a single storey side projection on the north western side of the property. The ridge height of the dwelling will be 8.3m, whilst the eaves height will be 5m. An open plan kitchen/dining room, lounge, office, boot room and cloakroom will be provided on the ground floor. On the first floor, four bedrooms and a bathroom will be provided. Proposed materials include facing brickwork, timber weatherboarding and clay roof tiles.
- 3.3 This application follows on from the refusal of a similar application at the site in June 2023 under application reference 21/504388/FULL. The previous application was originally reported to the Planning Committee in June 2022, and it was resolved to grant planning permission subject to the applicant entering into a s106 agreement to tie the dwelling to the surrounding holding. However, a S106 Agreement was never completed by the applicant, and furthermore they then subsequently applied under the prior approval process to convert one of the farm buildings to 5 dwellings. This led officers to report the application back to the Planning Committee in May 2023 with a recommendation that the application should be refused, based on the failure to complete the S106 Agreement and the possibility that the need could be met through conversion of an existing building on site, rather than to erect a new dwelling.
- 3.4 The applicant has confirmed that he is now willing to enter into a Section 106, and has provided justification as to why there are no buildings suitable for conversion on the site.

4. CONSULTATION

- 4.1 One round of consultation with neighbours has been undertaken. A site notice was also displayed at the site. No comments from neighbours have been received.
- 4.2 Newington Parish Council object to the application on the following planning grounds:

| Comment | Report reference |
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| Proposal amounts to an impressive and imposing house which will be visible from the village and will harm the visual amenity of views of the woods on the hillside north of the village. | See paragraphs 7.6 – 7.9 |
| Kent Wildlife Trust confirm the site as ancient woodland 'irreplaceable habitat'. In addition to the endangering of woodland habitat the proposal would mar the visual amenity of this woodland from the village. | See paragraphs 7.24 – 7.29 |
| NPC question the need for on-site accommodation given the availability of devices to monitor and control equipment remotely. They note the pattern, across the country, of farmers selling desirable farmhouses and managing the farm equipment and security through use of 'apps' and do not understand why this could not be employed here. | See paragraphs 7.7 – 7.9 |

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| <p>The submission of the prior approval application demonstrates surplus capacity of existing agricultural buildings and conversion into living accommodation would be straightforward and uncontroversial.</p> <p>If there were to be a clear business case proving irrefutable necessity for on-site permanent accommodation, NPC suggest this should be through a modest unobtrusive bungalow positioned where the caravan is currently sited or through conversion of the barn as previously proposed by the applicant in 23/500946/PNQCLA.</p> | <p>See paragraphs 7.10 – 7.13</p> <p>See paragraphs 7.10 – 7.13</p> |
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4.3 Cllr Richard Palmer has referred the application to the Planning Committee, due to his concerns regarding the overbearing size of the proposed building.

5. REPRESENTATIONS

5.1 **Mid Kent Environmental Health** – No objection Recommend an informative is imposed relating to the Mid Kent Environmental Code of Practice to control any noise and dust arising from the construction phase and also suggest a condition restricting hours of construction.

5.2 **Health and Safety Executive** – Does not advise against the granting of planning permission on safety grounds.

5.3 **SBC Conservation** – No objections due to significant distance between site and heritage assets.

5.4 **Agricultural Consultant (employed by SBC to review the application)** – Having reviewed the application and details provided regarding the applicants’ business, the consultant considers that there is a sufficient functional need to justify a permanent dwelling and that the business is financially viable with a reasonable prospect of remaining so. The consultant is not aware of any other suitable and available alternative dwellings and consider there are no free buildings suitable for conversion, therefore support is given to the application for a new permanent rural worker’s dwelling. The size of the dwelling is slightly larger than would be normally be expected for a rural worker's dwelling and its proposed location is slightly further from the existing farm buildings than would normally be the case and as such appropriate planning conditions should be applied to restrict occupation of the new dwelling to those employed in agriculture and, given the small size of the holding and large size of the proposed dwelling, the additional protection of a Section 106 agreement does seem appropriate.

5.5 **Forestry Commission** – refer to standing advice.

- 5.6 **Natural England** – Development will result in the construction of a new dwelling within 6km of the SPA and as such mitigation is required. Refer to standing advice on ancient woodland.
- 5.7 **Kent Wildlife Trust** – Advise that a large part of the proposed buffer zone should consist of suitable planting / natural habitat regeneration and also advise that the orchard is managed as a traditional orchard. Conditions should be included requiring the submission and implementation of an external lighting strategy and an ecological enhancement and management plan which covers the application site and provides details on how the buffer zone, including the traditional orchard, will be managed. Permitted development rights for the property should also be restricted so that no structures (primarily those permitted under Classes E and F of the GPDO) can be erected within the buffer zone. A Construction Environmental Management Plan (CEMP) to ensure appropriate mitigation measures are put in place to reduce the risk of adverse impacts on the ancient woodland and LWS from construction should be secured via condition. The submitted CEMP should specify mitigation measures for noise, surface water run-off, dust, and light impacts during the construction phase.
- 5.8 **SBC Tree Officer** – Based on the proposed site layout plan and current aerial views of the site via Google imagery the position of the new dwelling is not likely to affect any significant trees. Therefore, there are few arboricultural constraints when it comes to the position of the new dwelling. Provided the buffer currently shown on the plans is maintained and enhanced through a suitable mitigation/ecological strategy via suitable conditions, there are no in-principle objections on ancient woodland grounds. Also, to ensure protection of the woodland buffer and any surrounding trees, a tree protection plan in accordance with BS5837:2012 should be submitted by way of a condition.
- 5.9 **KCC Ecology** – Note the site is regularly grazed/mown grassland and as such it is unlikely that protected species will be impacted by the proposal and as such do not require specific species surveys to be carried out. The proposal is within 50m of the Hawes Wood and Wardwell Wood, Newington Local Wildlife Site (LWS) and Ancient Woodland (AW) and therefore there is potential for the operational and construction phase to negatively impact the LWS and AW. To address the impacts from construction, measures must be included within the construction management plan to minimise impacts due to increase in dust or water run off. This must be a requirement of the Construction Management Plan Condition wording. To address the impacts from the operational phase the lighting must be designed to minimise impacts associated with external lighting – request a lighting condition is imposed. In addition to the inclusion of ecological enhancement features within the building /site, a strip of vegetation directly adjacent to the LWS/AW should be largely left unmanaged to enable plants and grasses to grow and set seed and the orchard managed as a traditional orchard with a wildflower meadow. This will create a buffer between the site and the LWS/AW and provide additional habitat for insects which, in turn, will support the pollination within the orchard. An ecological enhancement plan should be secured via condition. A SAMMS payment is also required.
- 5.10 **KCC Highways** – Advise that the proposal doesn't meet the criteria to warrant involvement from the Highways Authority.
- 5.11 **KCC Archaeology** – No objection. Recommend condition relating to a programme of archaeological works.

6. DEVELOPMENT PLAN POLICIES

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

ST 1 Delivering sustainable development
ST 3 The Swale settlement strategy
CP 3 Delivering a wide choice of high quality homes
CP 4 Good design
DM 3 The rural economy
DM 7 Vehicle parking
DM 12 Dwellings for rural workers
DM 14 General development criteria
DM 19 Sustainable design and construction
DM 24 Conserving and enhancing valued landscapes
DM 26 Rural Lanes
DM 28 Biodiversity and geological conservation
DM 29 Woodlands, trees and hedges
DM 33 Development affecting a conservation area

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Document - Swale Parking Standards
Nationally Described Space Standards

7. ASSESSMENT

7.1 This application is reported to the planning committee at the request of Cllr Richard Palmer and because Newington 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
- Character and Appearance
- Ecology
- Transport and Highways

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.

7.4 The site is located outside any built-up area boundary, and therefore falls within the lowest, least acceptable tier of the settlement hierarchy, as set out by policy ST 3. Both the Local Plan and the NPPF make clear that to promote sustainable development in rural areas, new isolated homes should be avoided, except in special circumstances, such as to meet an essential need for a rural worker to live permanently at or near their place of work in the countryside.

7.5 Policy DM 12 of the Local Plan (which relates to dwellings for rural workers) states that:

“Planning permission will be granted for new, permanent, rural worker dwellings in the countryside, subject to:

- 1. There being a clearly established, existing, essential need for the proper functioning of the enterprise for a full-time worker to be readily available at most times;*
- 2. There being no suitable existing dwelling available nearby or in a nearby settlement;*
- 3. The location, scale and design of the dwelling maintaining or enhancing landscape and countryside character; and*
- 4. The siting of the dwelling should, firstly, explore whether there are suitable buildings available for conversion at the enterprise, or secondly, in the case of a demonstrated need for a new building, that it is located as close as possible to existing buildings on previously developed land at the enterprise, or if this is not possible, within the immediate locality on an acceptable site.”*

7.6 The relevant sections of the supporting text to this policy are as follows:

“Whether a new dwelling is essential in a particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved... Any dwelling permitted must be appropriate for the need and to its rural location... In cases where a dwelling is considered by the Council to be essential to support an enterprise, it will normally be appropriate for permission to be initially granted for a caravan or temporary structure for a limited time period, usually for a minimum period of three years... a financial test will be necessary to demonstrate that the enterprise is economically viable and to provide evidence of the size of the dwelling that the unit can sustain.

7.7 A functional need for accommodation on this holding, in principle, has been accepted previously in the form of the temporary permissions for the mobile home. In addition, although the last application was ultimately refused, both officers and the Planning Committee accepted a functional need existed. Given the length of time since the last application was submitted, additional financial details regarding the business were provided by the applicant and an agricultural consultant has been utilised to review these details.

7.8 The business has grown since the mobile home was first placed at the site. The applicant established the free-range hen venture in 2011/2012, based on a 12,000 bird flock. Planning permission was later granted under SW/14/0502 for a further free range poultry house for another 16,000 hens, plus two feed silos, the erection of a grain/feed store, and associated works. In the last few years the two large poultry sheds at the site have been internally modified to increase the flock to 38,000. The planning statement sets out that the expansion of the business has resulted in care of the poultry becoming an on-going necessity, and the applicant’s family has also grown, and as such the existing mobile home is not large enough to balance family life and

business matters. Financial accounts for the last seven years have also been provided with the application, demonstrating that the business has provided a good level of profit and the construction of the dwelling can be funded by accruing previous years profits and also taking a mortgage.

- 7.9 The Agricultural Consultant has reviewed the application and in his opinion, the unit continues to require the on-site presence of a responsible owner/manager and provides a good level of profit and as such in principle, he considers there is sufficient functional and financial justification for the provision of a suitable permanent dwelling here. Therefore it has been demonstrated that there is an essential need for a rural worker to live permanently at the farm.
- 7.10 Consideration of whether there are any existing buildings on the site suitable for conversion to residential use is required. Members will note from paragraph 3.3 above that the applicant previously submitted a prior approval application at the site, seeking to convert part of a poultry shed to five dwellings – and that this partly led to the refusal of the previous application for a permanent dwelling on the site. The application for prior approval was refused last year, in part due to the location of the building within an existing working poultry farm and close to a cluster of farm buildings within the site, where it would be likely to give rise to unacceptable impacts on the living conditions of future occupiers of the development, by virtue of noise and disturbance and odour impacts. On this basis, the location of the building was considered undesirable for the change use to five dwellings.
- 7.11 The submitted planning statement sets out that the applicant was ill-advised by a Planning Consultant to make the application for prior approval, and that the loss of floorspace within the poultry shed that would occur from such conversion would have a detrimental impact on the farm enterprise, by reducing the size of the flock considerably. The agent for the current application also agrees with the Council's position that the conversion in such close proximity to the remaining poultry shed would be harmful to the amenity of occupiers, and as such concludes that this building is not suitable for conversion.
- 7.12 The Agricultural Consultant employed by the Council has analysed the available farm buildings and when taking into account the requirements of the enterprise, they agree with the applicant's position that there is no surplus barn space available for conversion to residential accommodation. Given the numbers of birds, associated feed requirements, and the amount of farm machinery required on site, the poultry barns, and machinery storage/workshop buildings are likely all be being used at or in excess of their capacity. The Consultant therefore agrees with the applicant that any conversion of an existing building would be detrimental to the functioning of the farm enterprise.
- 7.13 In view of the above it is evident that there is no alternative accommodation available for conversion to residential use.
- 7.14 The layout, design and scale of the dwelling is identical to the previous application, and has a total floorspace of 212sqm. As per the assessment of the previous application, it is recognised that the proposal is larger than would normally be expected for a rural worker's dwelling. As such careful consideration is required to identify whether any planning harm will arise from a dwelling of this scale at the site.

- 7.15 Cancelled Planning Policy Statement 7 sets out in Annex A that *“Agricultural dwellings should be of a size commensurate with the established functional requirement. Dwellings which are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long term, should not be permitted. It is the requirements of the enterprise, rather than the owner or occupier, which are relevant to determining the size of the dwelling that is appropriate to a particular holding.”* The supporting text to policy DM 12 in the Local Plan does set out that in the absence of further national guidance on the issue of housing for rural works, the Council will continue to have regard to Annex A.
- 7.16 However it is important to note that this assessment of scale has not been carried forward into the current NPPF, and therefore, little weight can be given to the advice set out in PPS7, as it is now defunct and there is no such reference to scale of rural workers dwellings within current national policy and guidance. This position has been supported by planning appeal decisions elsewhere in the country, where Inspectors have allowed larger agricultural dwellings that can be sustained by the income from the business, whilst being larger than “typical” agricultural dwellings - such as an appeal for an agricultural dwelling in Doncaster (PINS ref 3243097). Similar to policy DM 12 in the Swale BC Local Plan, the relevant policy in this appeal case also referred to the defunct PPS7 guidance, and the Council used this supporting text to support the refusal of the agricultural dwelling, which was considered to be excessive in scale. The Inspector considered there was some policy basis for this view, but gave it limited weight given PPS7 is cancelled and the NPPF does not refer to the scale of agricultural dwellings. The Inspector went on to conclude that whilst the dwelling was large, there was an essential need for a dwelling on the holding, which was long established and viable. They set out there was no dispute that the appellant can support the construction of the dwelling in relation to the income sustained in the long-term, and allowed the appeal. In the appeal decision, the Inspector noted that an average 4 bed dwelling was 192 sqm and that a typical agricultural workers dwelling was in the region of 180sqm. This proposal at Woodland Farm is for a dwelling of 212sqm, although it is noted that elements of the building would be used as a farm office and boot room.
- 7.17 The proposed dwelling is undoubtedly larger and greater in size than a typical agricultural workers dwelling. However, it is clear that an agricultural dwelling is required at the site, which has been operating for over ten years and has grown considerably, as have the profits. The enterprise can sustain the construction costs of the dwelling, and ultimately the scale of the dwelling, whilst large, is commensurate with the established functional requirement of the holding, in line with policy DM 12. A planning condition is imposed below to restrict occupation of the new dwelling to those employed in agriculture and, given the large size of the proposed dwelling, the additional protection of a Section 106 agreement which ties to the dwelling to the farm is required here to ensure that the dwelling is tied to the farm holding and cannot be separated from it. The applicant has confirmed that he is now prepared to enter into such an agreement.

Character and Appearance

- 7.18 The National Planning Policy Framework 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.

- 7.19 The site is identified as being within an Area of High Landscape Value Swale Level. The Swale Landscape Character and Biodiversity Appraisal (SPD) (November 2011) shows the site as being located in the 'Iwade Arable Farmlands' character area where the landscape condition of the area is described as 'Poor' and the sensitivity is 'Moderate'.
- 7.20 The development will be located on an open area of grassland, which is on an elevated position at the site. As such, there is potential for views of the development from the valley to the south west. The development is set back from the ridge of the hill however, and due to this and the presence of existing trees within the site, limited views of the development will be possible from the valley. The dwelling will be situated to the south east of the existing mobile home, in a more exposed location when compared to the mobile home. The position of the dwelling would provide a direct view of the entrance of the site, which will offer additional security which is currently not experienced. It is considered that the positioning of the dwelling, whilst potentially visible in some views from the bottom of the valley to the south west, will not be significantly prominent in the landscape and as such its location is acceptable.
- 7.21 Views of the development from Iwade Road, a designated rural lane will be possible, however given the distance of approximately 80m between the property and the road, and the established planting that is located along Iwade Road, the proposal will not be prominent from the lane. At 8.3 metres in height, the proposal falls within the typical height range for a two-storey dwelling.
- 7.22 The proposed elevations show a mixture of horizontal timber weatherboarding and brickwork will be utilised on the dwelling. A condition is imposed below to ensure specific material details are provided to the Council. Overall, the design of the property is acceptable and will not appear out of place. A condition is also imposed below ensuring the mobile home is removed from site once the new dwelling is occupied, to avoid the concentration of multiple dwellings at the site.
- 7.23 Taking the above into account, in respect of the character and appearance of the proposal the scheme is considered to comply with policies CP 4, DM12 and DM 14 of the Local Plan and the NPPF.

Heritage Impact

- 7.24 The National Planning Policy Framework 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.
- 7.25 The site lies outside of the Newington Church Conservation Area, but due to the open nature of the site and surrounding countryside, will be visible from part of the Conservation Area. Due to the distance (approx. 270m) and change in land levels between the site and Conservation Area, it is not considered there will be harmful impacts to the setting of the Conservation Area.

- 7.26 With regards to the impact on designated and non-designated heritage assets in the surrounding area, due to distance and intervening tree and hedge cover, Oak Hill Farmhouse (a non-designated heritage asset) would not be impacted by the proposed dwelling. Snakesbury Cottage (at the north eastern edge of the Newington Church Conservation Area) on the other hand does appear to have greater intervisibility with the proposed development. However, the significant distance between this building and the proposed development area does mean that any impact on the setting of this non-designated heritage asset would be very limited. The Council's Conservation Officer has also reviewed the application and raises no objection. On the basis of the above, the proposal will not cause harm to heritage assets and as such accords with policies DM32 and DM33 of the Local Plan.
- 7.27 In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

Living Conditions

Existing residents

- 7.28 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, 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.
- 7.29 Due to the location of the proposed dwelling and limited neighbouring properties in the surrounding area, it is not envisaged the proposed dwelling will have any unacceptable impacts on residential amenity. The closest residential dwelling, The Bungalow will be located approximately 57m from the new dwelling, and due to this distance, any impacts on this neighbouring property will be very limited.

Future residents

- 7.30 New development is expected to offer future occupiers a sufficient standard of accommodation. The dwelling accords with the Government's national space standards. All habitable rooms are served by windows which will provide adequate outlook, light and ventilation. An acceptable amount of outdoor amenity space will be provided for occupiers of the unit.
- 7.31 Taking the above into account, the scheme is considered to be acceptable, and would accord with Policy DM 14 of the Local Plan.

Transport and Highways

- 7.32 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.”

7.33 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.”

7.34 Local Plan policy 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.

7.35 The development will result in the creation of a permanent dwelling at the site but given the applicants already live on site, it is not envisaged there will be any additional vehicle movements created by the development, and as such the proposal will not have any harmful impacts on the wider road network.

7.36 The development will utilise the existing access onto the site, and a separate gravel driveway will be created leading from the main access to the new dwelling. Three parking spaces need to be provided for a property of this scale in the countryside, and the hardstanding to the front of the dwelling can comfortably accommodate these spaces.

7.37 Conditions are imposed below to secure the parking spaces and to require the installation of an electric vehicle charging point at the new dwelling. On the basis of the above the proposal is in accordance with policies DM7 and DM14 and the NPPF in regard to the impact upon highway safety and convenience.

Landscaping and Ecology impact

7.38 The site is located to the south west of Hawes Wood and Wardwell Wood, which are designated as ancient woodland (AW) and a Local Wildlife Site (LWS). Natural England and the Forestry Commission have both referred to their standing advice, whilst Kent Wildlife Trust and KCC Ecology have provided more specific comments on the application.

7.39 Kent Wildlife Trust set out that a 50m buffer zone should be created between the proposed dwelling and the AW/LWS (as recommended by The Woodland Trust), however they note the positioning of the dwelling results in a 31m buffer strip, which is annotated on the proposed plans. Taking into account that Natural England and the Forestry Commission advises that proposals should have a buffer zone of at least 15m from the boundary of ancient woodland, they consider the proposed buffer zone is acceptable subject to conditions securing the strip and long term management of this feature. As suggested by Kent Wildlife Trust, a condition removing permitted development rights for the property is included below, to reduce the risk of new structures impacting on the AW and LWS without a full assessment having been carried out.

- 7.40 KCC Ecology set out in their response that development is set an acceptable distance from these protected sites, and subject to the land between the new dwelling and the woodland being maintained as a buffer zone, they do not consider the development will cause harm to these features. In particular, KCC Ecology set out that they recommend that a strip of vegetation directly adjacent to the AW/LWS is, largely, left unmanaged to enable plants and grasses to grow and set seed. This will create a buffer between the site and the adjacent woods and provide additional habitat for insects which, in turn, will support the pollination within the orchard.
- 7.41 Taking into account the consultee comments, a condition is imposed below ensuring that an ecological enhancement plan is submitted to the Council, which will include details of the rough grassland buffer requested by KCC Ecology, and will secure the long term management of this area. This condition will ensure the development does not harm the Ancient Woodland or Local Wildlife Site, in accordance with the advice from these expert consultees.
- 7.42 It is anticipated that impacts from the construction of the development will include the disturbance of wildlife through increased noise and lighting, potential for contaminated surface water runoff, as well as the generation of dust which may have direct impacts on plant health and survival. Both Kent Wildlife Trust and KCC Ecology have raised these matters, and request a construction management plan is submitted to mitigate these potential issues. This condition is imposed below and it will ensure the protection of the AW and LWS during the construction of the development.
- 7.43 The Council's Tree Consultant has also commented on the scheme and notes the application is not accompanied by any arboricultural information, but that the position of the new dwelling is not likely to affect any significant trees. Therefore, it is considered that there are few arboricultural constraints when it comes to the position of the new dwelling. A condition is recommended for the submission of a tree protection plan to ensure the protection of the woodland buffer and any surrounding trees. This condition is imposed below.
- 7.44 Additional landscaping is shown on the proposed block plan to the north east and north west of the dwelling. The relevant conditions are included below to ensure full details of hard and soft landscaping are submitted to the Council.

SPA Payment

- 7.45 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 new dwelling. As the development will result in an uplift of one dwelling at the site, only one fee is required. As part of the previous application the applicant paid the required fee, which at that time was set at £253.83. An additional payment of £74.44 is therefore required to ensure the payment matches the current fee. This additional fee will be secured prior to the determination of the application.

Archaeology

- 7.46 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.47 Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is 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.
- 7.48 The site lies in an area of potential archaeological importance, and KCC Archaeology have requested a programme of archaeological work is submitted. This condition is imposed below.

Other Matters

- 7.49 At the recommendation of the Environmental Health team, an informative is imposed below relating to the Mid Kent Environmental Code of Practice, which will mitigate any noise and dust issues from the construction phase. A condition related to hours of construction is also imposed below at their request.

8. CONCLUSION

- 8.1 Following the refusal of the previous similar scheme under 21/504388/FULL, the applicant now accepts the Council's position that a S106 is required to tie the land and dwelling together. In addition, the applicant submits that the previous application for prior approval to convert part of an existing building on the site to dwellings was ill-advised and would impact upon the viability and operation of the farm. Following advice from an agricultural consultant, it is considered that the current application (subject to completion of a S106 Agreement) would overcome the previous reasons for refusal, and that a need and justification for a permanent agricultural dwelling at the site has been demonstrated. This represents an appropriate exception to the general restriction on isolated new dwellings in the countryside and complies with Policy DM12 of the Local Plan. As such, it is recommended that planning permission be granted, subject to the conditions set out below, securing a top-up SAMMS payment and the completion of a S106 Agreement.

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: 3277 – 002 Rev H, 3277 – 003 Rev E and 3277 – 004 Rev E.

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

3. The dwelling 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.

4. To assess and mitigate the impacts of development on significant archaeological remains:

A) Prior to any development works the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.

B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.

C) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.

D) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;

b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;

c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

E) The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with Local Plan policies and the National Planning Policy Framework.

5. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan should address the following matters, and the approved details shall be adhered to throughout the construction period.

- Suppression of dust
- Contaminated surface water run
- Noise and lighting

Reason: In the interests of wildlife and biodiversity.

6. No development shall take place until a tree protection plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall accord with BS5837:2012 – Trees in relation to Design, Demolition and Construction. The approved tree protection measures shall be installed on site prior to any works or clearance commencing and shall remain for the entirety of the construction. No works or storage shall take place within any protected area unless specifically agreed in writing by the Local Planning Authority.

Reason: To ensure protection of the woodland buffer and any surrounding trees.

7. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and the development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

8. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been 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, means of enclosure, hard surfacing materials, and an implementation programme. 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.

9. No development beyond the construction of foundations shall take place until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that it has been designed to ensure there will be minimal light spill on to the site boundaries and the surrounding area. The lighting scheme should follow the recommendations within the Bats and Artificial Lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. <https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229>

Reason: In the interests of biodiversity.

10. No development beyond the construction of foundations shall take place until an ecological enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall set out the ecological enhancement features to be incorporated into the wider site and shall include measures for a rough grassland buffer zone between the dwelling and Hawes Wood, as shown on drawing no. 3277 – 002 Rev H, and a management plan for its long-term maintenance and retention. The scheme must be implemented as approved prior to first occupation of the dwelling hereby permitted and maintained in accordance with the management plan thereafter.

Reason: In the interests of biodiversity.

11. The area shown on approved plan numbered 3277 – 002 Rev H as vehicle parking shall be retained for the use of the occupiers of, and visitors to, the dwelling, and no

permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

12. Prior to the occupation of the dwelling hereby permitted, one electric vehicle charging point shall be provided. All Electric Vehicle chargers must be provided to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wi-Fi 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.

13. All hard and soft landscape works 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 the programme agreed in writing with the Local Planning Authority.

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

14. 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.

15. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0800 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

16. The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling shall not be occupied unless the notice for the dwelling 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.

17. The existing mobile home shall be removed from the site within a period of three months following first occupation of the dwelling hereby permitted.

Reason: In the interests of visual amenity and to protect the character, appearance and functioning of the countryside.

18. The occupation of the dwelling hereby approved shall be limited to a person solely or mainly employed, or last employed locally in agriculture as defined in Section 336(i) of the Town and Country Planning Act 1990 or in forestry and any dependent of such a person residing with him / her (but including a widow or widower of such a person).

Reason: The site lies outside any area in which planning permission would normally be granted for a new dwelling and this permission is only granted because the dwelling is considered essential in the interests of forestry or agriculture.

19. Upon completion, no further development, whether permitted by Classes A, B, C, D, E or F of Part 1 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 carried out.

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

INFORMATIVE

1. The Mid Kent Environmental Code of Development Practice should be compiled with during the construction of the development.

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.

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), 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), December 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.

