

Agenda

Planning Committee Meeting

Date: Thursday, 5 March 2026

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Monique Bonney, Andy Booth (Chair), Hayden Brawn, Ann Cavanagh, Lloyd Chapman, Simon Clark (Vice-Chair), Kieran Golding, James Hunt, Elliott Jayes, Peter MacDonald, Peter Marchington, Claire Martin, Ben J Martin, Julien Speed, Paul Stephen, Terry Thompson and Tony Winckless.

Quorum = 6

Pages

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- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the Minutes of the Meeting held on 5 February 2026 (Minute Nos. to-follow) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

Part B reports for the Planning Committee to decide

5 - 8

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 4 March 2026.

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|----|--|-----------|
| 5. | 2.1 - 25/501882/FULL - Land to The North of Lower Road, Teynham, Kent, ME9 9EQ | 9 - 62 |
| 6. | 2.2 - 25/504418/REM - Land At Lady Dane Farm, Love Lane, Faversham, Kent, ME13 8YN | 63 - 84 |
| 7. | 3.1 - 24/502717/OUT - Land West of Borden Lane, Sittingbourne, Kent, ME9 8HR | 85 - 146 |
| 8. | Part 5 applications | 147 - 180 |
- Decisions by County Council and Secretary of State, reported for information.

Issued on Tuesday, 24 February 2026

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk.

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

5th March 2026

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DEFERRED ITEMS Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

PART 1 Reports to be considered in public session not included elsewhere on this Agenda

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 5th March 2026

- **Minutes of last Planning Committee Meeting**
- **Deferred Items**
- **Minutes of any Working Party Meetings**

PART 2

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|------------|-----------------------|------------------|--|
| 2.1 | 25/501882/FULL | TEYNHAM | Land To The North Of Lower Road |
| 2.2 | 25/504418/REM | FAVERSHAM | Land At Lady Dane Farm |

PART 2

- | | | | |
|------------|----------------------|---------------|---------------------------------|
| 3.1 | 24/502717/OUT | BORDEN | Land West Of Borden Lane |
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PART 5

- | | | | |
|------------|-----------------------|------------------|---|
| 5.1 | 24/504891/ADV | DUNKIRK | Gate Service Station, London Road |
| 5.2 | 24/503677/FULL | BORDEN | Land off Riddles Road |
| 5.3 | 24/505332/FULL | FAVERSHAM | Former Kingsfield Care Home,
Jubilee Way |

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PLANNING COMMITTEE – 5th March 2026

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 25/501882/FULL		
PROPOSAL - Erection of 23no. dwellings (Including Affordable Housing) with associated public open space, access, vehicle parking and an enhanced pedestrian route to Teynham.		
SITE LOCATION - Land to The North of Lower Road, Teynham, Kent, ME9 9EQ.		
RECOMMENDATION - Delegate to the Head of Planning to grant planning permission subject to appropriate conditions and the completion of a Section 106 agreement 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 and precise Heads of Terms as may be necessary and appropriate.		
APPLICATION TYPE – Full		
REASON FOR REFERRAL TO COMMITTEE The officer recommendation for approval is contrary to a recommendation for refusal by a statutory consultee (KCC Highways).		
Case Officer – Andrew Gambrill		
WARD Teynham and Lynsted	PARISH/TOWN COUNCIL Teynham	APPLICANT Guy Osborne AGENT N/A
DATE REGISTERED – 02/06/2025		TARGET DATE – 10/03/2026
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SVY7QLTYGW400		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The site lies to the east of the rural service centre of Teynham, with the houses proposed on a site outside of the designated built-up area boundary of the settlement and the footpath access past Selby Court towards Lower Road within. The site is bound by Lower Road to the south (a designated Rural Lane with a long frontage screened by trees and hedgerows), a railway line to the north (on land elevated above the site) and Selby House/The Old Squash Courts/The Old School Cottage to the west.
- 1.2. The topography slopes down from west to east. To the north of the railway line lies an Area of High Landscape Value, with PRoW ZR251 to the south east of the site and PRoW ZR250 to the south west. The eastern part of the site lies within a medium/high risk area for surface water flooding.

2. PLANNING HISTORY

- 2.1. 21/505096/FULL – Erection of 23no. dwellings with associated landscaping, parking, relocation of commercial buildings and provision of a PROW cycleway/footpath – Refused June 2024 and appeal dismissed December 2024.
- 2.2. The Inspector determining the appeal dismissed the appeal primarily on the grounds of accessibility, as per paragraphs 19, 26 and 27 below:

19. Overall, the pedestrian route past Selby House through to Lower Road would not be a safe or suitable pedestrian access for future occupiers of the proposal. The development would therefore conflict with policy CP 2 of the Swale Borough Local Plan (2017) which aims to improve safety and ensure development provides integrated walking and cycling routes to link existing and new communities with local services and facilities; and Local Plan policy DM6 which requires priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflicts. It would also conflict with Local Plan policy ST 1 by failing to be located so as to achieve safe shared spaces.

26. In contrast, the failure of the development to provide a safe pedestrian access would conflict with paragraph 115 of the Framework which requires development to provide safe and suitable access to sites for all users. This conflict is a matter of considerable importance. Paragraph 116 adds that development should be prevented on highway grounds if there would be an unacceptable impact on highway safety.

27. Overall, I consider that the harms would significantly and demonstrably outweigh the benefits. Therefore, the presumption in favour of sustainable development does not apply.

- 2.3. In addition, partially within the application site due to a pedestrian access extending from the primary part of the site, the following planning applications that largely affect land adjacent to the site are relevant:
- 2.4. 23/501073/FULL - Section 73 - Application for minor material amendment to approved plans listed in condition 2 (to allow change of car parking area from block paving to tarmac, with drainage to an onsite soakaway, alterations to parking space positions and landscaping areas, and relocation of bin store) and 13 (hard and soft landscape works) pursuant to 19/506271/FULL for - Erection of a block of 6 no. flats with associated parking, cycle and refuse storage, as amended by drawings received 05/06/2020 and drawing received 14/08/2020 – Granted October 2024
- 2.5. 19/506271/FULL - Erection of a block of 6 no. flats with associated parking, cycle and refuse storage, as amended by drawings received 05/06/2020 and drawing received 14/08/2020 – Granted October 2020

3. PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the erection of 23 dwellings. Three of the dwellings would be affordable in the context of the formal definition. The housing mix would be as follows:

	One Beds	Two Beds	Three Beds	Four + Beds	Total
Open Market	1	3	12	4	20
Affordable	0	3	0	0	3
Total					23

- 3.2. The housing provision would include 4 detached open market dwellings. There would be 16 semi-detached dwellings and 3 terraced properties.
- 3.3. The main vehicular entrance into the site would be via an existing access point opposite Whiteleaf Villa, with the main estate road then routing west through the site towards Selby House/The Old Squash Courts. A pedestrian route is proposed through the site and through an existing residential area to the west of the primary part of the site, where it would then feed out onto Lower Road. No vehicular access is proposed from the development along that route. The pedestrian access route would necessitate changes to the existing surface of the access route serving Selby House/The Old

Squash Courts, together with the addition of pedestrian signage, hatching and bollards to aid separation between vehicles and people on foot. As a result of the necessity to undertake those works, the land required has been included within the application site.

- 3.4. Dwellings would be street facing towards the internal access route, with all buildings featuring accommodation over two storeys. Carports would also be present within the site with 66 parking spaces proposed in total to serve the development. In terms of materials, the submitted Design and Access Statement indicates that the dwellings would be constructed from a palette featuring stock brickwork, weatherboarding, hanging tile and render, with timber joinery and clay roof tiles.
- 3.5. To the west of the proposed dwellings is a proposed wildflower meadow, whilst the east of the site would comprise a SUDs pond and orchard planting. A proposed footpath route would link Lower Road with the PRow to the south east of the site.

4. REPRESENTATIONS

- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers. Two notices were displayed near to the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. 11 letters of representation objecting to the proposal were received in the first round of consultation. Concerns and comments were raised in relation to the following matters:

Comments	Report Reference
Impact on on-site biodiversity (including Turtle Dove)	7.10.13 – 7.10.19
Proposed entrance to the site is on a low-visibility section of the road which will increase risk/no path which is very risky for any parents and children, prams and even walking dogs.	7.11.3 - 7.11.19
Pedestrian route proposed is the same as under the application dismissed at appeal - addition of some marking does not change the dangerous nature of this route. Notably, at the point where pedestrians reach the car park area, there is still no marked pedestrian route, so pedestrians, cyclist, wheelchair users will come into conflict with cars/safety risk to children and parents/very narrow shared entrance which is already dangerous due to restricted vision	7.11.7 – 7.11.19
Access road between Lower Road and the Selby House car park is very narrow and inadequate to accommodate the additional pedestrian/cycle traffic from the new development,	7.11.11

with barely enough width for pedestrians and traffic to pass each other at pinch points	
Refuse trucks reverse up the access road to Selby House with potential for accidents	7.11.11
Increased traffic/road users/pedestrians will impose further risks to those who use the Lower Road, where it turns into a national speed limit	7.11.7 – 7.11.19
Access on the map (based on red line) would add an additional 46 cars through the existing access to Selby House	The access past Selby House is for pedestrians only.
Previous appeal was dismissed and nothing has changed	7.11.7 – 7.11.19
Access issues mean that presumption in favour of development does not apply and the application should be determined in accordance with the development plan	7.19.1 – 7.19.4
Falls outside settlement boundary of Teynham	7.2.7 - 7.2.11
Substation has been installed on site so probably a done deal	Any substation installed on the site is not connected to the consideration of this application.
Conflict with condition 9 of 23/501073, which required the footpath from the development to be removed as part of any landscaping plan submission. A hedge to the south west of the bin store and native planting and boundary treatment were conditioned to be located along the eastern boundary of the Selby House site, but this application does not show that	7.11.13
The roads and existing services cannot cope with the additional demand arising	7.11.3 - 7.11.19
Impacts on rural appeal of village	7.5.1 – 7.5.16
Part of site adjacent to railway bridge floods year round	7.15.1 – 7.15.8
Cumulative impact with other development would change character of area (Chartway development)	7.18.2

Strain on local services	7.13.7
From the railway will be viewed as a line of development through the village	7.5.1 – 7.5.16

4.3. **Teynham Parish Council** object to the application on the following grounds:

Comments	Response
Lack of engagement from applicant with the PC prior to submitting	Noted.
Scheme is located outside the defined settlement boundary of Teynham and would utilise grade 1 agricultural land	7.2.7 - 7.2.11 and 7.2.12 - 7.2.18
Scheme would impact upon the beauty, value and tranquillity of the countryside and it is unlikely that they would contribute to the viability of existing services and facilities, going instead to Faversham or Sittingbourne	7.5.1 – 7.5.16 and 7.19.5
The proposal, comprising standard, non-contextual house designs, contributes nothing to local identity and community and would amount to harmful urban sprawl	7.5.1 – 7.5.16
There is no public footway/footpath along Lower Road connecting the site to that existing at Barrow Green. Lower Road is not wide enough for such a footpath to be safely provided and it would also need to negotiate a potentially hazardous hill on a bend in the road which has poor visibility for pedestrians and vehicular traffic alike	7.11.7 – 7.11.19
Access via the Selby House development directs pedestrians through a car park, raising clear safety concerns	7.11.7 – 7.11.19
PRoW routes are unsuitable for regular pedestrian use, particularly in poor weather or for mobility-impaired users and do not connect directly to key services or shops on Greenstreet/London Road	7.11.18
Lack of bus services	7.2.8
Lower Road suffers from visibility constraints and inadequate width, posing ongoing risks for all road users – proposals fails to meet visibility standards set by	7.11.3 – 7.11.6

Manual for Streets and the Design Manual for Roads and Bridges. Unclear if design has considered impacts on all vehicle types, including mopeds and refuse lorries	
Impact on onward capacity from Lower Road towards Teynham/Sittingbourne in the west and towards Faversham in the east	7.11.3 – 7.11.6
Cannot see how any Air Quality Impact Assessment required would demonstrate that the proposed development would not give rise to unacceptable harm	7.12.5
Elevation change of approximately 9 metres between the centre of the site and the Selby House car park results in steep gradients that are unsuitable for individuals with reduced mobility	7.11.7 – 7.11.19
Proposed use of the Selby House access route would increase traffic, noise, and general disturbance to existing residents, contrary to the NPPF	7.8.3

- 4.4. In addition to the comments above, four comments of support were received. These are summarised below:

Comments	Response
Support the idea of having a new small community added to Teynham, rather than a multi thousand development where there is no community spirit present	Noted.
Houses have to be built somewhere and if they fit in well with the local community surely that's the aim of having new builds	Noted.
Support development of affordable homes - rent is high and having more affordable options is essential	Noted.
Size of proposals would allow it to develop sense of community	Noted.

- 4.5. Following changes to the plans to incorporate bollards to the pedestrian access route between Lower Road and the Old Squash Courts, neighbours were reconsulted. Two further objections were received as summarised below:

Comments	Response
No significant difference between the appealed application and this proposal. Road access is still unsafe, proposed pedestrian access will cause significant disruption and noise to existing residence/application has also been rejected by Planning Inspectorate due to safety concerns.	7.11.7 – 7.11.19 and 7.8.3
Serious consideration has to be given to the lack of engagement from the applicant, evidently showing the applicants lack of adhering to difficult opposition and being bombastic in their approach with regards this build.	Noted.
Proposed pedestrian route is a complete and utter danger to any pedestrians trying to navigate via that manner of walkway, whilst lighting is non-existent and is an added peril and accident waiting to happen.	7.11.7 – 7.11.19

- 4.6. In addition, one comment neither objecting nor supporting the application was received, providing the following observations:

Comments	Response
Clarity should be provided regarding the presence or otherwise of reptiles on site, with any amendments reviewed by KCC Ecology.	7.10.13 – 7.10.24
The BNG metric may need updating, as it currently appears to include hedgerow and trees present within private curtilages.	7.10.13 – 7.10.24
Has heard Turtle Dove on site – whilst aware they are not afforded any real level of protection above that of all	7.10.18

nesting birds, their presence and BOCC status should be enough to trigger a survey and have appropriate mitigation measures and enhancement features designed.	
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5. CONSULTATIONS

- 5.1. Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee.
- 5.2. **Environment Agency (EA)** – No objection in relation to groundwater and contaminated land and refer to guidance in respect of matters such as groundwater protection, piling and discharge of effluent.
- 5.3. **Mid-Kent Environmental Health** – No objection subject to conditions securing details of noise mitigation (in relation to noise arising from the railway and adjacent road on future occupiers), air quality mitigation, contamination remediation and a construction method statement.
- 5.4. **Kent Fire and Rescue** – The emergency access requirements of the development have been met, but the parking within the turning head should be appropriately managed to ensure that emergency vehicles have unrestricted access at all times. Should this proposal be successful, it would then be subject to a Building Regulations consultation where the access arrangements would again be examined.
- 5.5. **KCC Highways** – Following a review of the amended drawings submitted by the applicant, Highways acknowledges the improvements made to pedestrian connectivity within the site, particularly the provision of a separate pedestrian lane through Selby Court. These changes are welcomed and improve pedestrian movement within the site.
- 5.6. However, Highways maintains its objection to the application on the grounds of highway safety, specifically relating to pedestrian crossing arrangements on Lower Road. KCC Highways comments and a response to those is set out paragraphs 7.11.14 to 7.11.17.
- 5.7. **KCC Flood and Water Management** – No objection subject to conditions for a surface water drainage strategy, verification reports and controls on infiltration to ensure that there are no resultant unacceptable risk to controlled waters and/or ground stability.
- 5.8. **KCC Strategic Development and Place** – Requests financial contributions in order to mitigate the impacts of the development on social/community infrastructure.

- 5.9. **KCC Ecological Advice Service** – No further ecological survey work is required. In respect of Biodiversity Net Gain, two existing baselines have been submitted (one with an orchard and one without) and it should be agreed prior to submission of the Biodiversity Gain Plan which of the two should be relied upon in order to discharge the BGP. Either way, the on-site biodiversity gain is considered significant, so a Habitat Management and Monitoring Plan (HMMP) should be imposed by condition and a monitoring fee secured via legal agreement. Conditions securing a Construction Ecological Management Plan (CEMP), details of external lighting and a biodiversity enhancement plan are recommended.
- 5.10. **KCC Minerals and Waste** – No land-won minerals or waste management capacity safeguarding objections or comments to make regarding this matter.
- 5.11. **KCC Archaeology** – No objection subject to a condition securing an archaeological programme of works.
- 5.12. **KCC Public Rights of Way (PROW)** - No comments to make as PROW are unaffected.
- 5.13. **SBC Heritage and Design** – No objections - the proposal would preserve the setting of designated heritage assets outside of the site subject to a condition preventing permitted development rights for roof alterations to dwellings north of the main access road through the site.
- 5.14. **SBC Affordable Housing** – In light of the viability assessment coupled with the previous agreement regarding the affordable homes on this site, able to accept that three 2-bedroom homes will be provided as the affordable housing.
- SBC Greenspaces** – Contributions are required towards outdoor sport and play facilities.
- 5.15. **SBC Tree Officer** – No objections to the development layout subject to compliance with the tree protection measures being secured by way of a condition.
- 5.16. **Natural England (NE)** – Comment that additional information is required with regards to recreational impacts on European Sites and that an Appropriate Assessment should be carried out. Acknowledge that Swale has measures in place to manage potential impacts through a strategic solution which Natural England considers will be effective in preventing adverse impacts on the integrity of the site(s).
- 5.17. **NHS** – Request £35,378 for the refurbishment, reconfiguration and or extension to general practice and other healthcare facilities within a 3-mile radius of the

development site or towards new healthcare facility to be provided in the community in line with the healthcare infrastructure strategy for the area.

- 5.18. **SBC Active Travel** – Comments that there are challenges with walking and cycling due to widths of footpaths and roads, whilst it is also difficult to see oncoming traffic at the site entrance. Unless a suitable and sustainable solution is found and clearly presented, cannot support this application.
- 5.19. **Lower Medway Internal Drainage Board (LMIDB)** – Comments that KCC is the appropriate authority to comment on drainage design and flood risk. Suggest conditions securing a surface water drainage scheme, a maintenance schedule and a verification report.
- 5.20. **Southern Water** - No objection. Comments that there is adequate capacity in the network to accommodate the proposals. Request an informative be added requiring details of surface/foul water drainage and that a condition is imposed with regards to protection of the sewer as part of the landscaping scheme.
- 5.21. **Kent Police** – Recommend a condition regarding designing out crime.
- 5.22. **Swale Footpaths Group** - Query if the enhanced pedestrian route would be added to the Definitive Map.
- 5.23. **UK Power Networks** – Comments that all works should be undertaken with due regard to Health & Safety Guidance notes HS(G)47 (Avoiding Danger from Underground services). This document is available from the local HSE office. Should any diversion works be necessary as a result of the development then enquiries should be made to the UKPN Customer Connections department.

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

- ST1 Delivering sustainable development in swale
- ST2 Development targets for jobs and homes 2014-2031
- ST3 The Swale settlement strategy
- ST4 Meeting the Local Plan development targets
- ST5 The Sittingbourne strategy area
- CP1 Building a strong, competitive economy
- CP2 Promoting sustainable development

- CP3 Delivering a wide choice of high quality homes
- CP4 Requiring good design
- CP5 Health and wellbeing
- CP6 Community facilities and services to meet local needs
- CP7 Conserving and enhancing the natural environment – providing for green infrastructure
- CP8 Conserving and enhancing the historic environment
- DM6 Managing transport demand and impact
- DM7 Vehicle parking
- DM8 Affordable Housing
- DM14 General development criteria
- DM17 Open space, sports and recreation provision
- DM19 Sustainable design and construction
- DM20 Renewable and low carbon energy
- DM21 Water, flooding and drainage
- DM24 Conserving and enhancing valued landscapes
- DM26 Rural Lanes
- DM28 Biodiversity and geological conservation
- DM29 Woodland, trees and hedges
- DM31 Agricultural land
- DM32 Development involving listed buildings
- DM34 Scheduled Monuments and archaeological sites

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.

Swale Landscape Sensitivity Assessment, 2019.

Developer Contributions Supplementary Planning Document, 2009.

Noise and Vibration – Planning Technical Guidance Document, 2020.

Parking Standard Supplementary Planning Document, 2020.

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

7. ASSESSMENT

7.1. The main considerations involved in the assessment of the application are:

- Principle
- Landscape Effect, Layout, Scale and Appearance
- Heritage
- Archaeology
- Living Conditions
- Trees
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Surface Water
- Contamination
- Sustainability / Energy
- Other Matters

7.2. **Principle**

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

7.2.2. The NPPF 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.

7.2.3. Paragraph 11 of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination .

7.2.4. Swale Council are currently unable to demonstrate a 5 year supply of housing such that paragraph 11 of the NPPF is engaged.

7.2.5. Policy ST1 of the Local Plan seeks to deliver sustainable development that accords with the settlement strategy for the Borough.

7.2.6. Policy ST3 of the Local Plan sets out the settlement strategy and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the countryside unless it is supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

7.2.7. Other than the proposed pedestrian access route between Lower Road and past Selby House/The Old Squash Courts which lie within the built-up area boundary of Teynham, the application site is located outside the built-up area boundary of the settlement and in the open countryside. As will be assessed in further detail below, the visual impact of the proposal would not contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside or its buildings. Consequently, the proposal would not accord with the settlement strategy set out in Policy ST3 and nor would it accord with criteria 4 of Policy ST1 or Criteria 1 of Policy CP3 (both of which refer to the settlement strategy).

7.2.8. However as detailed above, the housing on the site immediately abuts the built up area boundary of Teynham. Policy ST3 identifies Teynham as a Rural Local Service Centre, which represent the *“tertiary focus for growth in the Borough and the primary focus for the rural area”*. In this regard it is noted that Teynham is served by train and bus connections, a Primary School, shops and other such services. The site is therefore in a relatively good location with regards to services and facilities and is a reasonably suitable location for housing, notwithstanding the conflict with Policies ST1, ST3 and CP3 of the Local Plan identified above.

- 7.2.9. On the basis that Swale are unable to demonstrate a 5 year supply of housing, paragraph 11(d) of the NPPF is engaged and the presumption in favour of sustainable development applies.
- 7.2.10. The harm caused by the proposal, the benefits of the proposal and the associated conflict and accordance with the Local Plan and the content of the NPPF, as a material consideration of significant weight, will be considered fully in a balancing exercise below, once other material considerations have also been considered.
- 7.2.11. A material consideration of note is that by the time the previously refused scheme (21/505096/FULL) was appealed under reference APP/V2255/W/24/3349574, the Council could no longer demonstrate a five year housing land supply. The Council therefore withdrew its original reason for refusal relating to the location of the development in the open countryside during the appeal process. Planning Practice Guidance advocates determining similar cases in a consistent manner.

Loss of Best and Most Versatile Agricultural Land

- 7.2.12. Policy DM31 of the Local Plan states that development on such land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. For reasons that will be set out elsewhere, there is a demonstrable housing need that cannot currently be met within built-up area boundaries.
- 7.2.13. As far as is relevant to this site and proposal which relates to a site that is not allocated for development by the local plan (criteria 1), the policy goes on to state that development on Best and Most Versatile (BMV) agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless there is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development (criteria 2) and the development will not result in the remainder of the agricultural holding becoming unviable or leading to likely accumulated and significant losses of high quality agricultural land (criteria 3).
- 7.2.14. The applicant has provided an Agricultural Land Quality Considerations document (dated August 2023). Whilst the council's internal mapping system shows the site as Grade 1 land, the document submitted with the application sets out that it can likely be deduced from assessments carried out on sites to the south and west that the site comprises Grade 2 land. Notwithstanding whether the site is Grade 1 or Grade 2, it is Best and Most Versatile in any event, such that its loss triggers the need for an assessment against Policy DM31 of the Local Plan.

- 7.2.15. The document referred to above is the same document that was submitted under the previous application on the site. The officer of the previous application reviewed that document and concluded that criteria 2 would be satisfied.
- 7.2.16. However, in respect of the third criteria, no information has been submitted by the applicant to demonstrate that the loss of this parcel of land would not lead to the remainder of the holding becoming unviable or lead to significant losses of high-quality agricultural land. As per the assessment carried out under the previous application, the applicant has therefore failed to satisfy criteria 3 of Policy DM31 of the Local Plan such that the proposals conflict with the policy as a whole.
- 7.2.17. For these reasons, the loss of Best and Most Versatile agricultural land would conflict with the abovementioned policy.
- 7.2.18. For reasons that will be set out elsewhere, it will be relevant to consider how much weight to afford the harm arising from the loss of Grade 1/2 BMV. In this regard, appeal decisions for in excess of 100 dwellings within the Swale Borough have given this conflict moderate weight on appeals at London Road, Newington (APP/V2255/W/23/3318448) and Swanstree Avenue, Sittingbourne (APP/V2255/W/22/3311224). Given the size of the site, the conflict arising is considered to attract limited to moderate weight in the planning balance.

7.3. **Size and Type of Housing**

- 7.3.1. The NPPF recognises that to create sustainable, inclusive, and diverse communities, a mix of housing types, based on demographic trends, market trends, and the needs of different groups, should be provided.
- 7.3.2. Policy CP3 of the Local Plan requires the mix of tenures and sizes of homes provided in any particular development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types, which reflect that of the Strategic Housing Market Assessment (SHMA). Subsequent to the adoption of the Local Plan, the Council's Housing Market Assessment (HMA) was prepared in 2020 (i.e., more recently than the Local Plan) after the introduction of the standard method for calculating the objectively assessed need. As such, officers have considered the proposed and indicative housing mix against that set out in the HMA.

Tenure – HMA	1 Bed	2 Bed	3 Bed	4 Bed
Market Required	7%	33%	41%	19%
Market Proposed	5%	15%	60%	20%
Affordable Required	27%	23%	30%	20%
Affordable Proposed	0%	100%	0%	0%

- 7.3.3. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes. It should be remembered that this reflects the Borough wide need.
- 7.3.4. On a more local level, Policy CP3 of the Local Plan indicates that housing proposals should be tailored to the issues present within the local housing market area. The preamble to the policy provides background to this stating that, in the area of Teynham, house prices are relatively high and there are reasonable levels of demand. It goes on to state that going forward, *“the aspiration could be to encourage the development of good quality family housing, for which the greatest local demand exists”*.
- 7.3.5. From this basis, whilst the does not closely align with the needs of the Borough as a whole and conflicts with criteria 5 of Policy CP3 of the Local Plan as a result, it is considered that the proposal is tailored to the local housing market in terms of providing open-market housing of a high quality and suitable to accommodate families and, therefore accords with criteria 2 of that policy.
- 7.3.6. Moreover, in respect of criteria 3 of Policy CP3 of the Local Plan which requires development to be at a density that is determined by the local context, it is considered that the overall density of the development is appropriate for the semi-rural context within which it would sit.
- 7.3.7. Overall, whilst not complying with Policy CP3 of the Local Plan in all respects, it is considered that the proposal is consistent with other parts of the policy in such a way that no objection is raised to the mix of dwellings that is proposed.

7.4. **Affordable Housing**

- 7.4.1. Policy DM8 of the Local Plan indicates that the development at this site should include 40% affordable housing and states that the size, tenure and type of affordable housing units should be in accordance with the needs of the area. It also requires that, where possible, homes are designed for use by disabled, elderly and vulnerable residents. Policy DM8 is supported by Policy CP3 of the Local Plan.

- 7.4.2. In the context of affordable housing, there is a requirement in this location for 40% affordable housing due to the location of the site within the open countryside. Criteria 5c of Policy DM8 of the Local Plan does however set out that in situations where an applicant can demonstrate that providing the full affordable housing provision would result in the scheme becoming unviable, a reduced requirement may be considered.
- 7.4.3. In this case, a Viability Appraisal (September 2025) was commissioned during the course of the application. The appraisal carried out concludes that taking into account the costs associated with the scheme (including contributions towards education and healthcare), the proposals can only provide three of the 23 units as affordable dwellings. These three units are proposed as two beds for affordable rent.
- 7.4.4. A Viability Assessment was also carried out in support of the previously refused scheme (21/505096/FULL). That found that the scheme for the same number of dwellings could only afford to provide three of those units as affordable housing for affordable rent. In that case, the arrangement was considered acceptable to officers.
- 7.4.5. Although it is regrettable that more affordable units are unable to be provided, given the conclusions of the Viability Appraisal carried out in September 2025 and the conclusions reached by officers of the previous application, the provision of three, two bed affordable rent units is considered acceptable in the circumstances. The provision of the units as affordable rented products would be broadly in keeping with the desired 90/10 split sought in paragraph 7.3.8 of the Local Plan, given the limited number of units able to be provided through the development.
- 7.4.6. Whilst the quantum of affordable housing being provided by the development does not meet the 40% typically sought in open countryside locations such as this, given the council have declared an Affordable Housing Emergency, the proposals would make a small yet valuable contribution to affordable housing provision in the borough.
- 7.4.7. 22 of the 23 properties on the site are proposed to be constructed to M4(2) standard, with all of the affordable properties constructed to M4(2). Whilst no M4(3) units are proposed, the provision of M4(2) units across the site would make a valuable contributions towards the provision of accessible and adaptable dwellings in the borough.
- 7.4.8. Given the quantum of affordable housing to be provided has been informed by a Viability Appraisal, the proposal would accord with the provisions of Policy DM8 of the Local Plan. Whilst the mix of affordable housing would not wholly accord with the preferred mix, it is considered that this represents a partial conflict with policy driven by the lower number of units being secured and, where there is an overall need for all types of affordable housing, it is not considered that this is grounds to conclude that the proposal is contrary to the policy as a whole.

7.5. **Landscape and Visual**

- 7.5.1. Policy DM14 of the Local Plan sets out general development criteria, requiring, amongst other elements, developments to reflect the positive characteristics and features of the site and locality, be well-sited and of a scale, design and appearance to be sympathetic and appropriate to the location. Policy CP4 of the Local Plan seeks to ensure that all development proposals are of a high quality design that is appropriate to its surroundings.
- 7.5.2. Policy DM24 of the Local Plan states the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed. For 'non-designated' landscapes such as the application site, policy seeks to minimise and mitigate adverse impacts and, where significant adverse impacts remain, requires that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.5.3. Lower Road is also a designated Rural Lane. Policy DM26 of the Local Plan states that 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.

Landscape

- 7.5.4. No Landscape and Visual Impact Assessment has been submitted in support of the application, but part of the D&A provided discusses the wider landscape impacts of the proposals. Given the scale of the development and the surrounding context, the impacts arising can be sufficiently understood notwithstanding the absence of an LVIA.
- 7.5.5. The site itself falls within an undesignated landscape, although an Area of High Landscape Value is located to the north of the railway that bounds the site. With regards to the general character of the area, the site is located within the Teynham Fruit Belt Landscape Character Area (LCA) as defined by the Swale Landscape Character and Biodiversity Appraisal 2011. This identifies key characteristics of the area. Characteristics that apply to this site include the undulating landscape and the narrow winding lanes enclosed by mature hedgerows. Overall, the condition of the Teynham Fruit Belt is stated to be moderate, with the overall sensitivity also considered to be moderate. The guidelines for conserving and enhancing the area focus, in part, on creating a stronger/crisper urban edge which provides a clear transition between rural and urban areas.
- 7.5.6. Further to the above, the Swale Landscape Sensitivity Assessment (2019) divides Teynham's settlement edge into two areas for assessment of sensitivity. The site falls within area TM1 - the enclosed farmlands to the east and south east. It finds that the overall assessment of landscape sensitivity to future change to residential development (2-3 storey housing over 2ha) is medium-high (noting the landscape

comprises features such as a gently undulating landform), as well as a moderate to high sense of rural character with some modern human influences and varying visual prominence and enclosure. Whilst the site is under 2ha (circa 1.38ha), this provides helpful background of the character of the area within which the site is located.

- 7.5.7. The site itself and the parcel of land which is to be developed for housing steeply inclines from east to west. An embankment rising to the railway line is located on parts of the northern boundary. The site had previously been used as an orchard. The presence of mature vegetation around the boundary and the generally undeveloped nature of the site ensures it continues to possess a relatively verdant rural character.
- 7.5.8. The proposals would see the introduction of 23 dwellings within a cul-de-sac type arrangement. They would be predominantly two storey in height and served by an access opposite Whiteleaf Villa. An orchard is proposed to the east of the site, with additional open space proposed to the west of the site in proximity to Selby House. The layout of the proposals is very similar to those considered under application 21/505096/FULL. The only real difference of note with that application is that there is a slight change in the size of window openings to the front of the properties and a drainage pond has been introduced to the east.
- 7.5.9. The introduction of 23 houses and the associated infrastructure required to deliver the housing would clearly have an urbanising impact on the landscape character in this location. It would be readily visible from public vantage points outside of the site, particularly upon approach to Teynham from the east of the site in proximity to Osier Road. However, from wider vantage points, the development would be relatively well screened by existing built form to the west, mature vegetation proposed to be maintained as part of the development to the southern edge and by the railway line and associated embankment in situ to the northern edge of the site. Whilst the most exposed part of the site would be to the east of the development, harm arising in that location is proposed to be softened by additional tree and orchard planting which would help to minimise and mitigate the impacts on the surrounding landscape.
- 7.5.10. The Local Plan seeks to ensure that sites in non-designated landscapes minimise and mitigate adverse landscape impacts. The development itself is located centrally within the site and is relatively well visually contained. In areas of greater exposure, tree planting/landscaping is proposed, with an orchard to the east, ensuring no significant harm to the designated rural lane adjacent. The development as a whole would be relatively low density and parking would be set to the side of properties, ensuring a spacious character.
- 7.5.11. In view of the above, the impact on landscape character is therefore considered, on balance, to accord with Policies CP4, DM24 and DM26 of the Local Plan. This is consistent with the conclusions of the previous application on the site, 21/505096/FULL.

Urban design

- 7.5.12. The Local Plan requires that development proposals are of a high quality design appropriate to their surroundings.
- 7.5.13. Dwellings proposed across the site are two-storeys in height. They comprise a mix of hipped, gabled and barn hipped dwellings utilising a combination of brick, weatherboarding and hanging clay tiles, as well as timber fenestration. The dwellings are of a high quality design that would appear sufficiently sympathetic and appropriate to the location.
- 7.5.14. As set out in sections above, the development is laid out in an irregular but linear, cul-de-sac arrangement. Housing is contained centrally within the plot which makes space for open space to east and west. The density is relatively low but is appropriate in this case given the location of the development at the edge of Teynham and in the open countryside. The introduction of a landscape-led housing development at a lower density helps to ensure that the development proposals have sufficient regard for the character, setting and context of the site. Subject to conditions relating to materials and details of soft and hard landscaping, the design of the proposals is considered acceptable.
- 7.5.15. It is worth noting that the changes proposed for the pedestrian route through the site and towards Lower Road would see the introduction of tarmac in that location, as well as some modest signage and bollards to create the defined pedestrian route. Whilst this would partially change the character of the route from Lower Road towards the Old Squash Courts near Selby House, the change in surface material and introduction of street furniture would be seen in the context of existing road and parking infrastructure. Those changes are therefore considered to have an acceptable impact on the visual amenity of the area.

Summary

- 7.5.16. Having considered the conclusions of the previous assessment in respect of landscape and the general design quality of the development, whilst the proposals do not strictly comply with criterion 6 of policy DM14 the proposals, on balance, are considered to accord with Policies CP4, and DM24 of the Local Plan and broadly the NPPF.

7.6. Heritage

- 7.6.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning

authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

- 7.6.2. Local Plan Policy CP8 sets out various requirements proposals must accord with to sustain and enhance the significance of Swale's designated heritage assets. The policy states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity.
- 7.6.3. Policy DM32 of the Local Plan relates to development involving listed buildings and states that development proposals affecting a listed building, or its setting will be permitted provided that the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved.
- 7.6.4. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.6.5. In assessing heritage impacts, the first step is for the decision-maker to consider each of the designated heritage assets which could be affected by the proposed development in turn and assess whether the proposed development would result in any harm to the significance of such an asset.
- 7.6.6. In this case, there are no listed buildings located within or adjacent to the application site. The nearest listed buildings are three Grade II listed buildings forming part of Osiers Farm to the northern side of the railway line, off Osier Lane. These are approximately 150 metres to the north of the site. This distance, in combination with the elevated railway line to the north of the site and intervening trees and hedgerow mean there would be little intervisibility between the proposed houses and the listed buildings. The Grade I listed St Mary's Church is located circa 810 metres north of the proposal, and the separation distance would help ensure there would be no harm to the setting of the church.
- 7.6.7. SBC Heritage have reviewed the proposals and raise no objections to the development, subject to a condition being imposed that removes permitted development rights for roof alterations (including dormers) to the dwellings on the north side of the site access road. However, given the separation distance of the proposals from those identified heritage assets above, it is not considered that this condition is necessary in this case.

- 7.6.8. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the duties of the Council pursuant to the Planning (Listed Buildings and Conservation Areas Act) 1990. Overall, it is concluded that the proposal will preserve the setting of listed buildings, thus complying with Policies CP8, DM14 and DM32 of the Local Plan and the NPPF.

7.7. **Archaeology**

- 7.7.1. Policy DM34 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.
- 7.7.2. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, Local Planning Authority's should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.7.3. KCC Archaeology have been consulted on the application and advise that the Teynham area is rich in archaeological remains, having been the focus of several investigations. Although there are no known remains on the site itself, it lies close to a projected Roman route, a track between the main road, Watling Street and Roman buildings and settlement around the parish hall. Evidence for Roman and Saxon settlement, probably focused on the stream to the east has been found at Osiers Farm to the north of the site and the railway. Neolithic finds have also been made in that area. The brickearth and gravel head deposits in the area have potential for Palaeolithic remains. The ground investigation provided with the submission confirms that head deposits survive on the site and have not been removed by nearby brick workings around White Leaf.
- 7.7.4. The site has remained open and undeveloped and there is no evidence of significant existing disturbance of the ground on the site. New groundworks associated with the development would potentially affect archaeology if present.
- 7.7.5. Given the above there is potential for the development to affect archaeological remains. The potential impacts of the scheme on archaeology can be appropriately addressed through further assessment, evaluation and mitigation that can be secured through a condition on a consent for the present scheme.
- 7.7.6. The advice given is considered to be sound and therefore, subject to the imposition of a condition, it is considered that the proposal can be made acceptable and, therefore, the proposal would accord with the requirements of Policy DM34 of the Local Plan and the abovementioned section of the NPPF.

7.8. **Living Conditions**

Existing residents

- 7.8.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.8.2. Given the separation distance of the proposals from any residential property outside of the site, the proposals would not give rise to any unacceptable impact on neighbouring living conditions.
- 7.8.3. Although there would be some pedestrian movements in proximity to Selby House and other properties in the vicinity of the enhanced pedestrian route proposed, it is not considered that the limited movements arising would give rise to any unacceptable noise and disturbance impacts on neighbouring occupiers.

Future residents

- 7.8.4. The layout of the proposed development ensures that all plots are served by a private garden area of acceptable size, being arranged in such a way that there would be no issues of unacceptable overlooking within habitable rooms or garden areas. Moreover, it is considered that the spacing between dwellings would ensure that all properties are served by sufficient light, whilst all dwellings would be provided with a good standard of internal accommodation. There is space at each of the plots for adequate refuse and cycle storage.
- 7.8.5. Given the site lies in immediate proximity to Lower Road and an existing railway line, Environmental Health have advised that a condition securing details of any noise mitigation to maintain acceptable internal and external noise conditions for future occupiers should be secured. This could be imposed in the event of any approval.
- 7.8.6. In view of the above, the proposals would be compliant with Policy DM14 of the Local Plan and the NPPF in this respect.

7.9. **Trees**

- 7.9.1. Policy DM29 of the Local Plan and the NPPF recognise the contribution of trees to the intrinsic character and beauty of the countryside.
- 7.9.2. The submitted Arboricultural Report and Proposed Tree Protection Plan only show the removal of a row of poor-quality Category U trees/hedgerow to the west of the site entrance to enable appropriate visibility splays. The applicant's supporting submissions demonstrate that the most important trees can be retained and protected.

SBC Trees have been consulted and raise no objection to the development layout, subject to a condition securing that the works are carried out in accordance with the submitted Arboricultural Report and Tree Protection Plan.

- 7.9.3. The landscaping proposals within the development are also considered to be acceptable subject to conditions, and particularly around the access would help to mitigate for the loss of any existing hedgerow in that location.
- 7.9.4. The advice provided is considered to be sound and is agreed with. Therefore, the proposal is considered to accord with the abovementioned development plan policy and the NPPF.

7.10. **Ecology**

Habitats

- 7.10.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.10.2. The site lies within 6km of the Swale Special Protection Area (SPA), a European designated site which has been afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 7.10.3. SPAs are protected sites classified for the prevalence of rare and vulnerable birds and for regularly occurring migratory species on the site. Article 4(4) of the Birds Directive (2009/147/EC) requires steps to be taken by the relevant authorities to avoid activities on the site which are likely to result in pollution or in the deterioration or disturbance of bird habitat.
- 7.10.4. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation would be required by means of developer contributions at the rate of £337.49 per new dwelling. This is the agreed strategic approach to mitigating the effects of new dwellings within the 6km buffer zone of the SPA (SAMMS) which have the potential to give rise to a likely significant effect as a result of increased recreational disturbance. In this case, the applicant has agreed to pay the financial contribution necessary and has sent through a Unilateral Undertaking to secure it. An Appropriate Assessment has been carried out which concludes that subject to the financial contribution being secured, the proposals would not give rise to a likely significant effect on designated habitats.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

- 7.10.5. The project being assessed would result in a net increase of up to 23 dwellings within 6km of the Swale SPA and Ramsar Site. In line with Policy CP7 'Conserving and enhancing the natural environment – providing for green infrastructure' and Policy DM28 'Biodiversity and geological conservation' of the Local Plan and based upon the best available evidence, a permanent likely significant effect on the SPAs and Ramsar Sites due to increase in recreational disturbance as a result of the new development, is likely to occur. As such, in order to avoid and mitigate for an adverse effect on the integrity of the SPAs and Ramsar Site(s), the development will need to include a package of avoidance and mitigation measures.
- 7.10.6. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds on the North Kent Marshes, focusing on the European Protected Sites and Ramsar Sites and their internationally important bird interest features. Elements within the strategy are:
- Rangers to provide wardening and visitor engagement
 - A North Kent Coast dog project to promote responsible dog ownership and encourage walking on lead in sensitive areas
 - Codes of conduct developed in partnership with local groups and clubs to raise awareness of recreational disturbance in a variety of activities both on and off of the water
 - Interpretation and signage
 - New and/or enhanced infrastructure
 - Enforcement and Monitoring
- 7.10.7. The report also considered alternative measures, such as legal covenants relating to pet ownership in new developments, and capping visitor numbers at recreational sites. Due to the complexities in enforcing legal covenants and in reducing visitor numbers to the North Kent marshes, it is difficult to have confidence that such measures would be effective in the long term.
- 7.10.8. The suite of strategic mitigation measures are being delivered through the Bird Wise project, a partnership of local authorities and conservation organisations in North Kent, to ensure that development, considered in-combination, does not have an adverse effect on the integrity of the European sites. A per-dwelling tariff of £337.49 is required as a contribution towards the SAMMS.
- 7.10.9. Natural England has worked with the north Kent Local Planning Authorities to support them in preparing the SAMMS and the underpinning evidence base. Natural England agree that the mitigation measures to ensure additional impacts from recreational disturbance to the SPAs and Ramsar Sites are ecologically sound. As such, the Applicant does not need to provide their own evidence base on these aspects.

Evidence should however be submitted showing that a mitigation contribution payment has either:

- Been made to the Bird Wise scheme through a Unilateral Undertaking; or
- Will be made through a s106 agreement where Heads of Terms have been agreed and the agreement will be signed prior to any permission being granted; or
- Been paid in full prior to consent being granted.

7.10.10. The applicant has submitted a Unilateral Undertaking to secure the necessary SAMMS payment prior to commencement. Having considered the proposed mitigation and avoidance measures to be provided in-perpetuity through the secured contribution to the Bird Wise scheme, Swale Council conclude that with mitigation, the plan or project will have no adverse effect on the integrity of the European protected site(s).

7.10.11. Natural England have advised that providing that the appropriate assessment concludes that the measures can be secured and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, they will be satisfied that the appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives.

7.10.12. Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that site's conservation objectives and having consulted Natural England and fully considered any representation received, the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Protected/Notable Species

7.10.13. Section 40 of the Natural Environment and Rural Communities Act (2006) states *"For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England"* and *"A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective."* Furthermore, the NPPF states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.' The NPPF states that 'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

- 7.10.14. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.10.15. The applicant has submitted a Preliminary Ecological Appraisal (dated April 2021) and an Ecological Impact Assessment (dated December 2023).
- 7.10.16. The Preliminary Ecological Assessment detailed there was potential for roosting foraging and commuting bats, reptiles, breeding birds, dormouse, nesting birds and great crested newts within the site. Following this, a Reptile Survey was carried out in 2021 and confirmed a population of slow worms and juvenile common lizard were present throughout the site.
- 7.10.17. The Ecological Impact Assessment provided also concluded that similar species are likely to be present on site, but given the retention of boundary habitats, advised that no further surveys were required. Whilst the EcIA does not acknowledge that a reptile population was previously recorded within the site, photos showing the current condition of the site were provided during the course of the application. KCC Ecology have reviewed these and advise that due to the current condition of the site, no further ecological surveys are required.
- 7.10.18. As reptiles have previously been recorded on site there is a requirement for an ecological mitigation strategy to be produced if planning permission is granted. A Construction Ecological Management Plan (CEMP) is therefore recommended to be secured by condition, requiring details of any ecological mitigation measures necessary during the course of construction in order to mitigate any impacts on protected / notable species on site. Whilst no evidence of Turtle Doves as noted in representations received has been provided, this condition would nonetheless ensure that any notable species on site would be suitably protected during construction.
- 7.10.19. Lighting installed on the site could have an adverse impact on bats and other nocturnal species in and around the site. In order to minimise any impacts arising from lighting, a condition securing details of the type and spread of light arising is also recommended to be secured. This is in line with the recommendations of KCC Ecology.

Biodiversity Net Gain (BNG)

- 7.10.20. This application was submitted after the commencement of Mandatory BNG and is therefore required to deliver at least a 10% BNG under the Environment Act 2021.
- 7.10.21. As an orchard on the site had been cleared since 30th January 2020, KCC Ecology queried whether the original BNG metric as submitted with the application

had used the correct existing baseline. Whilst the applicant has explained that the orchard was scrubbed out to make way for the planting of agricultural crops, the relevant BNG legislation and associated guidance does not define that if site clearance works have been as a result of on-going agricultural practices then the current (rather than pre-existing) baseline can be used in a submitted metric.

7.10.22. In order to address the issue prior to determination, the applicant has therefore submitted two metrics – one taking into account the presence of the orchard and one based on the existing condition of the land. As the approval of the Biodiversity Gain Plan is a post-determination matter, the correct baseline can be agreed at a later stage. In both cases, KCC Ecology are satisfied that 10% BNG can be achieved. In the case of using the pre-existing condition (i.e. with orchard) as the baseline where the baseline is of higher biodiversity value, a 1.7ha off-site orchard or off-site credits would need to be provided/purchased to achieve the 10%. In either situation, the mandatory 10% BNG is capable of being achieved.

7.10.23. A Habitat Management and Monitoring Plan (HMMP) condition is recommended by KCC Ecology to secure the long-term management of onsite biodiversity gains and is included accordingly. These onsite gains are considered significant and will be subject to a monitoring fee, which are required for significant onsite gains as these will be subject to 30 years of monitoring reports which will need to be reviewed by the LPA, which comes at a cost. The monitoring fee is confirmed to be £7,868.71, which shall be paid prior to the decision being issued or secured by S106 legal agreement so that it is paid prior to the commencement of the development.

7.10.24. Subject to the conditions and monitoring fee above being secured, the proposal would have an acceptable impact on ecology and biodiversity in accordance with Policies CP7 and DM28 of the Local Plan and the NPPF.

7.11. **Transport, Highways, Access and Parking**

7.11.1. Local Plan Policies CP2 and DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The requirement to "*achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services, together with parking and servicing facilities in accordance with the County Council's standards*" is also set out within Policy DM14 of the Local Plan.

7.11.2. 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 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, following mitigation, would be severe, taking into account all reasonable future scenarios.”

Access and Parking Provision

- 7.11.3. The access into the site and the parking arrangement proposed match that submitted under the previous application 21/505096/FULL. The Transport Statement submitted with the application advises that there would be a total of 20 movements in the AM peak (8am-9am) and 20 in the PM peak (5pm-6pm).
- 7.11.4. The previous officer assessment concluded that the vehicular access into the site was acceptable and that there was sufficient capacity in the network to accommodate the transport movements arising from the development. That conclusion remains applicable to these proposals.
- 7.11.5. In respect of the parking arrangement proposed, 67 spaces are proposed across the site (including visitor spaces). This would provide sufficient parking to meet the needs of future occupiers and ensure that the proposals would not have an adverse impact on highways safety.
- 7.11.6. Sufficient space is also available within each plot to accommodate the necessary cycle parking for each dwelling. Subject to a condition securing details of the cycle parking arrangements, the proposals would be in accordance with Policy DM7 of the Local Plan and the Swale Parking Standards SPD 2020.

Pedestrian Routes

- 7.11.7. The previous application was refused, in part, on the basis that the proposed pedestrian link to the west of the site and the quality of the ongoing route to Teynham village centre was convoluted, poor-quality, inconvenient for wheelchairs, cyclists and prams and would be unsafe.
- 7.11.8. This was largely upheld by the Inspector of the determined appeal APP/V2255/W/24/3349574, who concluded in their assessment of the pedestrian route that:

19. Overall, the pedestrian route past Selby House through to Lower Road would not be a safe or suitable pedestrian access for future occupiers of the proposal. The development would therefore conflict with policy CP 2 of the Swale Borough Local Plan (2017) which aims to improve safety and ensure development provides integrated walking and cycling routes to link existing and

new communities with local services and facilities; and Local Plan policy DM6 which requires priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflicts. It would also conflict with Local Plan policy ST 1 by failing to be located so as to achieve safe shared spaces.

7.11.9. Previously, the pedestrian route simply followed an unmade stretch of road between Selby House and Lower Road with no separation between vehicles and future users. As part of this application, the applicant has sought to address the concerns of the Inspector by proposing a defined pedestrian link between the western edge of the site adjacent to Selby House through to Lower Road. It is noted that the Inspector raised no concerns with the pedestrian route in the primary part of the site.

7.11.10. The applicant is now proposing a 1.2m pedestrian lane between the housing on the site and Lower Road. Lighting is to be secured by condition along the part of the route within the part of the site to the east of Selby House. A large part of the route between Selby House and Lower Road would be marked with white lines and hatching to define the pedestrian lane, whilst the surface would be laid with tarmac. Bollards would be introduced along the pedestrian route to prevent unsafe conflict between pedestrians and vehicles using that route. Pedestrian signage is proposed on the surface of the route, whilst physical signage is also incorporated at the beginning and end of the pedestrian route past Selby House/The Old Squash Courts is also proposed, increasing awareness of the need to be careful of pedestrians utilising the route. The applicant has also submitted a Unilateral Undertaking as part of the application to demonstrate that the access route would be provided and maintained in accordance with the plans attached for use by pedestrians.

7.11.11. KCC Highways have reviewed the submitted details for this new and enhanced pedestrian route, commenting that it would improve pedestrian movement within the site. Tracking plans have been submitted, demonstrating that cars, together with refuse and emergency vehicles would be able to safely navigate the amended route when the pedestrian infrastructure has been implemented.

7.11.12. The proposed pedestrian route would provide a clear and convenient access to Lower Road from the site for active travel which is considered to overcome the concerns raised by the Inspector. It would represent a defined route for pedestrians with a made and bound surface that would be clearly visible to vehicular users manoeuvring, parking or reversing around the small car park and the route between the Old Squash Court building and Lower Road. Bollards along the route would also help to prevent unsafe conflict between vehicular users and pedestrians.

7.11.13. The Inspector identified in their appeal decision that there was a condition (condition 9) imposed on the neighbouring application 23/501073/FULL which requires

the removal of a footpath between the car park and the rear of Selby House on any submitted landscaping plans, as well as details of planting to be installed along the eastern boundary i.e. where the footpath is proposed from the site. The Inspector noted that this condition meant there was some doubt that the path could be provided, but in this scenario the application site (i.e. area within the red line) lies across that area to west which was not the case under the previous application. As such, any permission granted here would supersede that previous condition. The circumstances are materially different in this respect in comparison to the previous application and appeal decision.

7.11.14. Notwithstanding that the Inspector's concerns about the pedestrian route towards Lower Road from the western end of the site have been overcome, KCC Highways' main concern under this application relates to the crossing of Lower Road once the pedestrian route ends. They advise that visibility at this location is significantly compromised due to the alignment of the road and the presence of an existing boundary wall and hedge at Jordan Cottage. They contend that this restricts the ability of pedestrians to see oncoming vehicles and vice versa, increasing the risk of conflict, whilst alternative crossing points would also necessitate pedestrians walking within the carriageway, potentially with vehicles approaching from behind. KCC Highways consider that this scenario presents a safety concern that is not acceptable from a highways safety perspective and object to the proposals as a result. SBC Active Travel also raise similar concerns about it being difficult to see oncoming traffic due to the bend, whilst also commenting about the narrow footpaths available for onward connection into Teynham.

7.11.15. In considering the crossing of Lower Road and onward connection into Teynham at the appeal stage, the Inspector stated:

17. On Lower Road, there would be a short stretch, of around 20 metres, where pedestrians would need to walk in the road. This stretch is also used by the occupiers of the nine dwellings in Selby Court and Jordan Cottage opposite, as well as those people using the Selby House access. The development would therefore result in the occupiers of about 50 units having to walk along Lower Road. However, due to the wide entrance to Selby Court and the position of French's Row, it is likely that pedestrians, just by crossing the road, would cover this distance and would very quickly be on the pavement on the south side of Lower Road. The pavement thereon into the centre of the village is narrow but is part of the established wider footway network used by many residents of this part of the village. In that context, the additional use of the pavement by the occupiers of the development would be minimal.

7.11.16. From the above, it is clear that the ability to cross Lower Road was not part of the reason for the previous appeal being dismissed. Given the comments made by

the Inspector about the crossing of Lower Road and the pavement thereon forming part of the established footway network in Teynham, it is recommended that the concerns raised by KCC Highways and the SBC Active Travel Officer are not advanced as reasons to find the proposal unacceptable. The Inspector, in coming to the view set out in their appeal decision, clearly assesses the crossing of Lower Road, with their dismissal of the appeal instead driven by the poor pedestrian route that had been proposed between Lower Road and the site entrance adjacent to the Old Squash Courts rather than the ability to cross Lower Road.

- 7.11.17. Officers have carefully considered the comments raised by KCC Highways, but in the context of the appeal decision issued by the Planning Inspectorate, have come to an on-balance conclusion that pedestrian crossing over Lower Road would not be unacceptable.

Public Right of Way

- 7.11.18. The proposal would include a footway link to the east comprising of a new route that would connect Lower Road with PRoW ZR251. The KCC PROW team have been consulted and raise no objection to the proposals on the basis that the PRoW network would be unaffected by the proposals. The proposals do not rely on PRoW for access to services, with those located to west.

Overall

- 7.11.19. The proposed development is considered to be acceptable. The comments made by KCC Highways and the Council's Active Travel Officer regarding the crossing of Lower Road and onward connection have been carefully considered by Officers, but in light of the previous Inspector's assessment, it is not recommended that an objection is raised to the potential conflict arising. The improvements made to the pedestrian route between the site and Lower Road are considered to have overcome the previous Inspector's concerns. Consequently, neither the development plan nor the NPPF indicate that the application should be refused on these grounds.

7.12. **Air Quality**

- 7.12.1. The importance of improving air quality in areas of the Borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.12.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and

access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.

7.12.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

7.12.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

7.12.5. The Council's Environmental Health Officer has commented that due to the scale of the proposals and the location of this development being close to the Teynham AQMA, an Air Quality Assessment should be secured by condition and completed prior to commencement. They identify that air quality has improved within the area; however it is essential an assessment is made to measure the impacts from the development on air pollution along the AQMA and identify any mitigation that may be required.

7.12.6. Subject to such a condition, the proposals could be considered to be in accordance with Policy DM6 of the Local Plan.

7.13. **Community Infrastructure**

7.13.1. Policies CP5 and CP6 of the Local Plan set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

7.13.2. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development

- Reasonably related in scale and kind

7.13.3. The following outlines the financial contributions that are necessary to mitigate the impact of the development upon services, with these contributions all for specific capital projects which have been identified and assessed by Officers to comply with the Regulations (as amended).

7.13.4. The following financial contributions have been sought by KCC Economic Development and Investment Team, KCC Highways, the NHS and Swale Borough Council to mitigate the impact of the development upon services.

KCC Contribution Requests		Total
Primary Education	£5,412.74 per dwelling	£119,080.28
Secondary Education	£5,329.27 per dwelling	£117,243.94
Special Educational Needs and Disabilities (SEND)	£559.83 per dwelling	£12,316.26
Integrated children's services	£74.05 per dwelling	£1,629.10
Libraries	£62.63 per dwelling	£1,440.49
Adult Social Care	£180.88 per dwelling	£4,160.24
Community learning	£34.21 per dwelling	£786.83
Waste	£194.13 per dwelling	£4,464.99
BNG Monitoring	N/A	£7,868.71
NHS Contribution Requests		
NHS contribution	£360 per occupant	£35,378
Swale Borough Council Contribution Requests		
Swale Bin provision	£130.20 per dwelling	£2,994.60
SAMMs	£337.49 per dwelling	£7,762.27
Formal sport provision	£729.57 per dwelling	£16,780.11
Play area provision	£548.73 per dwelling	£12,620.79

7.13.5. The application has been assessed in accordance with the KCC Development Contributions Guide, and inevitably, given the increased population as a result of additional dwellings, the proposed development will put pressure on existing community facilities. The above contributions and identified projects are considered to be CIL-compliant, required by policy and necessary to make the development acceptable in planning terms to provide sufficient community infrastructure to serve additional populations and mitigate recreational impacts on the Swale SPA. The applicant has agreed to pay contributions in each of these respects.

7.13.6. Subject to all necessary contributions being secured in a legal agreement, the proposed development would mitigate its pressure upon existing services and the Swale SPA is in accordance with Policies DM17, ST1, CP7, DM28, CP5 and CP6 of the Local Plan and the NPPF.

7.13.7. It is noted that comments received from interested parties raise concerns about the strain on existing services and the ability for these facilities to cope with the additional demand that would result from additional residents being within the locality. In this regard, it is considered appropriate to stress that planning obligations can only be sought that are reasonably related in scale and kind to the proposed development. The role of planning obligations is to mitigate the impact of development rather than solve pre-existing capacity issues and from this basis, it is considered that the development making a proportionate contribution to these facilities should be considered acceptable.

7.14. **Open Space**

7.14.1. Policy DM17 of the Local Plan sets out that new housing development shall make provision for appropriate outdoor open space proportionate to the likely number of people who will live there.

7.14.2. The submitted Design and Access Statement confirms that 0.4ha of open space is to be provided within the site, which is in accordance with the quantum of open space required through Policy DM17 of the Local Plan. The details of this will be able to be secured by condition to ensure that it is of sufficient quality and usability, with particular attention being paid to the orchard and wildflower spaces shown to the west and east of the site. However, in the absence of any outdoor sport and play facilities on the site, as set out above, contributions of £729.57 per dwelling towards off-site outdoor sports facilities and £548.73 per dwelling towards off-site play facilities has been sought and is considered to meet the relevant tests. Subject to these matters being suitably secured, the proposal is considered to accord with Policy DM17 of the Local Plan.

7.15. **Flood Risk, Drainage and Surface Water**

7.15.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed.

7.15.2. The site is within Flood Zone 1 in terms of fluvial and tidal flood risk. However, the Environment Agency (EA) mapping indicates that parts of the site to the east are susceptible to surface water drainage flood risk and, as such, the sequential test would typically be applicable.

7.15.3. Paragraph 175 of the NPPF sets out that:

“The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site

boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

7.15.4. Planning Practice Guidance further sets out that:

"In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.

The absence of a 5-year housing land supply is not a relevant consideration in applying the sequential test for individual applications. However, housing considerations, including housing land supply, may be relevant in the planning balance, alongside the outcome of the sequential test."

7.15.5. The submitted Flood Risk Assessment and Drainage Statements submitted in support of the application demonstrate that dwellings within the site would not be at an unacceptable risk of flooding once measures of mitigation such as raising finished floor levels have been incorporated. The information submitted alongside the application also demonstrates that the proposals could be designed to prevent any increase in flood risk off-site. Whilst the applicant has submitted a sequential test with the application which was considered acceptable for the purposes of the appeal for the previously refused application on the site (and there is no material reason why it would not remain acceptable now), the sequential test need not be applied in this case, as set out in the PPG excerpt above which has been introduced since the appeal was determined.

7.15.6. Neither KCC Drainage nor the EA raise any objection to the development. Conditions securing a detailed surface water drainage scheme and verification of that would ensure that the development would be safe for its lifetime. The sustainability benefits arising from the scheme would also provide wider benefit to the community in terms of the provision of homes and support for local services that would outweigh the flood risk. The proposal is therefore acceptable in terms of residual flood risk and, if the exception test was required to be passed, it would be as a result of this and the wider sustainability and public benefits arising.

7.15.7. Southern Water have indicated that the foulwater arising from the proposed development could be accommodated within the network. Foulwater connections would be addressed by both the Water Industry Act and Building Regulations during

the construction process. A condition suggested in relation to the positioning of trees in the context of sewers is considered to be addressed through the conventional landscaping condition.

- 7.15.8. Overall, the proposal would accord with the abovementioned development plan policy and the NPPF insofar as it relates to flood risk, drainage and surface water.

7.16. Contamination

- 7.16.1. Policy ST1 of the Local Plan states that development proposals shall conserve and enhance the natural environment by applying national planning policy in respect of pollution, despoiled, degraded, derelict, contaminated, unstable and previously developed land. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.

- 7.16.2. Subject to a condition, the Environmental Health Officer has raised no objection to the proposal on the grounds of potential contamination which is considered to be sound advice given the agricultural use of the land. From this basis, the proposal is considered to accord with the abovementioned policy.

7.17. Sustainability / Energy

- 7.17.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change.

- 7.17.2. The applicant has submitted an Energy Statement which advises that improved fabric, air tightness and 0.5kw of solar photovoltaics per dwelling would be utilised to minimise energy output from the development. The Energy Statement demonstrates how the development could include measures to address and adapt to climate change, but given the age of the Energy Statement document and the potentially delivery timeframe for the development, it is recommended that an updated Energy Statement be provided prior to commencement on the site. Subject to such a condition, the proposal would accord with the abovementioned policy.

7.18. Other matters

- 7.18.1. No objection has been raised by KCC Minerals Team on the grounds of the impact on safeguarded minerals including brickearth and there is no known reason to disagree with this conclusion.

- 7.18.2. The concerns raised by interested parties about the cumulative impacts of developments in and around Teynham are noted and it is recognised that the character of a rural area will change where development is undertaken. It is however

important to acknowledge that each case has to be considered on its own merits. To varying degrees this factor is considered to be inherent to a number of considerations including the application of the Council's Settlement Strategy and the assessment of the visual impact. For the reasons given, no objections are raised on these grounds.

7.19. **Planning Balance – Benefits and Harm**

- 7.19.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.19.2. In this case conflict with policies in the development plan have been identified as set out above. This primarily relates to conflict with Policies ST1, ST3 and CP3 of the Local Plan by virtue of the development being outside the built-up area boundary and, therefore, being within the countryside and contrary to the Council's Settlement Strategy. The proposal also conflicts with Policy DM31 of the Local Plan as it would result in the loss of Best and Most Versatile Agricultural Land and the visual impact on the landscape conflicts with Policy DM14 (albeit not Policy DM24) of the Local Plan. Consequently, the development does not accord with the development plan.
- 7.19.3. Having assessed the previous application, the first reason for refusal addressed the conflict with the spatial strategy and the loss of best and most versatile agricultural land. During the course of the previous appeal, the Council's housing land supply evolved to a where it could not demonstrate a 5 year supply and, in light of that, it was not considered that the first reason for refusal could be sustained and so was withdrawn. In this instance, noting that a 5 year housing land supply can still not be demonstrated, it is highlighted that it would be consistent for the Council to continue to conclude that the benefits of the scheme outweigh the harms caused in those respects.
- 7.19.4. The NPPF is a material consideration and, as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.19.5. In this case, there are no protected areas or assets of particular importance that would be impacted in such a way that this would represent a strong reason for the refusal of the application. Consequently, it is necessary to consider if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This assessment is carried out below.

Benefits

- 7.19.6. The primary benefit of the proposal is the provision of 23 residential units at a time when the Council does not have a five year housing land supply. The Planning Inspector of the recent appeal on the site set out the benefits arising from the development of 23 homes on this site as per below:

“22. The provision of an additional 23 family houses to add to the Council’s supply at a time when the Council has a shortfall would be a significant benefit. Furthermore, three of the units would be affordable, which is an additional benefit. This would align with the aims of paragraphs 61 and 66 of the Framework which seek to boost the supply of housing, and provide affordable housing, respectively.

23. It is also not disputed that the development would make an efficient use of the site and would be well designed as supported by paragraphs 129 and 135. Furthermore, the fact that the site is not large, so could be built out quickly, is supported by paragraph 73.

24. There would also be an economic benefit both during the construction phase, and afterwards, to the local community to which I give modest weight given the modest scale of the proposal.

25. The development would provide open space which could be available for the wider community. However as I have no reason to consider access to open space is particularly lacking here, this benefit is of very modest weight.”

- 7.19.7. Given the number of units remains the same as previously considered, the benefits above and the weight attributed continue to apply to this scheme.

Harms

- 7.19.8. The harms are those that have been set out at 7.19.2. It is considered that the conflict with the settlement strategy can only be given limited weight as there is no allowance for built-up area boundaries within the NPPF and the built-up area boundaries as currently drawn are not providing the required level of residential development. Moreover, in line with other appeal decisions, the loss of BMV agricultural land can, at most, be given moderate weight. Although there is not harm arising from the proposal to the degree that there is conflict with Policy DM24 of the Local Plan, it is considered that the development would cause a moderate degree of landscape harm, albeit at a localised level that would conflict with Policy DM14 of the Local Plan. This harm is afforded moderate weight.
- 7.19.9. In coming to their decision on the previously refused scheme, the Planning Inspector was also considering conflict with Policies CP2 and DM6 of the Local Plan as a result of the unsafe pedestrian access that was proposed at the time. For reasons explained in section 7.11, officers are of the view that, on balance, the proposals no longer conflict with Policies CP2 and DM6 of the Local Plan. The conflict with these policies was pivotal in the Planning Inspector coming to the view that the harms arising would significantly and demonstrably outweigh the benefits. In respect of all other matters, the Inspector raised no concern.

NPPF Balance

- 7.19.10. Based on the above, it is not considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

7.20. Conclusion

- 7.20.1. The proposal is contrary to the development plan. However, in this case, it is considered that the benefits arising from the proposals can be considered to outweigh the harm that would arise from the conflict with the development plan. On balance therefore, it is recommended that planning permission is granted subject to the conditions and the planning obligations referred to throughout this report being secured, subject to any amendments deemed necessary by the Head of Planning.
- 7.20.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.21. **Conditions**

Time Limit

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.

Plans

2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

Site Location Plan 500-RS-001 D
Selby Court Pedestrian Lane details 500/HDH/004/A
Proposed Site Layout Plan Page 1 500/RS/004/L
Proposed Site Layout Plan Page 2 500/RS/005/H
Plots 1, 2 and 3 500-RS-006
Plot 4 500-RS-007
Plots 5 and 6 500-RS-008
Plot 7 and 8 500-RS-009
Plots 9 and 10 500-RS-010
Plot 11 500-RS-011
Plots 12 and 13 500-RS-012
Plots 14 and 15 500-RS-013
Plot 16 500-RS-014
Plot 17 and 18 500-RS-015
Plots 19 and 20 500-RS-016
Plot 21 500-RS-017-A
Plot 22 and 23 500-RS-018-A
Car Ports Plans Elevations and Sections 500/RS/019

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

Archaeology

3. 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 in writing by the Local Planning Authority.

B. Following completion of archaeological evaluation works (if it is identified that further works are required), 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 assess and mitigate the impacts of development on significant archaeological remains:

Construction Management Plan

4. Prior to the commencement of the development hereby approved, a Construction Management Plan comprising of:
 - (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries

- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage
- (f) a Dust Management Plan (according with the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction')
- (g) details of all other measures require to accord with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites,

shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken in full compliance with the approved Construction Management plan.

Reason: To control the construction process in the interests of highway safety, neighbouring living conditions and air quality.

Construction Ecological Management Plan

5. No development or any ground works, site and/or vegetation clearance shall be undertaken until a Construction Ecological Management Plan (CEMP) which contains full details of the ecological mitigation measures required has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be based on up-to-date ecological survey information, as advised by a suitably qualified ecologist and include the following:
 - Retained tree and hedgerow protection measures in accordance with BS 5837:2012;
 - Extent and location of proposed construction and mitigation works, shown on appropriate scale maps and plans;
 - Specific measures (which may be presented as a series of method statements) to avoid impacts to protected / notable species (including reptiles, breeding birds and dormouse) and a timetable for implementation of the measures;
 - Details of habitat enhancement/creation required as part of the mitigation works
 - Persons responsible for implementing the measures, including times during construction when specialist ecologists need to be present on-site; and,
 - The role and responsibilities of an Ecological Clerk of Works (ECow) or similarly competent person(s).

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: In the interests of nature conservation.

Sustainable Drainage

6. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based upon the Drainage Strategy Prepared by Monson dated 16.09.2025. The submitted scheme shall demonstrate compliance with the required technical standards at the time of submission and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site.

The detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths can be accommodated and disposed of without increase to flood risk on or off site. This should include appropriate modelling that the surface water flood risk identified from the RoFSW mapping can be safely routed, captured, and disposed of without increase to flood risk on or off site. The model shall include a catchment assessment for contributing areas for overland flows and simulate a range of flooding scenarios, durations and timesteps.

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

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

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

The drainage scheme shall be implemented in accordance with the approved details prior to the occupation of any dwelling or in accordance with a timetable of works that shall have been submitted to and agreed in writing by the Local Planning Authority prior to the occupation of any dwelling.

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

Sustainable Drainage Verification

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

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 182 of the National Planning Policy Framework.

Infiltration

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

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

Tree Protection

9. i) No retained tree shall be damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the Arboricultural Report (Ref: SA/1862/21-A, and tree protection plan Ref LN/TPP/1862-01-A) both

dated 10th September 2021, without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work - Recommendations or any revisions thereof.

ii) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.

iii) The installation of tree protection barriers and the methods of working shall be undertaken in accordance with the Arboricultural Report (Ref: SA/1862/21-A, and tree protection plan Ref LN/TPP/1862-01-A) both dated 10th September 2021.

Reason: In the interests of tree protection and all the visual and environmental benefits that arise from the retention of trees.

Contamination (Pre-Works)

10. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that any contamination is adequately addressed.

Contamination (Post Works)

11. Upon the completion of works required by condition 10 and prior to the occupation of any dwelling a Verification Report shall be submitted to and approved in writing by the Local Planning Authority. The Verification Report shall include full verification details as set out in the approved Verification Plan. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that any contamination is adequately addressed.

Open Space and Landscaping

12. Notwithstanding the submitted details, no development above slab level 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, planting schedules of plants, noting species (which shall include 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.

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of character, appearance and assimilating the development into the area.

Open Space and Landscaping

13. 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

Road Design and Detail

14. No development above slab level shall take place until details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the final detail of the development is acceptable in terms of highway safety, accessibility and visual amenity.

Lighting

15. Prior to occupation, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall show the type and locations of external lighting (including details of lighting along the footpath between the eastern edge of the site and the boundary with Selby House), as well as the expected light spill in lux levels, to demonstrate that areas to be lit shall not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the approved plan and shall be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light on biodiversity, residential amenity and also to ensure that future occupiers are served by a lit footpath connecting to Lower Road.

Habitat Management and Monitoring Plan

16. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include:
- a non-technical summary;
 - details of the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - details of the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;

- details of the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- details of the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.

The HMMP shall thereafter be implemented in accordance with the approved details.

Reason: To ensure the development delivers the required biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990

Biodiversity Enhancement Plan

17. No development above slab level shall take place until a Biodiversity Enhancement Plan (BEP) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include full details of the biodiversity enhancements to be implemented on-site, together with a timetable for their implementation. The Plan shall include:

- Provision of integrated bat and/or bird boxes within all buildings. With the exact locations, make and model and height from ground level shown on scaled plans suitable for construction.
- The creation of labelled hedgehog highways (by creating small 13×13cm gaps in close board fencing) to facilitate the movement of hedgehogs across the site;
- The provision of bee bricks and/or insect hotels.
- Log piles/reptile refugia within the open space.

The Plan shall be implemented in accordance with the approved details and timetable for implementation. Once installed, all features shall be retained in that manner thereafter.

Reason: In the interests of nature conservation.

Materials and Details

18. Prior to their use within the development hereby approved, details of any exterior materials to be used within the proposed development (including but not limited to bricks, weatherboarding, hanging tiles, roof tiles, windows, doors, guttering and soffits) shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken using the approved materials.

Reason: In the interests of ensuring that the development is of high quality and reflects the character and appearance of the locality.

Parking Space Provision and Retention

19. No dwelling hereby approved shall be occupied until the parking shown to serve that dwelling on drawing no. 500/RS/004/L (including garages, car ports, undercover parking and surface parking) , or some other such parking provision that shall have been approved in writing by the Local Planning Authority prior to the occupation of that dwelling, has been provided and made available for use by the occupiers of that dwelling. Moreover, all visitor spaces shall be provided prior to the occupation of the dwelling that is closest to that parking space.

Reason: To ensure the provision of adequate car parking.

Cycle Parking Provision and Retention (General)

20. No dwelling hereby approved shall be occupied until details of the cycle storage facilities serving that dwelling have been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be provided as approved prior to first occupation of each relevant dwelling.

Reason: To ensure the provision of adequate cycle parking and to reflect that the height of the proposed cycle store is not clear within the submitted plan, thereby requiring further information to be provided in order to ensure usability.

Provision of Vehicle Access

21. No dwelling shall be occupied until the vehicular access into the site has been completed in accordance with the plans hereby approved.

Reason: To ensure the provision of a safe access to the site and ensure that the proposal is not detrimental to highway safety and the flow of traffic.

Pedestrian Works

22. Prior to the first occupation of any dwelling hereby approved, details of the height and appearance of the bollards to be installed along the pedestrian route between Selby House and Lower Road shall be submitted to and approved in writing by the Local Planning Authority.

No dwelling on the development shall be occupied until the pedestrian enhancement works as shown on drawing no. 500/RS/004/A (Selby Court

Pedestrian Lane details) have been completed in full, with the bollards installed in accordance with the details approved under this condition.

The pedestrian works shall be maintained in accordance with the approved details thereafter.

Reason: To ensure the provision of a safe access to the site and in the interests of sustainability.

Access to Dwellings

23. No dwelling shall be occupied until the following works been completed between that dwelling and the adopted highway:

- (a) Footways and/or footpaths, with the exception of the wearing course;
- (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interest of providing adequate access to the approved dwellings.

Visibility Splays

24. Prior to the first use of the approved vehicular access into the site, all visibility splays shown on drawing no. 500/RS/004/L shall be provided. The visibility splays shall subsequently be kept free from any obstructions over 1.2metres above carriageway level.

Reason: In the interests of highway safety.

Energy Efficiency

25. No development beyond the construction of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority which set out what measures will be taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photovoltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

Reason: To reduce the carbon footprint and energy efficiency of the development.

Air Quality Assessment

26. The development shall not be commenced until a report, undertaken by a competent person in accordance with current guidelines and best practice, has been submitted and approved in writing by the Local Planning Authority. The report shall contain and address the following:

1. An assessment of air quality on the application site and of any scheme necessary for the mitigation of poor air quality affecting the residential amenity of occupiers of this development.
2. An assessment of the effect that the development will have on the air quality of the surrounding area and any scheme necessary for the mitigation of poor air quality arising from the development.

Any scheme of mitigation set out in the subsequently approved report shall be implemented prior to the first occupation of any dwelling herein approved and maintained thereafter.

Reason: To ensure that the proposal is acceptable in relation to its impact on air quality.

Water Consumption

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

Noise Details

28. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in gardens and other relevant amenity areas will conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning Authority.

Subsequently, no dwelling shall be occupied until the measures specified within the approved scheme to serve that dwelling have been installed. Those measures shall thereafter be retained at all times.

Reason: To ensure that future occupiers are served by acceptable living conditions.



2.2 REFERENCE NO – 25/504418/REM		
PROPOSAL - Approval of Reserved Matters (Layout, Scale, Appearance and Landscaping) for residential development comprising 70no. dwellings, together with associated landscaping, drainage, and ancillary works, pursuant to 25/501335/HYBRID.		
SITE LOCATION - Land At Lady Dane Farm, Love Lane, Faversham, Kent, ME13 8YN		
RECOMMENDATION - Grant the Approval of Reserved Matters subject to conditions.		
APPLICATION TYPE - Reserved Matters		
REASON FOR REFERRAL TO COMMITTEE The recommendation of Officers is contrary to an objection received from Faversham Town Council, who have requested that the application be determined by the Planning Committee.		
CASE OFFICER Ben Oates		
WARD Watling	PARISH / TOWN COUNCIL Faversham Town Council	APPLICANT Fernham Homes Operations Limited AGENT DHA Planning
DATE REGISTERED 28 Oct 2025		TARGET DATE 27 Jan 2026
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T4U1AQTYN1J00		

1. **SITE LOCATION AND DESCRIPTION**

- 1.1 The application site is located to the eastern side of Faversham. It forms part of a wider development site of the Lady Dane Farm redevelopment, whereby hybrid consent was originally granted in May 2023 (23/500867/HYBRID) for a mixed-use redevelopment of the site.
- 1.2 The site is within the Local Plan defined Built-Up Area Boundary and forms part of the site allocation MU6 (Land at Lady Dane Farm). A Public Right of Way adjoins the site running alongside the northern boundary. The site does not contain any listed buildings and is not within or adjoining a conservation area.
- 1.3 The site is designated as a safeguarded area for Brickearth and within an area of potential archaeological interest. The site is also within a Site of Special Scientific Interest Impact Risk Zone, and approximately within 2km of the Swale Ramsar and Special Protection Area.

- 1.4 The application site is surrounded by residential development under construction to the north and west, whilst to the south is vacant land awaiting development of employment use as granted under the parent outline consent. The land to the east is in agricultural use whilst nearby to the southeast is a campsite with mobile homes.

2. PLANNING HISTORY

- 2.1 25/501335/HYBRID - Section 73 Application for amendments to conditions 6 and 7 (to enable the relevant plans to be updated to allow for the relocation of the pumping station on the site, adjusted footpath alignment, updated drainage basins, sub-station relocation and 2 additional parking spaces) pursuant to planning permission ref: 23/504707/HYBRID.

Approved Decision Date: 09.12.2025

- 2.2 23/504909/REM - Approval of Reserved Matters of access, appearance, landscaping, layout and scale for the erection of a 67-bed care home, pursuant to hybrid application 23/500857/HYBRID for - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 29.11.2024

- 2.3 23/504754/REM - Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale being sought) for the Phase 1 Open Space area pursuant to application 23/500857/HYBRID for - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 30.10.2024

- 2.4 24/502500/NMAMD - Non Material Amendment to application 23/504707/HYBRID: To amend the wording of condition 49 on decision notice issued for 23/504707/HYBRID.

Approved Decision Date: 21.06.2024

- 2.5 23/504707/HYBRID - Section 73 - Application for minor material amendment to approved plans condition 6 (To improve quality of amenity space, security and safety. To increase in the amount of independently accessible parking spaces. To revise the arrangement and distribution of house sizes and types, and to amend the design of Blocks A and B) pursuant to 23/500857/HYBRID for - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 28.05.2024

Approved Decision Date: 22.11.2023

- 2.6 23/500857/HYBRID - Hybrid Planning Application consisting of a: Full planning application for 84no. residential dwellings, 3no. commercial units for Class E uses, access off Love Lane, and site infrastructure. Outline Planning Application (with all matters reserved) for 70no. residential dwellings, enterprise land development (including Class E uses), a Day Nursery and a Care Home, together with open space, sports provision, and associated works.

Approved Decision Date: 26.05.2023

- 2.7 Details for Conditions 2 (Phasing Plan), 8 (Housing/Wastewater Infrastructure), 9 (Sustainable Construction Techniques), 10 (Water Consumption), 13 (Telecommunications / Fixed Telecommunication Infrastructure), 14 (Crime Prevention), 18 (Construction Management Plan), 25 (Public Footpath), 28 (Temporary Vehicle Turning Head), 34 (Drainage Scheme), 36 (Surface Water Management), 38 (Contamination / Contaminated Land), 43 (Construction Method Statement), 45 (Ecological Mitigation and Enhancement Strategy), 46 (Habitat Creation, Management and Monitoring Plan) and 49 (Archaeology Evaluation Report / Archaeological Evaluation Scheme) have been approved, either wholly or in part as appropriate, under the terms of applications 24/505130/SUB, 24/503898/SUB, 24/502678/SUB, 24/502004/SUB, 24/500622/SUB, 24/502585/SUB and 23/503742/SUB.

3. PROPOSED DEVELOPMENT

- 3.1 The approval of Reserved Matters (Layout, Scale, Appearance and Landscaping) is sought for residential development comprising 70no. dwellings, together with associated landscaping, drainage, and ancillary works, pursuant to permission reference: 25/501335/HYBRID. The application represents the fulfilment of the outline residential element of the parent Hybrid permission and is the final residential part of the approved development. The other residential elements are currently under construction in line with the detailed element of the parent Hybrid permission.
- 3.2 Condition 3 of the parent permission secures the submission of details for Reserved Matters, whilst Condition 7 requires the Reserved Matters to accord with the approved Parameter Plan. Additional details to be submitted within the Reserved Matters application include the following:
- Condition 17 – details to meet needs of older and disabled persons
 - Condition 22 – details of parking and manoeuvring
 - Condition 37 – details of surface water drainage
- 3.3 Affordable housing details and tenure are secured within the s106 legal agreement attached to the parent Hybrid permission. All other details are secured within other conditions, which is set out in further detail in section 7.12.
- 3.4 The proposal comprises 70 dwellings including 23 affordable homes which, when added to the 31 affordable homes being delivered within the detailed element of the development, equates to a total of 54 affordable homes (35% across the wider site). A

breakdown of the proposed housing mix within this Reserved Matters application is provided below:

	Unit Size	Affordable Homes	Private	Total
Houses	2 bed	11	0	11
	3 bed	12	28	40
	4 bed	0	19	19
	Total	23	47	70

- 3.5 The proposed development within the site is restricted to the areas approved for residential use within the Outline parameter plan, whilst strips of land along the northern and eastern boundaries are restricted to structural open space. An area of open space to the central eastern side of the site was also secured within the Outline stage parameter plan.
- 3.6 The proposed Reserved Matters development is laid out within the confines of the approved Outline parameter plan. The proposal continues the access road from the detailed element to the north-west, which runs through the site with private drives running off it and connects to the primary access road to the south. The street hierarchy is reinforced by the proposed design of the street typologies through variation in street widths, treatment and landscaping.
- 3.7 The proposed dwellings are provided within a loose perimeter block typology with outward facing elevations and direct access to car parking from the vehicular access routes. The proposed dwellings are two-storeys in height with adjoining single storey garages or open car parking areas. Dwellings are arranged in a variety of house types including detached, semi-detached, and small terraces, ranging from 2- 4 bedrooms in size and are provided with private rear gardens. Built forms include projecting bays, porches; roof forms include a mix of hipped and half-hipped forms and materials comprise brick banding including headers/arches, chimneys, hanging tiles and weatherboarding. All dwellings are provided with an electric vehicle charging point and secure cycle parking.
- 3.8 Structural landscaping comprises street tree and garden planting, and buffer planting along the northern and eastern boundaries, providing a soft, landscaped edge along with pedestrian pathways. An area of open space to the central eastern part of the development includes tree and garden planting, benches and a modest play space area.
- 3.9 During the course of the application revised drawings were provided to make minor changes to the car parking within the proposal to address comments from KCC Highways. A letter from the applicant's Ecologist was also provided to clarify BNG matters and a cover letter from the agent to clarify / address points raised in comments from SBC Urban Design, SBC Greenspaces Manager and Faversham Town Council.

4. **REPRESENTATIONS**

4.1 **Public Consultation**

- 4.1.1 One round of public consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site, and the application was advertised in the local newspaper. There were no representations received from members of the public during the application.

4.2 **Parish / Town Council Response**

- 4.2.1 The Faversham Town Council object to the application on the following grounds:

First Round Comments	Report Reference
Insufficient boundary treatment details for public vs. private spaces and within the public realm.	This is discussed in section 7.5 of this report.
Poor on-plot parking design , especially linear three-space arrangements and undersized garages/carports that do not meet modern vehicle dimensions.	This is discussed in section 7.7 of this report.
Concern over natural surveillance in some parking court areas; fencing height should be reduced and additional tree planting considered.	This is discussed in section 7.5 of this report.
Lack of clarity on affordable housing distribution and whether tenure mix meets FAV3 policy requirements.	This is discussed in section 7.12 of this report.
Excessive refuse drag distances , particularly for Plot 142, making the layout impractical; suggestion to remove this plot.	This is discussed in section 7.7 of this report.
No details on secure cycle storage or bin stores , contrary to policy requirements.	This is discussed in section 7.7 of this report.
Generic house designs with disproportionate roof heights and insufficient response to design codes and FAV10 policy requirements.	This is discussed in section 7.5 of this report.
Hard-landscaping may not be permeable , conflicting with climate resilience policies (FAV8).	This is discussed in section 7.5 of this report.
Limited contribution to carbon-zero development , with minimal eco-design features beyond Part L standards.	This is discussed in section 7.12 of this report.

Biodiversity Net Gain (BNG) submission inadequate or outdated, lacking required evidence and failing to meet the 20% BNG requirement for greenfield sites.	This is discussed in section 7.6 of this report.
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5. **CONSULTATIONS**

- 5.1 **Southern Water** – There is currently adequate capacity in the local sewerage network to accommodate a foul flow of 0.63 l/s for the development. Note that no surface water flows can be accommodated within the existing foul sewerage system. General comment regarding surface water drainage advising that the details should specify the responsibilities and timetable for implementation and include a management and maintenance plan for the lifetime of the development.
- 5.2 **Local Lead Flood Authority (KCC Flood and Water Management)** – No objection at the Reserved Matters stage. Expect that the final drainage calculations will be submitted as part of the detailed design planning stage.
- 5.3 **KCC Highways** – Consulted twice: Initially requested revisions to the proposal including additional parking spaces, removal of triple tandem arrangements, clarification of visibility splays and clarification of the road adoption. Following receipt of revised drawings and further information, KCC Highways noted the internal roads will remain private and the applicant has made reasonable amendments to respond to the comments raised and therefore confirmed that they have no objection to the proposal.
- 5.4 **KCC Ecological Advice Service** – Consulted twice: Initially requested that the BNG be recalculated due to changes in the landscaping since the original parent planning permission was granted. Upon receipt of updated details KCC Ecology advised that the proposal would meet the required BNG on the basis that 56 trees are included within the proposal, although they were unable to count this number of trees on the plan.

Officer response:

An updated Landscape Plan was provided that indicated 56 trees are included within the proposal, which addresses the comment from KCC Ecology.

- 5.5 **KCC Public Rights of Way (PROW)** – No comments to make in relation to this stage but provides informatives to remind the developer to avoid disruption to the PROW.
- 5.6 **SBC Urban Design** – Consulted twice: Advised that the reserved matters proposal aligns closely with the approved hybrid masterplan, maintaining its design principles, street hierarchy, landscape structure and overall character to ensure continuity with earlier phases. It provides a varied and well-articulated housing mix with appropriate materials, active frontages, and coherent landscaping, creating a responsive and well-integrated place. However, initially requested some minor amendments to better animate parking court facing elevations, and clarification of roofing materials, boundary treatment and refuse collection drag distances. Following the receipt of

further information and confirmation from the applicant to secure further details by conditions, the Design officer confirmed that he has no objections.

Officer response:

The refuse drag distances have been confirmed with the SBC Waste Services team to be acceptable.

- 5.7 **SBC Housing** – No objection raised noting that the parent permission secures 35% affordable housing across the wider site, including 23 homes within this phase.

Officer response:

The affordable housing is not shown within this application but will need to be submitted separately to discharge the s106 requirement for an Affordable Housing Scheme.

- 5.8 **SBC Greenspaces** – Consulted twice: Confirmed that the open space provision conforms to the approved parameter plan. Initially requested that further details of bins, boundary treatment and path surfacing be shown on the Landscape Plan. However, following receipt of further information, confirmed that further details secured by condition in relation to the open space/play elements is acceptable.
- 5.9 **SBC Tree Officer** – No principle objections to the development layout. Confirmed the planting proposals are acceptable subject to more detailed plans listing plant sizes, densities and numbers together with a management plan that will ensure successful establishment of the planted stock, secured by way of suitable conditions.
- 5.10 **Mid-Kent Environmental Protection** – Environmental Health have reviewed the submitted documents for the approval of the reserved matters and raised no concern in relation to these.
- 5.11 **Kent Police** – No objections subject to a condition to secure by design measures being incorporated into the development.

6. **DEVELOPMENT PLAN POLICIES**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Kent Minerals and Waste Local Plan 2024-39 (2025)

Kent Mineral Sites Plan (2020)

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the ‘Local Plan’)

- | | |
|------|--|
| ST 1 | Delivering sustainable development in Swale |
| ST 2 | Development targets for jobs and homes 2014-2031 |
| ST 3 | The Swale settlement strategy |
| ST 4 | Meeting the Local Plan development targets |
| ST 7 | The Faversham area and Kent Downs strategy |

CP 2	Promoting sustainable transport
CP 3	Delivering a wide choice of high quality homes
CP 4	Requiring good design
CP 5	Health and wellbeing
CP 7	Conserving and enhancing the natural environment - providing for green infrastructure
MU 6	Land at Lady Dane Farm, east of Love Lane
DM 6	Managing transport demand and impact
DM 7	Vehicle parking
DM 14	General development criteria
DM 17	Open space, sports and recreation provision
DM 18	Local green spaces
DM 19	Sustainable design and construction
DM 20	Renewable and low carbon energy
DM 21	Water, flooding and drainage
DM 24	Conserving and enhancing valued landscapes
DM 28	Biodiversity and geological conservation
DM 29	Woodlands, trees and hedges
DM 34	Scheduled Monuments and archaeological sites

Neighbourhood Plans

Faversham Neighbourhood Plan – Note this was not adopted at the time that planning permission was granted for the original hybrid application.

FAV2 Housing Development

FAV3 Residential Mix and Standards

FAV4 Mobility and Sustainable Transport

FAV6 Public Rights of Way, National Trails, Promoted Routes and Cycleways

FAV7 Natural Environment and Landscape

FAV8 Flooding and Surface Water

FAV10 Sustainable Design and Character

Supplementary Planning Guidance / Documents (SPG / SPD)

Parking Standards SPD (2020)

7. ASSESSMENT

7.1 Main Considerations

7.1.1 The main considerations involved in the assessment of the application are:

- Principle
- Size and type of housing
- Landscape and visual
- Design, character and appearance
- Ecology
- Transport and highways
- Public rights of way
- Living conditions
- Flood risk and drainage
- Designing out crime
- Other matters

7.2 Principle

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

7.2.2 The NPPF 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.

7.2.3 The principle of the overall proposed development on this site has been established as being acceptable through the Hybrid planning permission (ref: 23/500857/HYBRID and subsequently via 23/504707/HYBRID and 25/501335/HYBRID). Furthermore, the site is part of a wider site allocation for development supported by Local Plan policy MU6.

7.2.4 The current Reserved Matters application proposes residential development and an area of open / green space in accordance with the Parameter Plan approved in the parent Hybrid permission. The proposal therefore accords with the principle of development already established on site.

7.3 Size and Type of Housing

7.3.1 The NPPF recognises that to create sustainable, inclusive, and diverse communities, a mix of housing types, based on demographic trends, market trends, and the needs of different groups, should be provided.

7.3.2 The Local Plan Policy CP3 seeks the delivery of a wide choice of high quality homes that extend opportunities for home ownership and create sustainable, inclusive and

mixed communities. It requires developments to achieve a mix of housing types and sizes, reflecting the local needs and the Strategic Housing Market Assessment.

- 7.3.3 The supporting text to Local Plan Policy CP3 sets out requirements for market and affordable housing by size (given the development does not meet the threshold for affordable housing provision only the market housing requirements are considered in this application). However, the Council's Housing Market Assessment (HMA) was prepared in 2020, which is more recent than the Local Plan, and after the introduction of the standard method for calculating the objectively assessed need. A comparison of the figures from these analyses are presented in the following table:

Housing Need	1-bed	2-bed	3-bed	4-bed
Market – Local Plan	7%	36%	42%	15%
Market - HMA	7%	33%	41%	19%
AH – Local Plan	8%	20%	36%	36%
AH – HMA	27%	23%	30%	20%

- 7.3.4 The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes. It should be remembered that this reflects the Borough wide need.
- 7.3.5 Policy FAV3 of the Faversham Neighbourhood Plan seeks residential schemes to include predominantly family sized housing (3-beds) as well as smaller dwellings for renter, first time buyers or those seeking to downsize.
- 7.3.6 The proposed mix of housing is set out below:

Tenure	1-bed	2-bed	3-bed	4-bed	Total
Market no.	0	0	28	19	47
Market %	0%	0%	60%	40%	
AH no.	0	11	12	0	23
AH %	0%	48%	52%	0%	
Total no.	0	11	40	19	70
Total %	0%	16%	57%	27%	

- 7.3.7 There are notable divergences in the proposed housing mix from the preferred mix within the Local Plan and HMA. However, the proposed housing mix predominantly provides 3-bed dwellings in accordance with the Faversham NP and reflects the relatively low density of the proposal, which responds to its location towards the rear of an allocated site on the peripheries of Faversham. Furthermore, the detailed part of the parent Hybrid permission includes apartments with 1-bed and 2-bed units. For these reasons, the lack of 1-bed units and low number of 2-bed units within this phase of the development is considered acceptable.
- 7.3.8 Overall, when considering the context of the site and the wider development the proposed mix is considered to be acceptable in accordance with policies CP3 and DM8 of the Local Plan and FAV3 of the Faversham NP.

7.4 Landscape and Visual

- 7.4.1 Paragraph 187 of the NPPF requires that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of BMV agricultural land, and of trees and woodland.
- 7.4.2 Local Plan Policies ST1 and DM14 both contain parts that seek to conserve and enhance the natural environment. Policy DM24 of the Local Plan supports the NPPF and seeks to conserve and enhance valued landscapes.
- 7.4.3 The land within the site boundary and surrounding it was previously used as farmland and the site is currently vacant awaiting redevelopment. The Hybrid application was supported by a Landscape Visual Impact Assessment, which set out the following principles relevant to this specific part of the site:
- Sensitively locate buildings across the site to reduce their impact in longer distance views.
 - Ensure development is located away from root protection areas, with the taller and larger massing adjacent to Love Lane and the railway corridor rather than at the eastern edge of the site
 - Reinforce existing boundary vegetation with new planting to aid in softening views of the proposed development from close range locations; and
 - Implement new planting across the site to increase the vegetation cover and opportunities for biodiversity, along with reinforcing the existing vegetation patterns across the site where practicable.
- 7.4.4 The proposal aligns with the approved parameter plan and established principles set out in the Hybrid application. It retains building heights at a maximum of 2-storeys and reinforces existing boundary vegetation with new planting. The proposed landscape design is discussed in detail in the following section; however it is considered to be well-designed, follows the outline stage illustrative masterplan and incorporates the anticipated biodiversity improvements.
- 7.4.5 It is considered that the proposals would protect the landscape character of the area, and the proposed soft landscaping will serve to soften the impact and improve the setting of the development. Officers consider the proposal accords with the requirements of policies ST7, CP4, CP7, DM24 and DM29 of the Local Plan, policy FAV7 of the Faversham Neighbourhood Plan and relevant provisions of the NPPF, in so far as they have regard to matters of landscape visual impact.

7.5 Design, Character and appearance

- 7.5.1 Local Plan Policies CP4 and DM14 and the NPPF attach great importance to the design of the built environment and that design should contribute positively to making places better for people.
- 7.5.2 The reserved matters submission for appearance, landscaping, layout and scale appears largely in accordance with the design principles, parameter plans, and

illustrative layout established by the approved hybrid planning permission. The current reserved matters application adheres to the overall design narrative and illustrated masterplan that formed part of the hybrid application. This ensures clear continuity between the hybrid and detailed applications.

- 7.5.3 The layout would align closely with the illustrative masterplan submitted as part of the hybrid application. The movement framework (Primary Street, Access Road A, and private drives) provides a hierarchy of streets, which combined with new pedestrian and cycle access/links, delivers a legible and permeable structure that integrates positively with the surrounding area. Street sections illustrate compliance with the street typologies and design principles set out in the Hybrid Design & Access Statement. The variation in street widths, treatment and landscaping reinforces distinct characters, aids wayfinding, and creates a clear sense of place.
- 7.5.4 The reserved matters proposal adopts a loose perimeter block typology that is consistent with the illustrative masterplan and best practice. The pattern, grain, building lines and arrangement of built/unbuilt space respond directly to the established character of earlier phases and the surrounding context. Dwellings are outward facing with active elevations addressing the public realm, delivering active frontages to streets, and open spaces. Corner plots are occupied by multi-aspect units, ensuring natural surveillance and avoiding inactive or blank elevations at prominent locations. This approach reinforces legibility, provides surveillance and accords with the National Design Guide's emphasis on well-overlooked, animated streets.
- 7.5.5 Car parking is provided through a balanced mix of on-plot, on-street and a rear parking court. This varied approach accords with the established design principles and ensures that parking is well-distributed and does not dominate the street scene. The proposed parking court is relatively small-scale and overlooked by flank windows to units 91 & 92. Although it would be desirable for these elevations to be further animated in place of multiple 'tax' windows, the internal layout of the dwellings is not conducive to provide further openings, and it is considered there is an acceptable level of passive surveillance provided in the proposal.
- 7.5.6 The proposed parking court also incorporates soft landscaping in accordance with the Council's Parking Standards SPD, which ensures that hard landscaping is softened, and vehicles are partially screened when viewed from the public realm.
- 7.5.7 The reserved matters submission introduces a range of house types (detached, semi-detached, and small terraces, ranging in size from 2 - 4 beds), which provide variety in scale and form across the site. Elevations to the dwellings are designed with articulation and depth by using projecting bays, porches, brick banding including headers/arches, chimneys, hanging tiles and weatherboarding which directly reference the language established in earlier phases and prevalent in the surrounding area. The proposed material palette of red and buff brick, hanging tile and weatherboard will ensure visual continuity across the wider development and surrounding context. Whilst limited detail is provided in the application regarding roofing materials, details of all materials will be secured by condition 15 of the parent Hybrid permission.

- 7.5.8 The proposed dwellings are two storeys in height, which is appropriate in the context of the site's topography and the prevailing height of approved properties within the wider development. Roofscape interest is achieved through a mix of hipped and half-hipped forms, together with the selective introduction of chimneys on larger house types. Changes in ridge direction, roof material and elevational treatment at key corners provide further articulation. The resulting composition would deliver an attractive, varied and contextually responsive scheme that successfully integrates with earlier phases while creating its own character.
- 7.5.9 The reserved matters application is underpinned by a landscape framework that follows the illustrative masterplan. Structural landscaping forms the primary organising element of the layout, comprising buffer planting along the northern and eastern boundaries, providing a soft, landscaped edge at the interface with the wider countryside. A suitably positioned area of open space is proposed at the heart of the phase, which provides identity and a focal point in this part of the development.
- 7.5.10 The proposed public realm is supported by tree and garden planting with indicative species provided on the Landscape Masterplan, which has been confirmed by the SBC Trees officer to be acceptable. More detailed plans listing plant sizes, densities and numbers together with a management plan that will ensure successful establishment of the planted stock will be secured through further details under the parent Hybrid permission conditions. The proposal, therefore, has a strong landscape structure within the site and to the boundaries which aligns with the parameters, helps define character and links to the landscape beyond the site boundary.
- 7.5.11 The boundary treatment strategy appears coherent from the plan submitted with close boarded fence, wall and double stacked hedgerows appropriately located and responsive to those approved in Phase 1. A condition is recommended for further details for approval of its the material, colours and detailing.
- 7.5.12 The Council's Urban Design officer has reviewed the Reserved Matters proposal and offers his support, advising that the proposal delivers a well-designed place that follows the principles envisaged in the hybrid consent while responding positively to detailed site constraints and opportunities. The resulting development would successfully integrate with the established and emerging character of the wider development while creating a distinctive and coherent sense of place for this phase. The proposed development is therefore acceptable in design terms in accordance with policies MU6 and DM14 of the Local Plan and policy FAV10 of the Faversham Neighbourhood Plan.

7.6 Ecology

- 7.6.1 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan.
- 7.6.2 Section 40 of the Natural Environment and Rural Communities Act (2006) states "*For the purposes of this section "the general biodiversity objective" is the conservation and*

enhancement of biodiversity in England through the exercise of functions in relation to England” and “A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.”. Furthermore, paragraph 187 of the NPPF states that “the planning system should contribute to and enhance the natural environment by (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs”.

- 7.6.3 NPPF paragraph 193(a) states that “if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.”
- 7.6.4 National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments.
- 7.6.5 In terms of the Local Plan Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.6.6 The parent Hybrid application was accompanied by an Ecological Assessment, which was reviewed by the KCC Ecology team who raised no objections to the proposal subject to conditions to secure ecological mitigation and enhancement measures, mitigation of impacts from lighting, and a habitat creation, management and monitoring plan. These conditions were secured accordingly (Conditions 45, 46 and 47). Condition 45 in particular requires details of ecological mitigation and enhancement, which will identify measures to prevent nesting birds from potential harm.
- 7.6.7 KCC Ecology confirm that they are satisfied that the layout remains consistent with the parent Hybrid permission and the ecological mitigation previously approved under conditions (ref: 24/500622/SUB) is still achievable.
- 7.6.8 The BNG assessment approved in the parent Hybrid application demonstrated that the development could achieve an anticipated 10.06% net gain across the wider site. It is important to note that due to the timings of these applications there is no statutory requirement to achieve 10% on site BNG as the statutory requirement for this only came into effect for applications submitted after 12 February 2024. It also pre-dates the 20% requirement under the Faversham Neighbourhood Plan. Furthermore, there is no condition in the Hybrid permission that secures the BNG level from the outline stage and it is not appropriate to impose new or more onerous restrictions through conditions at the Reserved Matters stage that effect the established principle of development.
- 7.6.9 Notwithstanding this, the applicant submitted a BNG letter detailing that the proposed layout will not significantly change the BNG calculations for the whole development site. The letter was updated to refer to the latest revision of the site layout to address comments from KCC Ecology and confirm that 56 trees will be planted throughout the scheme, which is comparable to the outline scheme. KCC Ecology advise on this basis

they accept the whole site will continue achieve the anticipated BNG. The Landscape Masterplan was updated to clearly indicate all 56 trees and therefore will continue to achieve the anticipated BNG.

- 7.6.10 The proposal would therefore have an acceptable impact on ecology and biodiversity in accordance with Policies CP7 and DM28 of the Local Plan and the NPPF.

7.7 Transport and Highways

- 7.7.1 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.

- 7.7.2 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 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, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.7.3 A detailed Transport Assessment was submitted with the parent Hybrid application to which the trip generation and development impact of the proposal were assessed and demonstrated to be acceptable. The proposed residential phase remains at the same quantum as approved and therefore the proposals will not present an increase in vehicle movements to that previously agreed. KCC Highways confirm that on this basis the considerations in this Reserved Matters application are limited to the specific design and layout of the development itself.

- 7.7.4 The proposal continues the access road from the detailed element to the north-west, which runs through the site with private drives running off it and connects to the primary access road to the south. The internal road layout will not be adopted and KCC Highways have raised no concerns with its design.

- 7.7.5 The proposed parking provisions were updated to address comments from KCC Highways and now includes a total of 169 parking spaces, which comprises of 151 allocated spaces, 14 visitor spaces and 4 unallocated spaces. The applicant does not propose triple tandem parking, and clarified that some longer driveways were included to reduce the dominance of parking in the street scene, which is supported by officers. The applicant further clarifies that they only allocated one parking space within the proposed garages and therefore these are measured as single garages. KCC Highways have reviewed the updated layout and confirmed it to address their comments and therefore is acceptable.

- 7.7.6 Electric vehicle charging facilities are proposed for each dwelling and within the proposed parking court, which includes 2 unallocated parking spaces. Whilst the installation of EV charging is secured through Building Regulations, this provision accords with the Parking SPD requirements in any event.

- 7.7.7 Cycle parking is proposed for each dwelling either within garages or via external cycle stores within the rear gardens. Condition 23 of the parent Hybrid permission secures

the cycle parking to be provided within secure and covered facilities. A Refuse Plan is provided to demonstrate suitable vehicle turning and collection arrangements. Whilst comments were raised by Faversham Town Council in regard to excessive drag distances, particularly for plot 142, SBC Waste Services have confirmed that the proposed arrangements are acceptable.

- 7.7.8 The proposal is therefore considered acceptable in terms of parking, servicing and the impact on the local highway and in accordance with Policies DM6 and DM26 of the Local Plan, FAV4 of the Faversham NP and the NPPF.

7.8 Public Rights of Way

- 7.8.1 NPPF paragraph 105 seeks to protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails. This is reinforced through the Local Plan under Policies CP4 and CP7.
- 7.8.2 PROW ZF28 adjoins the northern boundary of the site and has been retained as part of the wider development of the allocated site. The proposal includes boundary planting along this northern edge and therefore will have no adverse impact on the PROW.
- 7.8.3 KCC PROW officers have raised no concerns but wish to remind the developer to avoid any disruption to the PROW. An informative will be included to ensure this information is relayed to the development.
- 7.8.4 As such, the proposal will preserve the PROW in accordance with paragraph 105 of the NPPF, Policies CP4 and CP7 of the Local Plan and FAV6 of the Faversham NP.

7.9 Living Conditions

- 7.9.1 The NPPF and Policy DM14 of the Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

Existing residents

- 7.9.2 There are no existing residential properties adjoining or nearby the site and therefore the proposal will not have any adverse impacts on neighbouring residential amenity. There is a campsite nearby to the south-east of the site, which is associated with the adjoining farm. However, the proposal will not adversely impact the amenity of this site given the nature and scale of the proposal and intervening boundary planting.

Future residents

- 7.9.3 The internal floor plans indicate that the proposed dwellings would be provided with functional layouts with adequate space generally in line with the Nationally Described Space Standards. The proposed dwellings are all at least dual aspect with good access to daylight and sunlight. All habitable spaces are also provided with an acceptable outlook and all dwellings are provided with private rear gardens of acceptable proportions. The proposed dwellings are also well separated to provide acceptable levels of privacy between the properties. In this regard the proposal is considered to provide a good standard of accommodation for future occupiers.

- 7.9.4 The proposed dwellings are also designed to M4(2) accessibility standards, which ensures the dwellings will be wheelchair accessible and therefore addresses the requirement under Condition 17.
- 7.9.5 The layout of the development is also considered to provide sufficient communal open space to serve future occupants in line with the approved Parameter Plan. The proposal is supported by structural landscaping including strong buffer planting to the north and east and a central open space, all with access and linking footpaths and a small level of “play on the way” provision, which is supported. The SBC Greenspaces Manager advises that the open space provision is acceptable with further detail to be provided in relation to planting and play elements as secured by the conditions within the parent Hybrid permission.
- 7.9.6 There are no sources of unacceptable adverse noise emissions nearby the site and the future commercial and employment uses as part of the wider parent Hybrid permission will be subject to mitigation measures secured by conditions. Environmental Health have reviewed the submitted documents for the approval of the reserved matters and raised no concerns in relation to these. External lighting details are also secured by conditions within the parent Hybrid permission.
- 7.9.7 The proposal would deliver a development which will provide acceptable living conditions for future occupiers and will not harm the amenity of existing residential properties. The proposal is therefore in accordance with Policy DM14 of the Local Plan and the NPPF.

7.10 Flood Risk, Drainage and Surface Water

- 7.10.1 Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed.
- 7.10.2 The drainage system approved (ref: 24/502004/SUB) and implemented for Phase 1 of the wider development was designed to accommodate for the Phase 2 residential part of the wider site. It is therefore proposed that all surface water from Phase 2 shall flow via a positive drainage network to the basin (Attenuation Basin (ATT1)) within the approved Phase 1 drainage layout.
- 7.10.3 KCC Flood and Water Management have reviewed the submitted Drainage Statement and raised no concerns, noting that the final drainage calculations will be submitted as part of the detailed design planning stage, which is secured via Condition 34 of the parent Hybrid permission.
- 7.10.4 The foul drainage network for Phase 1 was also designed to accommodate Phase 2, and the proposal would connect to the foul drainage network via ‘Lateral F7’. Southern Water advise that there is currently adequate capacity in the local sewerage network to accommodate the proposal but warns that this cannot include surface water. The drainage system has been designed to keep these separated and therefore will be acceptable.
- 7.10.5 The proposal is considered acceptable and in accordance with Policy DM21 and the NPPF.

7.11 Designing Out Crime

- 7.11.1 The NPPF aims to achieve healthy, inclusive and safe places, so that crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. The Local Plan reinforces this requirement through Policy CP4.
- 7.11.2 Kent Police request that a condition be included for this site to follow Secured By Design (SBD) Homes 2019 guidance to address designing out crime and show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety. However, Condition 14 of the parent Hybrid permission already secures this matter. As such, another condition is not required and the proposal does not pose an unacceptable crime risk in accordance with Policy CP4 of the Local Plan and the NPPF.

7.12 Other matters

- 7.12.1 As mentioned earlier in this report, affordable housing details and tenure are secured by the s106 legal agreement attached to the parent Hybrid permission. The details are therefore not required within this application.
- 3.10 Other details secured by separate conditions (but not required to be provided within an application for Reserved Matters) include the following:
- Condition 9 – sustainable construction techniques
 - Condition 10 – water consumption
 - Condition 11 – BREEAM (non-residential buildings)
 - Condition 12 – site levels
 - Condition 13 – high speed fibre
 - Condition 14 – crime prevention
 - Condition 15 – materials
 - Condition 18 – construction management
 - Condition 20 – pedestrian crossing
 - Condition 23 – cycle parking
 - Condition 25 – public footpath
 - Condition 28 – turning head
 - Condition 29 – emergency vehicle access
 - Condition 31 – landscaping
 - Condition 34 – sustainable surface water drainage scheme (SUDS)
 - Condition 35 – SUDS verification
 - Condition 36 – infiltration
 - Condition 38 – contamination
 - Condition 43 – construction method statement
 - Condition 45 – ecological mitigation
 - Condition 46 – habitat management and monitoring
 - Condition 47 – external lighting
 - Condition 49 – archaeology
- 7.12.2 It is noted that the Faversham Town Council raised concern that the proposal does not include details of permeable paving or sustainable design, however these details are

secured by conditions as set out above and therefore are not required to be replicated in a decision for this application.

7.13 Conclusion

- 7.13.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 7.13.2 In this case the application accords with the Development Plan and no other material considerations indicate that a different conclusion should be reached. As such it is recommended that application for the approval of reserved matters is granted subject to the recommended conditions.
- 7.13.3 In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.14 RECOMMENDATION

- 7.14.1 GRANT the Approval of Reserved Matters subject to the conditions set out below.

Conditions / Reasons

1. The development hereby permitted shall be carried out and maintained in accordance with the following approved plans:
 - 100 P1 Site Location Plan
 - 100 P12 Site Plan
 - 102 P12 Coloured Site Plan
 - 104 P2 Refuse Plan
 - 106 P2 Fire Strategy Plan
 - 108 P2 Parking Strategy Plan
 - 112 P2 Boundary Treatments Plan
 - 120 P2 Air Source Heat Pump Plan
 - 122 P2 Building Heights Plan
 - 124 P2 Housing Mix Plan
 - 200 P1 Plots 85-86, 95-96, 109-110, 137-138
 - 201 P1 Plots 87-88, 143-144, 149-150
 - 202 P1 Plots 89-91
 - 203 P1 Plots 92-94, 102-104
 - 204 P1 Plots 97, 134
 - 205 P1 Plots 98-99, 100-101
 - 206 P1 Plots 105-106
 - 207 P1 Plots 107-108, 121-122, 151-152
 - 208 P1 Plots 111, 153

- 209 P1 Plot 112, 115, 133
- 210 P1 Plots 113-114, 131-132
- 211 P1 Plots 116-117
- 212 P1 Plots 118-119, 147-148
- 213 P1 Plot 120, 123, 136
- 214 P1 Plot 124
- 215 P1 Plot 125, 154
- 216 P1 Plots 126, 130, 135
- 217 P1 Plots 127, 140, 142
- 218 P1 Plot 128
- 219 P1 Plot 129
- 220 P1 Plot 139
- 221 P1 Plot 141
- 222 P1 Plots 145-146
- 300 P1 Detached Garage
- 1561/001 Rev F Landscape Masterplan

Reason: For the avoidance of doubt.

2. No development above slab level shall take place until details of the materials to be used for boundary treatments as shown on drawing 112 P2 Boundary Treatments Plan have been submitted to and approved in writing by the Local Planning Authority. The development shall be built in accordance with the approved details and retained as such thereafter.

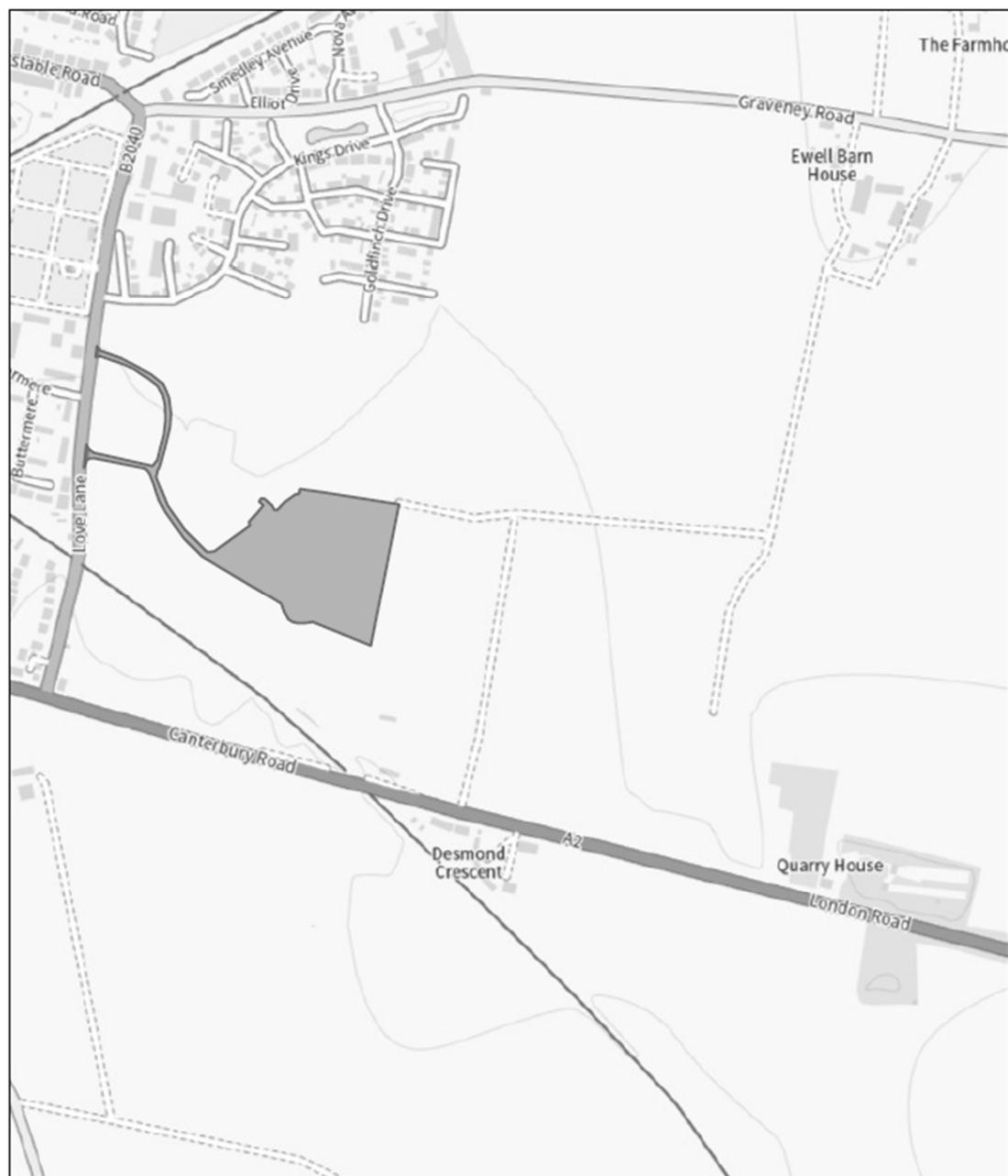
Reason: To ensure a satisfactory appearance to the development.

3. Prior to development above slab level details of hard landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall be in general accordance with the approved drawing 1561/001 Rev F, including details of benches, bins and footpath surfacing. The development shall be built in accordance with the approved details and retained as such thereafter.

Reason: To ensure a satisfactory appearance to the development.

4. The areas shown on the approved drawing ref: 1561/001 Rev F for open space and play areas shall be surfaced and equipped with play equipment, in accordance with a schedule and timetable to be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of any dwellings within the phase. The open space and play areas shall be built in accordance with the approved details, in accordance with the approved timetable and retained as such thereafter.

Reason: To ensure that sufficient open space and play areas are made available in the interests of the residential amenities of the area.



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PLANNING COMMITTEE – 5th March 2026

PART 3

Report of the Head of Planning

PART 3

Applications for which REFUSAL is recommended

3.1 REFERENCE NO - 24/502717/OUT		
PROPOSAL - Outline Application (with all matters reserved) for erection of a care home (Class C2), with associated parking, landscaping and substation.		
SITE LOCATION - Land West of Borden Lane, Sittingbourne, Kent, ME9 8HR		
RECOMMENDATION – Planning Committee to Review.		
APPLICATION TYPE - Outline		
REASON FOR REFERRAL TO COMMITTEE To obtain the position of the Planning Committee in light of submissions that have accompanied the appeal and a recent appeal decision at a nearby site which is capable of being a material consideration.		
Case Officer – Ian Harrison		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Aspire LPP APPEAL AGENT SLR Consulting Limited
DATE REGISTERED 06/08/24		TARGET DATE Application Determined.
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application and appeal are available via the link below: - 24/502717/OUT Outline Application (with all matters reserved) for erection of a care home (Class C2), with associated parking, landscaping and substation. Land West Of Borden Lane Sittingbourne Kent ME9 8HR		

1. INTRODUCTION

- 1.1. This application was initially reported to Planning Committee on 17 July 2025, with a recommendation that permission be granted. The original Committee report is attached at Appendix A.

- 1.2. The Planning Committee resolved to refuse the application for the reasons set out below. The minutes from the 17 July 2025 Planning Committee meeting are attached at Appendix B of this report.
1. *The proposed development, by virtue of its position outside the built-up area boundaries of the Swale Borough would conflict with the Council's Settlement Strategy. Moreover, development at this site, however it is brought forward, would conflict with the purposes of the Important Local Countryside Gap. Furthermore, the proposal would result in the inadequately justified loss of Best and Most Versatile Agricultural Land. The proposal is, therefore, unacceptable and contrary to Policies ST1, ST3, DM25 and DM31 of Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 and the National Planning Policy Framework.*
 2. *The proposed development would result in the loss of priority habitat and it has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would not have a detrimental impact on protected species at and within the vicinity of the site. The proposal is, therefore, unacceptable and contrary to Policy CP7 and DM28 of Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 and the National Planning Policy Framework.*
- 1.3. The applicant subsequently lodged an appeal (APP/V2255/W/25/3376221). This is to be determined through the hearing procedure. The Appeal Statement of the Council is due to be submitted by 9 March 2026. The hearing is scheduled for 10:00 on 31 March 2026.
- 1.4. For reasons that will be highlighted further below, it is considered relevant to highlight section 5.7, paragraphs 7.2.13 to 7.2.16 and section 7.8 of that Committee Report which provide a summary of the advice from the KCC Ecological Advice Service, an assessment of the effect on agricultural land and an assessment of the effect on protected species at and near the site.
- 1.5. Planning Practice Guidance states that a Council could be at risk of an award of costs where “*not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management.*”
- 1.6. The purpose of presenting this matter to the Planning Committee is, therefore, to undertake an exercise of sensible case management in light of a change in the context in which the appeal might be considered, particularly as a result of a recent appeal decision at a nearby site and submissions that have accompanied the appeal.
- 1.7. Given the Start Letter for the appeal was received on 02 February 2026, and noting the publication lead-in time for the Council's Planning Committee Meeting on 05 February 2026, the Planning Committee meeting of 05 March 2026 represents the first opportunity for the case to be reviewed by the body that made the decision that is the subject of the appeal.

2. APPEAL DECISION AT LAND OFF RIDDLES ROAD, BORDEN

Appeal Decision APP/V2255/W/25/3372645

- 2.1. At the same Planning Committee meeting of 17 July 2025, application 24/503677/FULL was considered. In summary, that application sought permission for 38 dwellings, open space and other works. That application was refused for three reasons, one of which being:
2. *The proposed development would have a detrimental and insufficiently mitigated impact on protected species at and within the vicinity of the site. The proposal is, therefore, unacceptable and contrary to policies CP7 and DM28 of Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 and the National Planning Policy Framework.*
- 2.2. That decision was the subject of an appeal which was also considered through the hearing procedure. The appeal was dismissed. However, the Inspector found no harm in relation to protected species and an award of costs was made against the Council. By coincidence, that appeal decision is being reported to this same Planning Committee meeting and, as such, a copy of the appeal decision and the decision in relation to the application for an award of costs is available at Part 5 of the Committee Agenda. Key extracts of the appeal decision in relation to the planning merits of the case are as follows:
28. *Both parcels of the appeal site comprise predominantly grassland in part suppressed by horse grazing and adjoining mixed off-site hedgerows offering limited connectivity across the site itself. The application was accompanied by an Ecology Impact Assessment (ECIA) which included consideration of potential species on and near the appeal site following a site visit and an earlier preliminary ecological appraisal. In summary, its recommendations included precautionary and mitigation measures to address the potential effects of the development on species including bats, badgers, hedgehogs, reptiles and nesting birds which could reasonably have been secured by planning conditions. The ECIA did not suggest that further surveys of any protected species, or wider effects, were necessary given the site's characteristics and the findings of the associated site visit. As part of the appeal documentation the appellant's ecological specialist considered those earlier findings to remain correct. Those documents acknowledge Borden Nature Reserve and have regard to a 'zone of influence' as an area over which ecological features may be subject to significant effects. That document was reviewed by the County Council Biodiversity Officer who commented specifically on the adequacy of the document during the course of the application and raised no concerns.*
29. *It is not in dispute that badgers are active in the vicinity of the site, potentially using the appeal site for some commuting or foraging. However, there is very little substantive evidence to demonstrate that the appeal site has particular value for this purpose and the appellant's ecologist considers any use for foraging is unlikely to be significant based on their observations. While I note the comments of local residents, it remains that there is not substantive or convincing evidence before me which would lead me to doubt the findings of*

the appellant's technical evidence and the County Council's Biodiversity Officer.

30. *There would be a significant reduction in open space arising from the proposal and the site would undoubtedly be different in terms of how it derives its ecological value. However, in the absence of any detailed evidence to the contrary, I am not convinced that an unacceptable 'squeezing' of the corridor for wildlife would occur or amount to harm as a result of this proposal. Unlike the existing situation, future landscaping and open space would be managed to ensure it remains available for this purpose. Overall, I am satisfied that subject to appropriate planning conditions and landscape management provisions in the S106, the effects of the proposal on badgers and other species including bats and hedgehogs, would be acceptable. The proposal would comply with policies CP7 and DM28 of the LP which relate to biodiversity considerations and conservation of the natural environment.*

Relevance to Current Appeal Decision

- 2.3. Other appeal decisions are not binding on the determination of a subsequent application or an application at any other site. However, they are capable of being a material consideration.
- 2.4. As can be established from the above commentary, the two reasons for refusal are not identical.
- 2.5. The current appeal would involve the loss of Traditional Orchard which is a priority habitat and, whilst the applicant's submissions, the Council's ecology consultee and the Committee Report identified that the loss could be reduced through the definition of an area of on-site Traditional Orchard for retention and enhancement and compensated for by off-site provisions, it does represent a material difference to the application site.
- 2.6. Moreover, the relationship with the adjacent Borden Nature Reserve is different to the adjacent site, which is on the opposite side of Riddles Road. Whilst the applicant's submissions, the Council's ecology consultee and the Committee Report identified that any impact on the Borden Nature Reserve could be minimised and controlled, it remained the case that there would be some harm caused by the proposal. For this reason, it is the case that the relationship is different with the current appeal site as opposed to the nearby site that was the subject of the abovementioned appeal and the effect of the development is different.
- 2.7. Notwithstanding these points, there is an alignment between that part of the reason for refusal for the current appeal case which states "*it has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would not have a detrimental impact on protected species at and within the vicinity of the site*" with the reason for refusal at the nearby site where the decision stated "*The proposed development would have a detrimental and insufficiently mitigated impact on protected species at and within the vicinity of the site.*"

3. APPEAL SUBMISSIONS - ECOLOGY

3.1. At Appendix A of the Appellant's appeal submissions include a Statement of Case relating to Ecological Matters. This sets out the following key points:

- The Traditional Orchard habitat present at this site is accepted to be a UK Biodiversity Action Plan 'priority habitat' and so the extent and value of this habitat has been carefully re-evaluated. Whilst the whole site is mapped as Traditional Orchard within the MAGIC Priority Habitat Inventory, that mapping is high-level and not detailed, such that it includes areas of garden where there are and have been no trees.
- The Traditional Orchard at the site is smaller in area, amounting to approximately 0.31 hectares at the frontage of the site. It was previously calculated more broadly, amounting to 0.797ha.
- The appellant's calculations suggested that there would be a loss of Traditional Orchard which would now amount to 0.037ha but there would be the creation of 0.022ha of Traditional Orchards and 0.0218ha of enhanced Traditional Orchard.
- The Traditional Orchard is nearing the end of its lifespan and has lacked appropriate management for many years. Aerial imagery indicates that at least 14 orchard trees have been lost over the last 16 years.
- The proposed parameter plan (PL105) would be secured as part of a permission granted and would have the effect of enabling the retention of that area of land to be landscaped as Traditional Orchard such that there would not be a loss of Traditional Orchard habitat units.
- The Swale Important Local Countryside Gap Review dated February 2025 has identified that small areas of priority habitat traditional orchard remain that are no longer intact, but highlights the opportunity for 'conservation, sensitive management and potential expansion to be explored'. The enhancements of the Traditional Orchards should therefore be viewed as being a benefit of the proposal. There would also be a benefit arising from the future monitoring and maintenance of the Traditional Orchard as BNG.
- Other management at the site and the introduction of grasslands would be able to enhance the biodiversity value of the site. As such, there would only be a small loss of habitat units overall.
- The previous findings in relation to protected species by the applicant's team and the Council's ecology consultee should remain applicable.
- The site has been re-surveyed for badgers and found none at the site but two active setts within the vicinity of the site which is consistent with other evidence.

- It is suggested that any effects on Borden Nature Reserve would be minimised through conditions and future site management and any impacts on functional link between the site and the Borden Nature Reserve would be addressed by the planting of new trees.

3.2. This additional documentation has been sent to KCC Ecology for their assessment and input. Any input they may have will be circulated to members of the Planning Committee in advance of the meeting.

4. APPEAL SUBMISSIONS – AGRICULTURAL LAND

4.1. Policy DM31 states that:

Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

- 1. The site is allocated for development by the Local Plan; or*
- 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
- 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.*

4.2. The site is not allocated for development by the local plan and, within the 17 July 2025 Committee Report, it was identified that the proposal would not result in a wider agricultural holding becoming unviable. However, no assessment of the availability of other sites was provided. That Committee Report identified harm and policy conflict as a result of the loss of agricultural land.

4.3. At Appendix D of the Appeal Submissions, the appellant has provided a Agricultural Land Classification Statement. This states that:

- The site is mostly Grade 2 land, but includes small amounts of Grade 1 land. If reviewed, the land would probably be found to be Grade 2 agricultural land.
- The site represents 0.005% of the Best and Most Versatile Land within the Swale Borough.
- If converted back to being used for producing a cherry crop, it would contribute up to 0.185% of the UK's cherry crop value.

4.4. At Appendix E of the Appeal Submissions, the appellant has provided an Alternative Sites Assessment. This concludes that:

“there are no sequentially preferable or reasonably available alternative sites within the borough. When read alongside the Care Home Need Assessment (October 2025), it is demonstrated that there is an overriding need which cannot be met on

land of lower agricultural quality, in accordance with Policy DM31 of the Bearing Fruits 2031: The Swale Borough Local Plan (adopted 2017)."

- 4.5. The Care Home Need Assessment that has been referred to is provided at Appendix B of the appeal submissions.

5. SUMMARY AND CONCLUSION

- 5.1. To assist with the response to the appeal, Members are requested to make a resolution to advise whether the outcome of that decision in respect of the nearby site and the additional evidence submitted with the appeal effects their assessment of the reasons for refusal at the current appeal site. It is recommended that the Planning Committee advises how it would wish for the Council to proceed in respect of the appeal based on the following:

- 5.2. In relation to the 1st reason for refusal:

- a) The Planning Committee could maintain its position that *"the proposal would result in the inadequately justified loss of Best and Most Versatile Agricultural Land"* contrary to Policy DM31 of the Local Plan.

OR

- b) The Planning Committee could determine that the loss of Best and Most Versatile Agricultural Land has now been adequately justified and as such withdraw that element of the 1st reason for refusal.

OR

- c) Planning Committee could determine that the loss of Best and Most Versatile Agricultural Land has now been adequately justified and as such this alters the whole balance of the considerations within the 1st reason for refusal such that the whole reason for refusal is withdrawn.

- 5.3. In relation to the 2nd reason for refusal

- i) The Planning Committee could conclude that the circumstances of the two mentioned sites and the effects of the proposals are materially different and that the additional ecology submissions do not give reason to reach a different decision, such that there are not grounds to amend the position of the Council.

OR

- ii) The Planning Committee could conclude that the additional ecology submissions and the nearby appeal decision, separately or in combination, are grounds to review the 2nd reason for refusal and, upon doing so, the Planning Committee could conclude that only part of the reason for refusal should be defended. For example, in light of the commentary provided

above, this could be to reduce the scope of the reason for refusal to focus on the effect on the Borden Nature Reserve and/or the loss of the Traditional Orchard at the site but not the surrounding area more generally.

OR

- iii) The Planning Committee could conclude that the additional ecology submissions and the nearby appeal decision, separately or in combination, are grounds to review the 2nd reason for refusal and, upon doing so, the Planning Committee could advise that the 2nd reason for refusal can be withdrawn.



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2.3 REFERENCE NO 24/502717/OUT		
PROPOSAL Outline Application (with all matters reserved) for erection of a care home (Class C2), with associated parking, landscaping and substation.		
SITE LOCATION Land West of Borden Lane, Sittingbourne, Kent, ME9 8HR		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be necessary and appropriate.		
APPLICATION TYPE Major, Outline		
REASON FOR REFERRAL TO COMMITTEE Borden Parish Council object to the proposal and have requested the application be determined by Planning Committee and called in by Ward Councillor Ann Cavanagh.		
Case Officer Carly Stoddart		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Aspire LPP AGENT Mr L.Wilkin, Aspire LLP
DATE REGISTERED 06/08/24		TARGET DATE 23/01/25
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted. All representations received. Care Home Need Assessment, dated August 2024 (uploaded on 5 September 2024) Archaeological Desk-Based Assessment, reference PN4338/DBA/1, dated August 2024 (uploaded on 5 September 2024) Arboricultural Implications Assessment, dated August 2024 (uploaded on 19 September 2024) Transport Statement, reference 23/7357/TS01, dated August 2024 (uploaded on 5 September 2024) Drainage Strategy Report, reference 8134-RGP-ZZ-00-RP-C-0501, P3 dated November 2024 (uploaded on 4 April 2025) Phase 1 Desk Study and Risk Assessment Report, reference J15790, Issue 1, dated 13 August 2024 (uploaded on 5 September 2024)		

Phase 2 Ecological Survey Report, reference 5839E/24/02, dated 17 June 2025 (Confidential due to protected species information – KCC Ecological Advice Service and Borden Wildlife Group consulted)

The full suite of documents submitted pursuant to the above application are available via the link below: -

[24/502717/OUT | Outline Application \(with all matters reserved\) for erection of a care home \(Class C2\), with associated parking, landscaping and substation. | Land West Of Borden Lane Sittingbourne Kent ME9 8HR](#)

1. SITE LOCATION AND DESCRIPTION

- 1.1. The site lies on the northwestern side of Borden Lane, adjacent to the residential property at 124 Borden Lane which is to the southwest. To the northeast and northwest is the Borden Nature Reserve. The southeast boundary adjoins Borden Lane and there are dwellings and paddocks on the opposite side of the road.
- 1.2. The site is accessible on foot from Borden and Sittingbourne. There is a footpath to both sides of Borden Lane to the front of the site, although the path to the side of the application site is narrow with some large trees occupying the width between the site and Auckland Drive. The footpath on the opposite side ends at the first house as you travel south in the direction of Borden. There is no bus route through Borden Lane. The nearest stop is within Adelaide Drive.
- 1.3. The site is outside of a defined settlement area, is within an Important Local Countryside Gap (ILCG) and comprises Priority Habitat in the form of traditional orchard.
- 1.4. The site is roughly rectangular in shape, extending northwest from its Borden Lane frontage. Towards the southwestern corner of the site is a single storey brick workshop building. Most of the site is grassed however there are areas having been used as storage.
- 1.5. The frontage of the site to Borden Lane comprises trees and boundary hedging, which largely screen views into the site. The northeastern and northwestern boundaries are also largely screened by boundary landscaping. There are no trees within the site protected by a preservation order.
- 1.6. The land level of the site is higher than Borden Lane and continues to rise gently towards the rear. Levels drop off steeply beyond both the northeast and northwest boundaries of the site.
- 1.7. Vehicular and pedestrian access is a shared arrangement located to the northeastern corner of the site via Borden Lane.

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- 1.8. The site is not within a Conservation Area. There are two listed buildings on the opposite side of Borden Lane at Riddles House and Posiers which are both Grade II listed.

2. PLANNING HISTORY

- 2.1. SW/07/0072 - Provision of a pavement crossing and access to the orchard.

Approved Decision Date: 13.03.2007

3. PROPOSED DEVELOPMENT

- 3.1. Outline planning permission is sought for the construction of a care home (Class C2) with associated parking, landscaping and substation. All matters are reserved (layout, scale, access, appearance and landscaping).
- 3.2. For clarity, the proposal does not include any dwellinghouses (Class C3).
- 3.3. Although the application is submitted with all matters reserved, indicative drawings have been provided to demonstrate how the proposed development for up to 70 bedrooms could be achieved on site. As currently shown by the indicative drawings, the building would comprise an 'H'-shaped footprint measuring a maximum width of approx. 58.8m wide by a maximum depth of approx. 58.5m.
- 3.4. The building would be set back from the front boundary by approx. 34m. The car parking area and turning space would be to the rear of the building. 29 parking spaces would be provided, two of which are currently shown for disabled users. An ambulance bay is also proposed.
- 3.5. Access would be provided from Borden Lane, from the northeastern end of the site frontage and would run adjacent to the northeastern boundary of the site to the rear. The separation between the access road within the site as currently shown and the northeastern boundary with the nature reserve is approx. 2.8m.
- 3.6. The sub-station is currently shown to the northernmost corner of the site and measures approx. 4.8m wide by approx. 4.7m in depth.

4. CONSULTATION

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

- 4.2. Sixty-one letters of representation objecting to the proposal were received in relation to the consultation including a letter written on behalf of another care provider. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Mass, scale and density – overdevelopment, impact upon living conditions – overshadowing, loss of light.	7.6.2 - 7.6.3, 7.14.2
Impact on the character of the area – two storeys will be higher than the trees.	7.6.3 - 7.6.4, 7.6.6
Overlooking – loss of privacy.	7.14.2
Light pollution.	7.14.4
Noise.	7.14.3
Smells.	7.14.3
Increased vehicle movements and traffic.	7.9.4
Increased parking pressures on surrounding roads due to inadequate parking provision.	7.9.7 - 7.9.8
Highways safety – dangerous access so close to dangerous bend in the road.	7.9.5
Impact on local wildlife, loss of habitat including traditional orchard, impact from substation – noise and vibration, lighting.	7.8.7 – 7.8.11, 7.8.12 – 7.8.17
Impact on nature reserve, a priority habitat as per KCC's 'Making Space for Nature' – light, air and noise pollution.	7.8.18 – 7.8.21
Offsetting loss of biodiversity in another location is inadequate.	7.8.16 -7.8.17
Loss of countryside.	7.2.3 – 7.2.12
Encroachment into Important Local Countryside Gap, a green buffer that provides visual amenity.	7.2.3 – 7.2.12, 7.3.4 – 7.3.5
Coalescence between Borden and Sittingbourne.	7.2.3 – 7.2.12
Proximity for former landfill site – release of gas and other toxic substances – health risk.	7.13.1 – 7.13.2
Increased pressure on existing infrastructure – doctors, hospitals, dentists, schools, waste management, water supply, sewerage, waste.	7.11.1 – 7.11.4
Already sufficient care homes provision within the area – question the need.	7.2.18 – 7.2.25
Respite is required from continual building within the locality.	7.16.1 – 7.16.2, 7.17.10

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Loss of agricultural land.	7.2.13 – 7.2.16
No public transport.	1.2, 7.9.3
Noise and disturbance including dust from construction activity.	7.14.3
Air quality.	7.10.1 – 7.10.6
Ambiguity as to whether 5 houses are proposed.	3.2
Surface water run off.	7.12.3 -7.12.4
Path only on one side.	1.2
Insufficient information.	4.4
Pressure on care worker supply.	Not a material consideration.
Not in sustainable location.	1.2, 7.9.8
Loss of trees.	7.7.1 – 7.7.5

4.3. Borden Parish Council objects to the application on the following grounds:

Comment	Report reference/ clarification
Impact on wildlife including from the development including from noise and vibration from the substation.	7.8.7 – 7.8.11, 7.8.12 – 7.8.17
Ambiguity as to the proposal – does it include 5 houses?	3.2
Impact of light to the nature reserve.	7.8.18 – 7.8.21
Increased pressure on existing infrastructure – doctors.	7.11.1 – 7.11.4
Buffer zone will be diminished.	7.2.3 – 7.2.12
Lack of bus service and public transport in general area.	1.2, 7.9.3
Insufficient car parking provision will lead to indiscriminate parking on Borden Lane and highway safety issues.	7.9.7 - 7.9.8
Cumulative impact of overdevelopment within Borden is adversely affecting the health of residents and surrounding wildlife.	7.16.1 – 7.16.2, 7.17.10

Second Round

4.4. Following receipt of further information, fourteen letters of representation objecting to the proposal were received in relation to the second consultation. The following additional concerns were raised:

Comment	Report reference
Overdevelopment.	7.6.2 – 7.6.3
Biodiversity off-setting elsewhere is nonsense.	7.8.11, 7.8.16 – 7.8.17
Insufficient detail due to application being outline.	4.9

Contrary to the opinion given in a letter regarding development of the site from a Planning Officer in 2003.	4.9
Commentary regarding the duty of Councillors and Planners and the role within the planning application process, lack of transparency, unfairness, no opportunity for public debate, inadequacy of consultation, potential bias towards the applicant and failure to uphold due process.	4.8 - 4.11

4.5. Borden Parish Council objected to the application on the following additional grounds:

Comment	Report reference
Lack of ecology and habitat surveys.	7.8.7 – 7.8.26
The 10% increase in biodiversity should be on site.	7.8.16 – 7.8.17
Report of gas emissions from nature reserve.	7.13.2 -7.13.3
Report on groundwater vulnerability.	7.12.1 – 7.12.4
Submission says no waterbody within 250m, there is a pond in the nature reserve approx. 60m away.	7.8.10

4.6. Borden Wildlife Group have objected to the application on the following grounds:

Comment	Report reference
Proposal for Biodiversity Net Gain is unclear. It should be on site or close to the site to benefit the wildlife affected by the proposal.	7.8.16 – 7.8.17
If the mitigation area in Throwley is still proposed it is unacceptable being too far away, too close to a main road and the site includes electricity pylons.	7.8.16 – 7.8.17
The loss of habitat on site should not be considered in isolation, the impact on traditional orchard on the site and within the vicinity now means its protection is vital. Traditional orchards are irreplaceable habitats, and its loss means the application should be refused in accordance with Local Plan policy.	7.8.12 - 7.8.17
Bird species such as tawny owl have been displaced and others are likely to be displaced.	7.8.6
Reducing nature to units and biometrics – appalling ignorance.	7.8.23

Inadequate reports and surveys – failure to identify the protected species and the habitats in and around the immediate area of the site.	7.8.6
Works already undertaken without a licence.	It is understood that the Police were notified of this matter.

Third Round

- 4.7. Borden Parish Council objected to the application on the following additional grounds:

Comment	Report reference
Conflict between statement regarding mitigation measures to be taken against the effect of gas on the site and the statement there is no gas on the site.	7.13.1 – 7.13.2
Would like time to review KCC Ecology report.	Received 25 June 2025
Concern regarding future of identified bat roost and foraging areas – no evident mitigation.	7.8.7 – 7.8.8
Detrimental to the nature reserve habitat and species including slow worms.	7.8.18 – 7.8.21

- 4.8. Borden Wildlife Group have objected to the application on the following additional grounds:

Comment	Report reference
More accurate badger survey – incorrect with what is active and not active. Loss of badger setts and persecution of badgers remains an issue	7.8.9
Loss of bat roosting potential	7.8.7 -7.8.8
Translocation of slow worms	7.8.11
Impact on the Nature Reserve	7.8.18 – 7.8.21

- 4.9. In accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), consultation and publicity has carried out and account has been taken of the content of representations received.
- 4.10. The application is submitted in outline form which is a legitimate way of submitting a planning application and follows pre-application engagement with the Local Planning Authority where advice was sought. Pre-application advice is encouraged by national policy and is given on a without prejudice basis. Assessment of the impacts of the proposal against relevant planning policy and material considerations are set out in the assessment section of the report below applying the planning balance accordingly.

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- 4.11. The application will be determined by Planning Committee in accordance with the Council's scheme of delegation. The Planning Committee process allows for public speaking and for the debate to viewed in person and online.
- 4.12. The Council has followed due process and does not consider it has acted unfairly or with bias towards any interested party.

5. REPRESENTATIONS

- 5.1. Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee. There have been two rounds of consultation for most consultees. For those individual consultees that have been consulted more than twice, it is stated under their heading below.

- 5.2. **Ward Cllr Cavanagh** requested that the application be determined by Members of the Planning Committee due to the community interest in the application. Has also commented that the application needs to contain up-to-date information with regard to contamination, bus stops/routes and the impact on a local badger sett and other local wildlife.

- 5.3. **KCC Highways** - Three rounds of consultation have been carried out.

The initial response requested further information which was subsequently submitted.

The predicted traffic movements, the general access arrangements and parking arrangements are acceptable. The internal layout required alteration to allow for larger vehicles to turn within the site.

The internal layout has been adjusted to allow for larger vehicles, therefore no objection and conditions recommended.

- 5.4. **KCC Flood and Water Management** - Five rounds of consultation have been carried out.

The initial response requested further information which was subsequently submitted.

The proposal to discharge surface water from the site is in line with the Drainage and Planning Policy and it is noted that surface level SuDS in the form of attenuation basins are proposed as the major feature on site, supported by permeable paving and geocellular tanks. Advisory comments are provided for the applicant and conditions recommended.

- 5.5. **KCC Development and Investment**

Initial request for contributions towards libraries, registrations and archives service and waste disposal and recycling, subject to application confirming if a commercial waste contract is in place for the care home.

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Following confirmation from the applicant that library facilities will be provided to residents with the development and subject to a condition requiring details of the waste contract, it was agreed the contributions are no longer necessary given the nature of the development.

5.6. KCC Minerals and Waste

The site is coincident with a safeguarded mineral deposit in the area. Following the submission of further information, there are no land-won minerals or waste management capacity safeguarding objections.

5.7. KCC Ecological Advice Service (KCC EAS) Three rounds of consultation have been carried out.

The initial response requested further surveys be carried out and further information was required, which was subsequently submitted, particularly with regard to the impact of the proposal in terms of bats, badgers, and Great Crested Newt (GCN), lighting and the loss of traditional orchard adjacent to Borden Nature Reserve.

Whilst it is stated there is likely to be a negative impact on the nature reserve, no objection is raised. Conditions are recommended.

5.8. SBC Heritage and Design

The proposed development would preserve and enhance the setting of designated heritage assets, and no objections are raised.

5.9. SBC Tree Officer

No objection. Recommend conditions.

5.10. Mid-Kent Environmental Protection

The initial response requested further information in relation to air quality which was subsequently submitted. It was agreed that an air quality assessment was not required. No objection is raised, and conditions are recommended with regard to air quality, contamination, noise, lighting and extraction.

5.11. Environment Agency

Initially objected to the application as not enough information submitted to demonstrate no harmful risk to groundwater resources.

Following submission of further information, the objection was removed subject to conditions being attached to planning permission if granted.

5.12. Natural England

Advises of the potential to have a harmful impact on terrestrial Sites of Special Scientific Interest (SSSIs) and those Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin.

There are measures in place to manage these potential impacts. It is recommended that an appropriate assessment is undertaken.

5.13. Lower Medway Internal Drainage Board

The site is outside the drainage district of the Lower Medway Internal Drainage Board and a river catchment that would drain into the Board's district.

5.14. Southern Water

The proposed development is likely to result in a minor increased risk of impact on the sewer network. Any further network reinforcement deemed necessary to mitigate this will be provided by Southern Water with no further input from the developer, therefore a connection may be made to the network.

Southern Water can provide a water supply to the site.

5.15. Kent Police

Recommend the site follow secured by design guidance.

5.16. UK Power Networks

Advise of underground power cables within close proximity to the site and provide information regarding obtaining guidance.

5.17. KCC Archaeology

Agrees the submitted assessment provides a reasonable description but potential for archaeological remains from periods other than Roman could be greater than low. Satisfied any potential impact can be addressed by further assessment which could be secured by condition.

5.18. NHS

Advise that the impact from care home developments is a workforce impact and not infrastructure as the residents do not attend a primary/community healthcare facility. As such, the NHS do not generally request infrastructure contributions.

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

- ST1 Delivering sustainable development in swale
- ST3 The Swale settlement strategy
- CP3 Delivering a wide choice of high quality homes
- CP4 Requiring good design
- CP5 Health and wellbeing
- CP6 Community facilities and services to meet local needs
- CP7 Conserving and enhancing the natural environment – providing for green infrastructure
- CP8 Conserving and enhancing the historic environment
- DM6 Managing transport demand and impact
- DM7 Vehicle parking
- DM14 General development criteria
- DM19 Sustainable design and construction
- DM21 Water, flooding and drainage
- DM25 The separation of settlements – Important Local Countryside Gaps
- DM28 Biodiversity and geological conservation
- DM29 Woodland, trees and hedges
- DM31 Agricultural land
- DM32 Development involving listed buildings
- DM34 Scheduled Monuments and archaeological sites

Supplementary Planning Guidance/Documents –

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025.

Parking Standard Supplementary Planning Document, 2020.

National Policy

National Planning Policy Framework, 2024

7. ASSESSMENT

7.1. This application has been reported to the planning committee due to the comments received from Borden Parish Council who have objected to the application and requested it be determined by the planning committee. Ward Councillor Ann Cavanagh has also requested that application be determined by Members of the planning committee. The main considerations involved in the assessment of the application are:

- Principle
- Landscape and Visual
- Heritage
- Archaeology
- Character and appearance
- Trees
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy

7.2. **Principle**

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

7.2.2. The NPPF 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. Local Plan Policy ST1 continues the theme of a presumption in favour of sustainable development.

Countryside Location and Important Local Countryside Gap (ILCG)

- 7.2.3. The site is located outside of the defined settlement boundaries and not allocated within the development plan. The site is therefore considered to be a countryside location. Policy ST3 of the Local Plan seeks to focus new development at Sittingbourne. Policy ST3(5) of the Local Plan states that in such locations [open countryside], development will not be permitted unless supported by national policy and where it would contribute to protecting the intrinsic value, setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.2.4. Although some development exists on site, the proposal will result in a larger extent of built form which will have an urbanising impact for most of the site. With the site being outside of a settlement boundary, the proposal is in conflict with Policy ST3 of the Local Plan.
- 7.2.5. Although the Local Plan does not identify sites to meet specialist accommodation needs for the elderly, Policy CP3 sets out that development proposals will meet the housing requirements of specific groups, including older persons. The supporting text to the policy at paragraph 5.3.17 states that the Council will seek to support proposals which improve the levels of extra care accommodation in the Borough. The policy does also state that development proposals will be steered to locations in accordance with Policy ST3 as referred to above.
- 7.2.6. The site also sits on land that was previously in agricultural use and within the ILCG where the purpose of the designation is to prevent coalescence and along with Policy ST3(5) of the Local Plan, prevent the erosion of the intrinsic character of settlements close by.
- 7.2.7. The ILCG is a local spatial tool addressing settlement identity, not a landscape designation. The purposes of the ILCGs are set out at paragraph 7.7.34 of the Local Plan. Policy DM25 of the Local Plan emphasises that ILCGs have been defined on the Policies Map to retain the individual character and setting of settlements and says that planning permission will not be granted for development that would undermine one or more of their purposes.
- 7.2.8. The location of the site within the ILCG is in conflict with Policy DM25 of the Local Plan. However, due to the housing land supply, Policy DM25 is out of date. The objective of the policy is generally consistent with the NPPF in terms of optimising the use of land, particularly within urban areas, and, by avoiding coalescence of settlements, maintaining a strong sense of place. As such the policy should be given significant weight.
- 7.2.9. Although designated as open countryside, as per the boundaries within the Local Plan, the site is located between an existing dwelling (No. 124) to the southwest (within the settlement boundary of Borden) and Borden Nature Reserve to the northeast. Beyond both these two adjacent sites, development continues along Borden Lane, southwest towards the village of Borden and northeast towards Sittingbourne. The settlement boundary of Sittingbourne lies approximately 150m to the northeast of the site. The new eastern link road which connects the main spine road of the Wises Lane

development to Borden Lane is soon to be constructed to the northeast of and adjacent to the nature reserve, within the built-up boundary of Sittingbourne.

- 7.2.10. Given the siting of the application site in this context, although the development would narrow the ILCG, the presence of the Nature Reserve ensures a landscape gap and separation is maintained. There would be no merging or actual coalescence between Sittingbourne and Borden.
- 7.2.11. The frontage of the site would comprise a soft landscaped edge with native planting and the retention of part of the traditional orchard. This is considered to minimise the impact of the proposal and adhere, in part, to the landscape guidelines of conserving the structure of hedgerows and remnant orchards. For these reasons the harm and degree of conflict with the second and third purposes of the ILCG would be modest.
- 7.2.12. The proposal would also pre-empt any decision on this ILCG through strategic plan-making (the fourth purpose). But given a new Local Plan remains some way off and the spatial strategy of the Local Plan is not delivering against the scale of housing (in general) needed, the conflict with this purpose is considered significantly diminished in accordance with recent appeal decisions. Therefore, the cumulative extent of the conflict with Policies ST3(5) and DM25 of the Local Plan would be limited.

Agricultural Land

- 7.2.13. The site was formerly in agricultural use and comprises Grade 2 agricultural land. Policy DM31 of the Local Plan restricts development on best and most versatile (BMV) agricultural land (i.e. grades 1, 2 and 3a) stating it will only be permitted where there is an overriding need that cannot be met within the built-up area boundaries. The need for the development is set out below. The policy also states that development on BMV agricultural land will not be permitted unless three specific criteria are met.
- 7.2.14. Paragraph 187(b) of the NPPF requires planning decisions to recognise the economic and other benefits of BMV agricultural land.
- 7.2.15. The application site is a discrete, isolated and relatively small piece of land that is no longer in productive agricultural use. It is considered that the development of the site would not directly lead to any further agricultural land being lost nor would it result in a larger agricultural holding becoming unviable. It is worthy of note that in the appeal decision APP/V2255/W/23/3333811 for the nearby Ufton Court Farm proposal for 290 dwellings, the loss of agricultural land for that development was considered not to be significant.
- 7.2.16. Nevertheless, this proposal does constitute a loss of BMV land and as such, there is a degree of harm and the proposal is therefore in conflict with Policy DM31 of the Local Plan. In accordance with other appeal decisions (such as APP/V2255/W/23/3333811 – Ufton Court Farm) limited weight is attached due to the small area of loss.

Minerals and Waste Safeguarding

- 7.2.17. Brickearth Deposits are listed as present within the application site. Policies CSM5 and DM7 of the KM&WLP seek to safeguard mineral resources. The KCC Minerals and Waste Officer has reviewed the application and advises there are no land-won minerals or waste management capacity safeguarding objections to the proposal. This is neutral in the planning balance.

Need

- 7.2.18. The Local Plan does not identify specific sites to meet specialist accommodation needs for the elderly. The NPPF at paragraph 61 states that the needs of groups with specific housing requirements are to be addressed. The NPPG states when assessing planning applications for specialist housing for older people (residential care homes and nursing homes meets this definition), that where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.
- 7.2.19. In the preamble to Policy CP6 of the Local Plan, Statement 6 provides some definitions of infrastructure, identifying supported accommodation as social infrastructure. Policy CP6 of the Local Plan supports the provision of such infrastructure where there are deficiencies.
- 7.2.20. Paragraph 5.3.18 (in the supporting text to policy CP3) of the Local Plan identifies a need for 481 additional care home places across the Local Plan period and states support for appropriate proposals for nursing and residential care home spaces.
- 7.2.21. More recently, Swale's Housing Market Assessment, June 2020 (HMA) indicates Swale's population is predicted to increase by 20% across the plan period. Within this, the number of people 75 or over is expected to rise from 14,437 in 2022 to 20,742 in 2038, an increase of 43.7%.
- 7.2.22. The HMA indicates there will be a requirement of 1004 people needing Registered Care in Swale in 2038. The calculations in the HMA states a requirement for an additional 305 Registered Care spaces in the Borough emphasising the need for specialist accommodation.
- 7.2.23. A Care Home Needs Assessment has been submitted with the application. This document sets out a district-wide need, at the time of the assessment, of 411 spaces of appropriate accommodation. This is broken down to a need of 90 in the locality (3-mile radius from the site). In both cases, this is set to increase with an aging population. It is noteworthy that the population forecast for the over 85s is set to increase by 60% by 2035 which is above the national average and increasing.

- 7.2.24. Whilst there have been planning applications granted for new care homes and extensions to existing care homes within the Borough, there is still insufficient capacity to address the existing and rising need in this housing category. It should also be noted that a proportion of the existing care homes within the Borough are not purpose-built accommodation.
- 7.2.25. It is important to recognise that care home accommodation such as that proposed also contributes towards housing land supply. The Housing Delivery Test Measurement Rule Book, updated 12 December 2024 sets out that the provision of 1.9 care beds (previously 1.8) is equivalent to a single dwelling. This means that the proposed development could provide the equivalent of up to 37 dwellings towards the Council's housing shortfall. As Members will be aware, the Council is currently unable to demonstrate a five-year housing land supply, such that paragraph 11.d of the NPPF is engaged. This sets out that where the policies which are most important for determining the application are deemed out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The overall planning balance is assessed in the conclusion section at the end of this report.

Summary of Principle

- 7.2.26. In summary of this section, there are significant social factors weighing in favour of the principle of the development at this site. There are conflicts with Policy ST3 of the Local Plan in terms of the scheme not complying with the Council's spatial strategy for the location of development and the introduction of built form into the countryside. Harm has also been identified through the loss of BMV agricultural land (Policy DM31) and the reduction of the ILCG (Policy DM25). However, the proposal is subject to further assessment of policies and any other relevant material considerations as set out below. The planning balance in accordance with paragraph 11(d) of the NPPF is set out below.

7.3. Landscape and Visual

- 7.3.1. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. The site is located in a non-designated landscape. Local Plan Policies ST1, ST3(5), DM14 and DM24 seek to protect, conserve and enhance non-designated landscapes. In non-designated landscapes Policy DM24 of the Local Plan states planning permission will be granted subject to the minimisation of adverse landscape impact; and when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

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- 7.3.2. As defined by the LCA&BA the application site is located within the Tunstall Farmlands Landscape Character area where the landscape is described as a diverse rural landscape, which includes small patchworks of enclosed orchards and open large-scale fields where hedgerows have been lost. The LCA&BA states that many mature hedgerows are still maintained in good order with some fragmentation and loss along lanes. Orchards tend to be mature or remnant with some grazed by sheep.
- 7.3.3. The application site is a largely undeveloped plot that is currently overgrown with vegetated boundaries. Given the vegetated frontage, the trees on the site, some of which form a traditional orchard, and its pleasant green feel, the site has an attractive landscape character and appearance. Guidelines set out in the LCA&BA aim to conserve and restore the features as described above.
- 7.3.4. The proposed development would result in the loss of some traditional orchard. It is acknowledged that all matters are reserved matters for future consideration, however the submitted details indicate the provision of soft landscaping along the majority of the site frontage, along the boundary with Borden Lane, with the retention of part of the traditional orchard behind this front boundary, and to the front of the building (in its indicative location within the site).
- 7.3.5. Some harm will result in that the proposal would not entirely conserve or enhance the existing traditional orchard on site, and the building will be more visible within the winter months, however whilst the building will be visible, it would be largely screened by the vegetation to the front which coupled with the building being set back from the main frontage is considered sufficient mitigation to result in an acceptable impact upon the landscape in accordance with Policies ST1, ST3(5), DM14 and DM24 of the Local Plan and the NPPF.

7.4. **Heritage**

- 7.4.1. Any planning application for development which will affect a listed building, or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.4.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.

- 7.4.3. The application site itself does not include any heritage assets. There are two listed buildings within the vicinity of the site on the opposite side of Borden Lane. Posiers is a Grade II listed 15th century Wealden Hall house located to the south of the proposed development and Riddles House to the north-east is a 17th century former farmhouse.
- 7.4.4. SBC Heritage have reviewed the application and are of the view that the development as proposed would not have a material impact on the significance or setting of the listed building, Posiers. They also state that Riddles House & Cottage is located over 100m to the proposed development with no intervisibility to the application site due to intervening development and significant planting on the north and south sides of Borden Lane. Therefore, the proposed development would not meaningfully affect the setting or significance of this building.
- 7.4.5. SBC Heritage conclude that overall, the proposed development would preserve and enhance the setting of designated heritage assets, and no objections are raised. Having regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990 the proposal is considered to be in accordance with Policies CP8 and DM32 of the Local Plan and the NPPF.

7.5. **Archaeology**

- 7.5.1. 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.
- 7.5.2. Policy DM34 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.
- 7.5.3. The application is supported by the submission of an Archaeological Desk Based Assessment. This has been reviewed by KCC Archaeology alongside their own records and other documentation available to them. Whilst the submitted Assessment is considered to provide a reasonable description of the archaeological baseline for the immediate vicinity of the site, it does not recognise the extensive cropmark complexes that can be seen on aerial photographs of land around Harmans Corner showing multi-period archaeological landscapes.
- 7.5.4. There is some reference to the Roman villa to the west of Borden Lane in Blue House Field. KCC Archaeology state that it should be noted that there is another at Wrens Road further south. These have been confirmed by aerial photographic evidence or sample investigation and it is considered were likely connected along a communication route that would extend to the burial site noted on London Road. This is likely to run in a corridor between Cryalls Land and Borden Lane. Very recent evaluation which has involved trenching across this strip as part of the Wises Lane development has identified Roman features on a ridge that may be associated with this potential route.

Trenching in the field north of the present site and west of Borden Lane has had limited results though has not been extensive.

- 7.5.5. The cropmark sites around Harmans Corner seem to be focused on elevated land either side of a dry valley marked by Wrens Road. Topographically the present site lies on the lower slope of the western side of the valley. Generally, KCC Archaeology would agree that there is moderate potential for roman archaeology, possibly associated with the Blue House Field villa site and would argue that there is greater than low potential for prehistoric remains. Recent work at Cryalls Lane has also identified a localised medieval settlement site and the potential for remains of that date in this landscape are greater than low.
- 7.5.6. As indicatively shown, the proposal involves mostly built development on the rear two thirds of the site with retention of orchard on the Borden Lane frontage. It is likely that development works would affect archaeological remains if present as they are likely to be shallow buried. Given the content of the Assessment and the extent of potential KCC Archaeology advise they are satisfied that the impacts on any archaeology present can be appropriately addressed through further assessment, evaluation and mitigation which can be secured by condition, with evaluation works being undertaken in a timely manner so that it informs the detailed proposals and therefore the subsequent reserved matters submission.
- 7.5.7. With the inclusion of the suggested condition, the proposal is considered to be in accordance with Policy DM34 of the Local Plan and the NPPF.

7.6. **Character and appearance**

- 7.6.1. The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement through Policies CP4 and DM14.
- 7.6.2. The built form in Borden Lane close to the site has a consistent spatial character of detached dwellings along a similar building line with long rear gardens. The character shows the properties set back from the main frontage allowing for generous areas to the front. Whilst there is parking visible to the front of some properties, and in some cases most of the frontage is hard landscaped, it is not a dominant feature. This is primarily due to the integration of soft landscaping and that there are a limited number of vehicles parked to the frontage due to these properties predominantly being in single household occupation.
- 7.6.3. Layout, appearance, scale and landscaping are all reserved matters subject to future applications should outline planning permission be granted. However, indicative drawings have been submitted to demonstrate how the development could be achieved on the site and how it might appear. The car park to serve the care home is shown to be located to the rear of the building and the building is shown to be set back behind a landscaped front boundary and a traditional orchard that is to be retained.

Although shown to be retained, the extent of landscaping along the frontage will be likely be reduced following the creation of vision splays at the access.

- 7.6.4. It is acknowledged that the landscaped boundary is likely to largely screen the care home building from the street scene of Borden Lane, however the development will be visible through the landscaping at times, particularly in winter.
- 7.6.5. The layout with the parking to the rear means this will be screened by the building and is unlikely to be visible from the street scene, ensuring the building with soft landscaping and the traditional orchard will provide a more attractive sense of arrival upon entering the site for the residents and those visiting.
- 7.6.6. Architecturally, a traditional approach is shown on the indicative elevational drawings which is encouraged in this location. It is acknowledged that there is a need for a certain type of footprint (H or T shaped) to achieve the optimal running and viability of such accommodation. The indicative elevations show how the inevitable wide frontage can be broken up architecturally with the use of recessed elements and varying roof forms to introduce vertical rhythms and give the impression of three large residential properties when viewed from the front. This technique also serves to provide an appropriate impression to the scale of the building that is akin to its surroundings. It is recommended that should outline planning permission be granted, this approach to the architectural design be followed through in the submission of reserved matters for appearance and scale.
- 7.6.7. In terms of future details, it is recommended that the materials reflect the character of the area. Guidance for materials for development within the Tunstall Farmlands character area as is provided in the LCA&BA.
- 7.6.8. Whilst reserved for future consideration, the indicative drawings are considered to be an acceptable approach towards the proposed development and is considered to accord with Policies CP4 and DM14 of the Local Plan and the NPPF.

7.7. **Trees**

- 7.7.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.
- 7.7.2. The application is supported by an Arboricultural Impact Assessment which has been reviewed by the Councils Tree Officer who raises no objection. Based on the indicative layout, 6 trees are required to be felled to facilitate the development, of which 2 trees are assessed as category 'U' trees which will require removal within ten years irrespective of the proposal, due to their defective or decayed condition. 3 trees are category 'C' trees of low quality and value which should not be considered a constraint to development. 1 tree is category 'B' of moderate quality and value. 1 category C hedge is to be trimmed to facilitate the access. The AIA concludes that the tree

removals will not have a significant impact on the site's appearance from external viewpoints or on the overall character of the area.

- 7.7.3. An Arboricultural Method Statement is also provided within the report which sets out measures for tree protection during construction and removal of those trees identified above.
- 7.7.4. The loss of trees as part of a traditional orchard is considered in the Ecology section below.
- 7.7.5. Landscaping is a reserved matter, but there is ample space within the site to include additional tree planting as well as a mix of other soft landscaping. Conditions are recommended to ensure the implementation of the tree protection measures and for a scheme of landscaping what will seek to improve the biodiversity of the site. On this basis (and in not assessing the traditional orchard as part of this section) the scheme complies with Policy DM29 of the Local Plan.

7.8. **Ecology**

- 7.8.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Appropriate Assessment

- 7.8.2. Although the site is within 6km of the Medway Estuary and Marshes SPA and the Swale SPA and Ramsar Sites, proposals for residential care homes will be assessed on a case-by-case basis in terms of their potential implications for recreational disturbance. The proposal is for a care home in C2 use which will provide 24-hour care for elderly and infirm residents with limited mobility, also suffering from conditions such as dementia. As a result, those living in the care home will not be able to leave the care home independently and will not be predisposed to undertake activities such as jogging, cycling or walking, which are the activities identified as having a potential impact on the integrity of the nature conservation status of the SPA sites. In this context, the residents will not be physically fit or able to leave the site to visit or walk on the SPA. In addition, the proposed care home does not include staff accommodation and consequently the proposals would avoid a likely significant adverse effect resulting from increased recreational disturbance to the Medway Estuary and Marshes SPA and Swale SPA and Ramsar site, therefore mitigation is not required and a 'bird disturbance contribution' (or SAMMS payment as it is otherwise known) is not required in this instance.

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- 7.8.3. Section 40 of the Natural Environment and Rural Communities Act (2006) states “*For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England*” and “*A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.*” Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’
- 7.8.4. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.8.5. The site contains Priority Habitat in the form of traditional orchard and is adjacent to the Borden Nature Reserve. Reports and surveys have been undertaken in relation to protected species in and around the application site. Following requests by KCC Ecology for further information, the most recently submitted information has been reviewed and is considered by KCC Ecology to provide a good understanding of the ecological interest of the site.

Bats

- 7.8.6. The ecological report shows there to be at least 5 species of foraging bats and suitable habitats for roosting bats through the site.
- 7.8.7. The preliminary ecological appraisal indicates tree assessments / emergence surveys were only carried out on trees T6, T11 and T12. No evidence was recorded during the emergence survey of T11 and the endoscope survey of T6, T11 and T12. It was explained that further surveys were not carried out on other trees as they will be retained. This is accepted by KCC Ecology.

Badgers

- 7.8.8. As a result of information provided by residents it was understood that since the badger survey was carried out an active badger sett has established on site. An updated walkover survey was carried out on the 3rd June 2025 covering a 150m buffer from the site. No description of the current conditions of the on-site badger setts have been provided. The information has only stated the on-site sites were considered disused. However, as the ecologist did confirm that active setts were present within the wider area it is accepted this information is sufficient.

Great Crested Newts (GCN)

- 7.8.9. On the request of KCC Ecology, a Habitat Suitability Assessment (HAS) was carried out on the pond within the adjacent Nature Reserve. The HAS considered that it was unlikely to support GCN.

Reptiles

- 7.8.10. Surveys to identify a reptile receptor site are underway and there are 3 potential sites within the Swale District which could be used as the receptor site. At this time, less than half of the survey visits have been completed but current results are indicating that the sites do not support or support low populations of reptiles. As such KCC Ecology are confident that a suitable receptor site can be identified and are satisfied that this can be addressed via a condition. However, the current results of the surveys suggest that the potential sites may require enhancements to increase the carrying capacity prior to any translocation commencing. Depending on the level of enhancements required it may take at least 2-3 months before the translocation can commence.

Priority Habitat – Traditional Orchard

- 7.8.11. The site contains traditional orchard which is a Priority Habitat and listed within the preamble to Policy DM28, at Statement 10 in the Local Plan, as a UK Biodiversity Action Plan Habitat. The Phase 2 Assessment states that the site was considered to have been neglected as a traditional orchard and left unmanaged for some time. All cherry trees within the orchard were considered to be either dead or dying, and either no longer producing fruits or only producing an unviable harvest. Furthermore, the land use of the site had been changed from orchard to storage of materials and the south-western section was used to keep a small herd of goats.
- 7.8.12. For clarity, whilst traditional orchards are considered irreplaceable habitat within Part B(1c) of Local Plan Policy DM28, traditional orchards do not fall within the definition of irreplaceable habitat within The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024).
- 7.8.13. Part of the priority habitat will be lost to facilitate the proposal except for an area to the southeast of the site which is to be retained. The traditional orchard is directly adjacent to Borden Nature Reserve and the loss of part of the orchard as a biodiversity rich source is likely to have a negative impact on the Nature Reserve. As a result, there is some conflict with Policies CP7, DM28 and DM29 of the Local Plan.
- 7.8.14. The Local Plan Policies CP7, DM28 and DM29, only allow for planning permission to be granted where the benefits of the proposal significantly and demonstrably outweigh

the harm. In such cases, Policy DM28 of the Local Plan requires compensation measures. The harm will be weighed against benefits in the planning balance below.

- 7.8.15. In accordance with Policy DM28 of the Local Plan, and following the BNG hierarchy, the submitted information contains details of mitigation and compensation. To mitigate the impact, the majority of traditional orchard will be retained. This is shown on a plan. It is recommended this plan be conditioned as one of the parameter plans to secure the retention. To compensate for the loss of part of the traditional orchard, it is proposed to create a traditional orchard and manage it as such within an agricultural field on Dayton Road to the south of Faversham. Whilst it is acknowledged this will take some time to establish, there is no objection from KCC Ecology with regard to the proposed approach to compensation. As this forms part of the proposals for BNG, it will be secured by the BNG condition, which will require off-site provision to be secured by s106 agreement or conservation covenant. As by its nature, BNG is a post decision process, any legal agreement required should be in place prior to the discharge of the Biodiversity Gain Plan condition. As it is not a requirement to have a legal agreement in place before that, it would not be appropriate to withhold the decision notice for the planning application.
- 7.8.16. The adverse impact of the development in terms of the loss of Priority Habitat can be adequately addressed through the mitigation and compensation measures proposed, such that limited weight is attached to it in the planning balance.

Borden Nature Reserve

- 7.8.17. As part of the ecological mitigation the ecological report recommends a 5m minimum 'no construction' buffer zone between the development footprint (currently shown as the access road and sub-station) and the Nature Reserve. A plan showing the construction buffer has been provided showing a minimum width of 5m. It is recommended that this drawing be secured as part of a construction environmental management plan condition.
- 7.8.18. Mitigation is also proposed in the form of tree and shrub planting. The Phase 2 Ecological Survey Report has stated the following: *Prior to the development becoming operational, the buffer zone should be enhanced through tree and shrub planting. This will provide a natural screening barrier to mitigate the anticipated increased noise and visual disturbance from the proposed development on the Nature Reserve. This approach is supported subject to this planting reflecting the area covered by the construction buffer plan. A condition is recommended to secure this.*
- 7.8.19. Given the location of the site at the edge of a ribbon of built form adjacent to the Borden Nature Reserve it is recommended that a Lighting Strategy be submitted. The Lighting Strategy will need to demonstrate it is fit for purpose in terms of providing security and a safe, comfortable environment for the amenities of the staff and residents of the care home, but also take account and show how the lighting will be such that it minimises

any harm to any ecological interest within the area that may adversely affected. A condition is recommended.

- 7.8.20. The abovementioned measures will reduce the impact on the adjacent Nature Reserve, but the impact will not be completely addressed so there will still be a degree of harm in conflict with Policy DM28 of the Local Plan. Given some harm will remain despite the mitigation proposed, moderate weight is attached to the harm.

Ecological Enhancements

- 7.8.21. Ecological enhancement features must also be incorporated within the site. If planning permission is granted a condition is recommended to ensure an ecological enhancement plan is provided. Enhancements should include bat and bird boxes within the site and the buildings, insect hotels or log piles within the site and the inclusion of planting to benefit pollinators with the ground level planters.

BNG

- 7.8.22. This application was submitted after the commencement of Mandatory Biodiversity Net Gain and is therefore required to deliver at least a 10% biodiversity net gain under the Environment Act 2021.
- 7.8.23. The proposal will result in the loss of an area of traditional orchard. The metric also details that an area of traditional orchard will be retained. This is confirmed by a plan demonstrating the area of orchard to be retained. However, as this an outline application, the plan must be included in the list of parameter plans within the relevant condition to ensure that relevant reserved matters application(s), if granted, will retain the orchard area.
- 7.8.24. A BNG assessment has been submitted and it has detailed that due to the proposal to create traditional orchard in an agricultural field to the south of Faversham a BNG of over 10% can be achieved. KCC Ecology are satisfied that sufficient information has been provided to meet the requirements of mandatory BNG.
- 7.8.25. In light of the above, it is concluded that, the proposed development would result in some harm to habitats or protected species. However, with the proposed mitigation and compensation measures secured by condition, the extent of harm can be reduced and in accordance with Policies CP7, DM28 and DM29 and the NPPF the impact on ecology will be weighed in the planning balance below.

7.9. Transport and Highways

- 7.9.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. 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, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.9.2. Local Plan Policies CP2 and DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD.
- 7.9.3. Whilst access and the internal layout of the site is reserved for future consideration, a Transport Statement (TS) has been submitted with the application to allow for the impact of the proposal on the highway network to be assessed. KCC Highways have reviewed the TS. It is also noted that there is currently no bus route through Borden Lane. A bus stop is located in nearby Adelaide Drive, providing the closest opportunity for connection to the local bus network.
- 7.9.4. The predicted traffic movements as evidenced in the TS are not of a scale that would be considered problematic with regard to its impact on the wider highway network especially as traffic movements associated with the Care Home are commonly outside of the peak traffic hours.
- 7.9.5. Although access is a reserved matter, an access arrangement plan has been provided which shows adequate visibility splays can be delivered from the site access. These have been drawn 2.4m x 59m in both directions to the nearside carriageway and are in accordance with recorded vehicle speeds following Automatic Traffic Counts (ATCs) carried out in January 2024 and therefore acceptable.
- 7.9.6. It is noted that the existing access (field entrance) will be upgraded to a 5.5m bell mouth to allow 2-way vehicle movements and will include a pedestrian footpath into the site. Initially vehicle tracking did not provide sufficient detail. The indicative layout showed that larger vehicles would need to use the ambulance bay to turn on site to egress in a forward gear back onto Borden Lane, which would not have been appropriate if there was an ambulance occupying the bay. Further details were submitted and the swept path drawings now show sufficient turning space within the development including turning into the site access from Borden Lane which is acceptable.
- 7.9.7. Para. 6.1.1 of the TS details that 29 parking spaces are proposed for the Care Home including 2 disabled bays which is in line with the parking standards at a ratio of:

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- Staff – 1 space per resident staff (staff with direct responsibility for looking after residents) + 1 space per 2 other staff (staff who don't have direct responsibility for looking after residents); and
- Visitors – 1 space per 6 beds or residents.

7.9.8. In addition to this, the applicant has provided a further assessment of the specific requirements of the care home. Peak periods of parking accumulation have been assessed which established during a typical weekday at approx. 13:00 hours a maximum of 11 vehicles will be expected to park on the site and weekend peaks could see 19 vehicles. The SPD states the development would be required to provide a total of 22 spaces, the additional 7 spaces will help to cater for the busier periods. Details regarding secure cycle parking have been provided that is acceptable.

7.9.9. Conditions are recommended in relation to both the construction and operational periods to maintain highway safety. With the inclusion of the recommended conditions, the proposal is considered to be in accordance with Policies CP2, DM6 and DM7 of the Local Plan and the NPPF.

7.10. **Air Quality**

7.10.1. The importance of improving air quality in areas of the Borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

7.10.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

7.10.3. The Planning Practice Guidance on Air Quality states that

“whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.

7.10.4. The Local Plan at Policy DM6 sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.

7.10.5. The submitted Transport Statement has been reviewed. It is acknowledged by the Council's Environmental Protection Team that as the expected Annual Average Daily Traffic (AADT) is 125 vehicles, which is well below the trigger for an air quality assessment, an assessment is not needed. However, there may be a temporary impact locally through fugitive dust during construction and so a condition is recommended.

7.10.6. With the inclusion of the suggested condition, the proposal is considered to be in accordance with Policy DM6 of the Local Plan and the NPPF.

7.11. **Community Infrastructure**

7.11.1. The NPPG: Planning obligations explains that planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.

7.11.2. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind

7.11.3. Initially KCC Development and Investment team requested contributions towards libraries, registrations and archives service and waste disposal and recycling, subject to the applicant confirming if a commercial waste contract is in place for the care home.

7.11.4. Following confirmation from the applicant that library facilities will be provided to residents within the development and subject to a condition requiring details of the waste contract, it was agreed by the KCC Development and Investment team that the contributions are no longer necessary given the nature of the development.

7.12. **Flood Risk, Drainage and Surface Water**

7.12.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM21 of the Local Plan.

7.12.2. The site is located within a high vulnerability groundwater area and source protection zone 1, where development proposals are carefully monitored by the Environment Agency (EA) to ensure safeguarding of potable water supplies. As such, the application submission included a Phase 1 Desk Study and Risk Assessment Report and a Drainage Strategy Report. The EA has reviewed these documents and consider planning permission could be granted subject to conditions which includes an

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instructive investigation on the site in accordance with the recommendations set out in the Phase 1 Desk Study.

7.12.3. The Drainage Strategy has also been reviewed by KCC Flood and Water Management who have noted the proposal to discharge surface water from the site in accordance with KCC's Drainage and Planning Policy. Surface level SuDS in the form of attenuation basins are proposed as the major feature on site, supported by permeable paving and geocellular tanks.

7.12.4. No objection is raised with regard to drainage and a suite of conditions are recommended to control infiltration, ensure the detailed proposals are developed in accordance with the strategy and that the drainage measures are implemented on site. With the inclusion of the recommended conditions, the proposal is considered to be in accordance with Policy DM21 of the Local Plan and the NPPF.

7.13. Contamination

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

7.13.1. The land adjacent to the application site to the north-west is known to be a historic landfill site and there is a workshop/storage unit currently on the site. Storage of materials (scaffolding for example) is also mentioned.

7.13.2. A 'Phase 1 Desk Study and Risk Assessment Report' by STC dated 13 August 2024 (report Ref: J15790) has been submitted. This has been reviewed by the Council's Environmental Protection Officers. The report advises that as a landfill site existed close to the site to the north/northwest, further investigation is required which should include intrusive sampling and gas monitoring. The conclusion of the report is agreed, and it is considered that this can be dealt with by condition.

7.13.3. With the inclusion of the suggested conditions, the proposal is considered to be in accordance with the NPPF.

7.14. Living Conditions

Existing residents

7.14.1. The Local Plan at Policy DM14 requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

7.14.2. The care home would be sited to the northeast of 124 Borden Lane and the indicative details show that it would be set away from the boundary with this property. It appears a sufficient separation distance can be achieved to ensure privacy is maintained but this will be fully assessed when floor plans are submitted as part of future reserved matters applications. The submitted details appear to show that outlook would not be

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adversely affected and given the location to the northeast, the proposal would not result in any detrimental impact in terms of overshadowing and loss of daylight. However, again, this would be assessed when these matters of detail are submitted.

- 7.14.3. It is expected that there will be plant and equipment associated with the use. For example, a kitchen extract system and condensers, chiller units will be needed, and air conditioning may be fitted. In addition, it is noted that a substation is also referred to in the description, and the indicative site layout drawing shows this to be located in the north of the site. This is a good location as it is distanced from the nearby dwellings as electricity substations can result in low frequency noise. Conditions are recommended to ensure there will be no detrimental impact on the living conditions of surrounding neighbours as a result of both construction and operational noise.
- 7.14.4. Given the location of the site close to an existing residential area, and with the building being set back, any external lighting will need to be designed carefully so that the lighting does not impact on the living conditions of the occupiers of these dwellings. A condition is recommended to ensure the level of any lighting within the site is satisfactory and does not give rise to unacceptable harm to the living conditions of surrounding residents.

Future residents

- 7.14.5. New development is expected to offer future occupiers a sufficient standard of accommodation.
- 7.14.6. The Care Quality Commission (CQC) is the regulator of health and adult services. The CQC sets out requirements involving the provision of single-room accommodation with en-suite facilities and a generous ratio of communal/recreational space to residents. It is recommended that compliance with design parameters covered by other relevant legislation and/or guidance should be detailed within a Planning Statement / Design and Access Statement accompanying reserved matters applications.
- 7.14.7. With the inclusion of the suggested conditions, the proposal would not result in any harm to the living conditions of the existing residents of nearby properties nor the future occupiers of the development and the proposal is considered to be in accordance with Policy DM14 of the Local Plan and the NPPF.

7.15. Sustainability / Energy Efficiency

- 7.15.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Given the proposal is made in outline form, no detailed information is available at the stage. It is expected that when the proposals are

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progressed to detailed reserved matters submissions measures to address climate change are to be incorporated. A condition is recommended to secure this. With the inclusion of the condition, the proposal is considered to be in accordance with Policy DM19 of the Local Plan and the NPPF.

7.16. Planning Balance – Benefits and Harm

- 7.16.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case conflict with policies in the development plan have been identified as set out above. However, the NPPF is a material consideration and as the Council are unable to demonstrate a 5 year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.16.2. In this case, as per part (i) the application of policies that protected areas or assets of particular importance do not provide a reason for refusing the development. Therefore, as per part (ii) it is necessary to consider if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This assessment is carried out below.

Benefits

- 7.16.3. The social benefits are that the proposed development would contribute to providing much needed care accommodation in the Borough. This public benefit is given **substantial weight** in accordance with appeal decisions such as APP/J2210/W/24/3351458 (Land adjacent to Old Thanet Way, Whitstable). Moreover, the Housing Delivery Test Measurement Rule Book, updated 12 December 2024 sets out that the provision of 1.9 care beds (previously 1.8) is equivalent to a single dwelling. This means that the proposed development could provide the equivalent of

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up to 37 dwellings towards the Council's housing shortfall. This public benefit is also given **substantial weight**. Additionally, there would also be other benefits, including employment during construction and following completion of the development which attract public benefits of **significant weight** as set out in paragraph 85 of the NPPF.

Harm

- 7.16.4. The Swale settlement strategy at Policy ST3 of the Local Plan seeks to focus new development at Sittingbourne. The site is not allocated within the Local Plan and is outside of the built-up area boundary. As such the proposal to introduce built form and the urbanisation of a countryside site is in conflict with Policy ST3 of the Local Plan. The weight given to this conflict is **limited** due to the age of the Local Plan, the built-up boundaries not delivering the required level of development and therefore the Council's lack of 5-year land supply of housing. The built-up boundaries are currently considered out-of-date.
- 7.16.5. Reflecting recent appeal decisions, the loss of a small area of BMV agricultural land and the reduction of the ILCG is given **limited weight**.
- 7.16.6. The harm to the Nature Reserve has been minimised through mitigation, but not completely addressed. **Moderate** weight is given to the harm.
- 7.16.7. There would be a loss of Priority habitat through the loss of two thirds of traditional orchard on the site but given the condition of the orchard and that compensation is to be provided, the weight attached to this harm is **limited**.

7.17. **Conclusion**

7.17.1. Planning balance

- 7.17.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.
- 7.17.3. In addition to the benefits and harm set out above, the proposal would not result in harm to the local highway; it would not result in harm in terms of any potential impact on listed buildings; and the proposal would not result in increased flooding.
- 7.17.4. Both national and development plan policy recognise that a need for proposals such as this, may result in the application of the planning balance. This is a matter of planning judgement.

- 7.17.5. Applying this judgement, it is considered that the impacts of the proposed development can be made acceptable through a combination of existing and proposed screening and landscape and ecological mitigation. The lessened adverse effect on the Nature Reserve would be limited and localised.
- 7.17.6. In these circumstances the substantial weight attached to the demonstrated need for the care home both locally and within the wider Borough outweigh the adverse impacts identified. The other benefits identified add to the balance of positive matters in this case.
- 7.17.7. As the existing and proposed planting matures and is managed appropriately, any adverse effects, would continue to be progressively mitigated.
- 7.17.8. In conclusion, and in considering paragraph 11.d(ii) of the NPPF, there would be conflict with Policy ST3 of the Local Plan with the development being outside of the built-up area boundary and the urbanisation of a countryside site. There would be some localised harm through the loss of a small area of BMV agricultural land, and the narrowing of the ILCG in conflict with Policies DM31 and DM25. The proposal would also result in the loss of an area of traditional orchard which in turn impacts on the biodiversity and ecological interest of the adjacent Nature Reserve, in conflict with Policies CP7, DM28 and DM29 of the Local Plan.
- 7.17.9. However, the mitigation and compensation proposals and the imperative to address the need for care home provision as recognised within planning policy, and the HMA, are very significant benefits which alongside the employment benefits of the scheme outweigh the harm that has been identified.
- 7.17.10. Taking the NPPF as whole, this indicates that planning permission should be granted as the Council cannot demonstrate a 5 year housing land supply and the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. From this basis, and noting that the NPPF can be afforded considerable weight, it is considered that the harm arising from the conflict with the development plan is outweighed by other considerations and, as such, it is recommended that planning permission is granted.

Conditions

Reserved Matters

1. Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping (hereinafter called “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.

Time Limit: Reserved Matters

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2. Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

Time Limit: Reserved Matters

3. The development to which this permission relates must be begun no later than the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

Approved Drawings

4. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - PL001 - Location Plan
 - PL103 - Construction Buffer Plan
 - PL105 - Parameter Plan Retained Orchard

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

Within Reserved Matters: Landscaping

5. Any reserved matters application for landscaping shall include full details of both hard and soft landscape works and a timetable for implementation. These details shall include existing and proposed finished ground levels; all paving and external hard surfacing; decking; minor artefacts and structures (seating, refuse receptacles, planters, tree grilles, any other decorative feature(s)). Soft landscape works shall include details of planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The soft landscaping should be designed to increase biodiversity value. The development shall be implemented in accordance with the approved details and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with the NPPF.

Within Reserved Matters: Buffer Zone Landscaping

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6. Any reserved matters application for landscaping shall include details of how the construction buffer zone will be enhanced through tree and shrub planting to provide a natural screening barrier to mitigate the anticipated increased noise and visual disturbance from the proposed development to Borden Nature Reserve. The landscaping within the construction buffer zone shall be implemented prior to the building becoming operational.

Reason: To prevent harm to ecological interest in accordance with the NPPF.

Within Reserved Matters: Building Height

7. Any reserved matters application for scale and layout shall show no more than a total of 70 bedrooms and the building shall be no more than 2 storeys in height.

Reason: To ensure the scale is appropriate to the locality and without prejudice to conditions of amenity in accordance with the NPPF.

Within Reserved Matters: Lighting

8. Any reserved matters application for layout and/or landscaping shall include a detailed scheme of lighting to minimise impacts on residential amenity and biodiversity. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The plan shall demonstrate that areas to be lit shall not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and shall be maintained thereafter.

Reason: To ensure conditions of amenity and to prevent harm to ecological interest in accordance with the NPPF.

Within Reserved Matters: Parking

9. Any reserved matters application for layout shall include details of the provision of vehicle parking spaces in accordance with the Council's adopted parking standards. No building shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that

Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: Development without provision of adequate parking of vehicles is likely to lead to hazardous on-street parking and in accordance with the NPPF.

Within Reserved Matters: Materials

10. Any reserved matters application for appearance shall include details of all materials to be used externally and in the design of the building. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality in accordance with the NPPF.

Within Reserved Matters: Secured by Design

11. Any reserved matters application shall include a statement setting out how the development incorporates security and safety measures in compliance with Secured By Design principles. The development shall be implemented in accordance with the approved details which shall thereafter be retained.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000 and the Construction (Design and Management) Regulations 2007.

Prior to Approval of Reserved Matters: Archaeology

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

A) Prior to the submission of any Reserved Matters Application, 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: Required prior to commencement of development to avoid any irreversible detrimental impact on any archaeological interest in accordance with the NPPF.

Pre-commencement: Construction Management Plan

13. No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The Construction Management Plan shall include the following detail:

- Parking facilities for site personnel and visitors.
- construction vehicle loading/unloading and turning facilities.
- Timing of deliveries.
- Provision of wheel washing facilities. Details should also be provided of contingency working protocol for action taken should the wheel washing be ineffective and spoil is dragged onto the highway.

The construction of the development shall be implemented in accordance with the CMP throughout the entire construction phase.

Reason: Required prior to commencement of development to protect the amenity of nearby occupiers and prevent pollution in accordance with the NPPF.

Pre-commencement: Construction Environmental Management Plan

14. No development approved by this permission shall take place until a Construction Environmental Management Plan (CEMP), incorporating the construction buffer zone plan and details of pollution prevention measures along with a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be implemented in accordance with the approved CEMP and approved timetable.

Reason: Required prior to commencement of development to prevent pollution of the water environment and harm to ecological interest in accordance with the NPPF.

Pre-commencement: Road Layouts and furniture

15. No development shall take place until details proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and a timetable for implementation have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be retained thereafter.

Reason: Required prior to commencement of development to ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with the NPPF.

Pre-commencement: Tree Protection Measures

16. No development, ground excavation or ground clearance works shall take place until the tree protection measures as identified in the Arboricultural Method Statement (AMS) and Appendix 2 – Drawing number TPP01, Tree Protection Plan contained within the Arboricultural Implications Assessment, dated August 2024 has been implemented on site. The tree protection measures shall thereafter remain in place throughout the construction phase.

Reason: Required prior to commencement of development to protect trees to be retained and enhance the appearance and character of the site and locality in accordance with the NPPF.

Pre-commencement: Ecology

17. No site clearance or development shall take place within the site until an Ecological Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. It must include the following:

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- Preliminary ecological appraisal (if existing survey data is over 18 months old)
- Recommended species surveys
- Habitat/species plans of the site
- Details of locations of off-site mitigation sites
- Overview of the mitigation required
- Detailed methodology to implement the mitigation
- Details of habitat enhancement/creation works required for the species mitigation
- Details of management required for the mitigation areas.
- Timings of the works
- Details of who will implement the mitigation

The plan must be implemented as detailed.

Reason: Required prior to commencement of development to prevent harm to ecological interest in accordance with the NPPF.

Reptile Mitigation

18. Prior to the implementation of the reptile mitigation as detailed within the Ecological Mitigation Strategy a letter must be submitted to and approved in writing by the Local Planning Authority. The letter must demonstrate that the reptile receptor site is suitable to support the translocated reptile population.

Reason: Required prior to commencement of development to prevent harm to ecological interest in accordance with the NPPF.

Pre-commencement: Habitat Management and Monitoring Plan (HMMP)

19. No development shall take place (except for demolition works) until a Habitat Management and Monitoring Plan (the HMMP), that has been prepared in accordance with the approved Biodiversity Gain Plan, has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall include:
 - (a) a non-technical summary;
 - (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - (e) the monitoring methodology and frequency in respect of the created or enhanced habitat.

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The habitat creation and enhancement works set out in the approved HMMP shall be completed in the first available planting season following the commencement of development.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with the NPPF.

Pre-commencement: Industrial/Commercial Noise Rating Level

20. No development shall take place until an acoustic assessment and subsequent report has been submitted to and approved in writing by the Local Planning Authority. The acoustic assessment and report shall be completed by a suitably qualified and competent person to demonstrate that the rating level of noise emitted from any plant and equipment to be installed on the site (determined using the guidance of the current version of BS 4142 for rating and assessing industrial and commercial sound) is 5dB below the existing measured background noise level LA90, T. Where the background sound level is below 30dB(A) or where assessment penalties total above 5dB the applicant's consultant shall contact the Environmental Protection Team to agree a site-specific target level. The equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report, whenever it is operating. After installation of the approved plant no new plant shall be used without the prior written permission of the Local Planning Authority.

Reason: Required prior to the commencement of development to safeguard conditions of amenity in accordance with the NPPF.

Pre-commencement: Internal/External Sound Levels – Residential

21. No development shall take place until a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in gardens and other relevant amenity areas will conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings – has been submitted to and approved in writing by the Local Planning Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation and thermal comfort for future occupants. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: Required prior to the commencement of development to safeguard conditions of amenity in accordance with the NPPF.

Pre-commencement: Contamination Investigation and Remediation

22. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment as set out in Phase 1 Desk Study and Risk Assessment Report (Ref: J15790, dated 13th August 2024) which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 187 of the National Planning Policy Framework.

Pre-commencement: Surface Water Drainage

23. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Drainage Strategy Report by RGP (Sep 2024) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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any proposed arrangements for future adoption by any public body or statutory undertaker.

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

Reason: Required prior to the commencement as the details form an intrinsic part of the proposal to ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding in accordance with the NPPF.

Pre-commencement: Foul Drainage

24. No development shall take place until a foul drainage strategy, detailing how the developer intends to ensure that appropriate foul drainage is implemented with a connection to foul sewer, has been submitted to and approved by, the local planning authority in consultation with the water undertaker and EA. The development shall be constructed in line with the agreed detailed design and recommendations of the strategy.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 180 of the NPPF.

No Development Above Slab Level: Ecological Enhancement

25. No development shall take place above slab level until an Ecological Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The plan must demonstrate how the site will enhance biodiversity through ecological enhancement features within the buildings and site and include a timetable for implementation. The ecological enhancement features must be implemented in accordance with the approved Ecological Enhancement Plan.

Reason: To ensure enhancement to ecological interest in accordance with the NPPF.

No Development Above Slab Level: Energy and Efficiency

26. No development shall take place above slab level until details of the materials and measures to be used to increase water efficiency, energy efficiency and reduce carbon emissions 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 and shall be retained thereafter.

Reason: To ensure the development delivers energy efficiency measures to address climate change in accordance with the NPPF.

Pre-Occupation/Use: Vision Splays

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27. No building shall be occupied until visibility splays have been provided in accordance with details approved by a reserved matters application for access. No obstruction of sight, including any boundary treatment, over 1.05m above carriageway level shall be permitted within the splays thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with the NPPF.

Pre-Occupation/Use: Cycle Parking

28. No building shall be occupied until details of secure covered cycle parking has been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be implemented in accordance with the approved details before the building is occupied and shall thereafter be retained.

Reason: To ensure the provision and permanent retention of bicycle spaces in accordance with the NPPF.

Pre-Occupation: EV Charging

29. No building shall be occupied until all electric vehicle chargers have been provided to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection) (or to a subsequent equivalent amending standard). 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-listing>. All electric chargers shall thereafter be retained.

Reason: In the interests of sustainability in accordance with the NPPF.

Pre-Occupation/Use: Low Frequency Noise

30. Prior to the first use of the electricity substation an acoustic report assessing the impact shall be submitted to and approved in writing by the Local Planning Authority. The report shall address the issue of noise (including low frequency noise) and vibration from the station to ensure that there is no loss of amenity to residential or commercial properties. For residential accommodation, the scheme shall ensure that the low frequency noise emitted from the substation is controlled so that it does not exceed the Low Frequency Criterion Curve for the 10 to 160Hz third octave bands inside residential accommodation as described in The DEFRA Procedure for the assessment of low frequency noise complaints 2011 (NANR45). The assessment can be a measurement or a calculation to demonstrate internal levels. The equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report, whenever it is operating. After installation of the approved plant no new plant shall be used without the written consent of the local planning authority.

Reason: To safeguard conditions of amenity in accordance with the NPPF.

Pre-Occupation/Use: Extraction/Treatment of Fumes/Odours

31. Prior to the first occupation of the premises, a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed in accordance with the EMAQ Publication Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2022. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first operation of the premises and these shall thereafter be operated and retained in compliance with the approved scheme.

Reason: To safeguard conditions of amenity in accordance with the NPPF.

Pre-Occupation/Use: Contamination – Verification Report

32. Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 187 of the NPPF.

Pre-Occupation/Use: Private Waste Strategy

33. No building shall be occupied until details of a Commercial Waste Disposal Strategy which includes details of private commercial waste disposal contract(s) is submitted to and approved in writing by the Local Planning Authority. The waste collection and disposal shall be implemented in accordance with the approved details upon first occupation and a private commercial waste disposal contract shall thereafter be in place.

Reason: To ensure adequate waste disposal in the interest of amenity in accordance with the NPPF.

Pre-Occupation/Use: Boundary Treatment

34. No building shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the dwelling is occupied and shall thereafter be retained.

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Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality in accordance with the NPPF.

Compliance: Hours of Construction

35. No construction work in connection with the development shall take place on any Sunday or Public Holiday, nor on any other day except between the following times: Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority

Reason: To protect the amenity of nearby occupiers in accordance with the NPPF.

Compliance: Unexpected Contamination

36. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 187 of the NPPF.

Compliance: No Piling

37. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

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Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 187 of the NPPF.

Compliance: Surface Water

38. No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in accordance with paragraph 187 of the NPPF.

Compliance: Surface Water Verification Report

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

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 182 of the NPPF.

Compliance: Habitat Management and Monitoring Plan Frequency

40. Monitoring reports shall be submitted to the Local Planning Authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with the NPPF.

Compliance: BNG

41. The Biodiversity Gain Plan shall be prepared in accordance with the Biodiversity Net Gain Feasibility Report Reference, 5620E/24/01, dated 5th April 2024).

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Reason: To ensure the development delivers a biodiversity net gain on site in accordance with the NPPF.

Compliance: Landscaping Retention

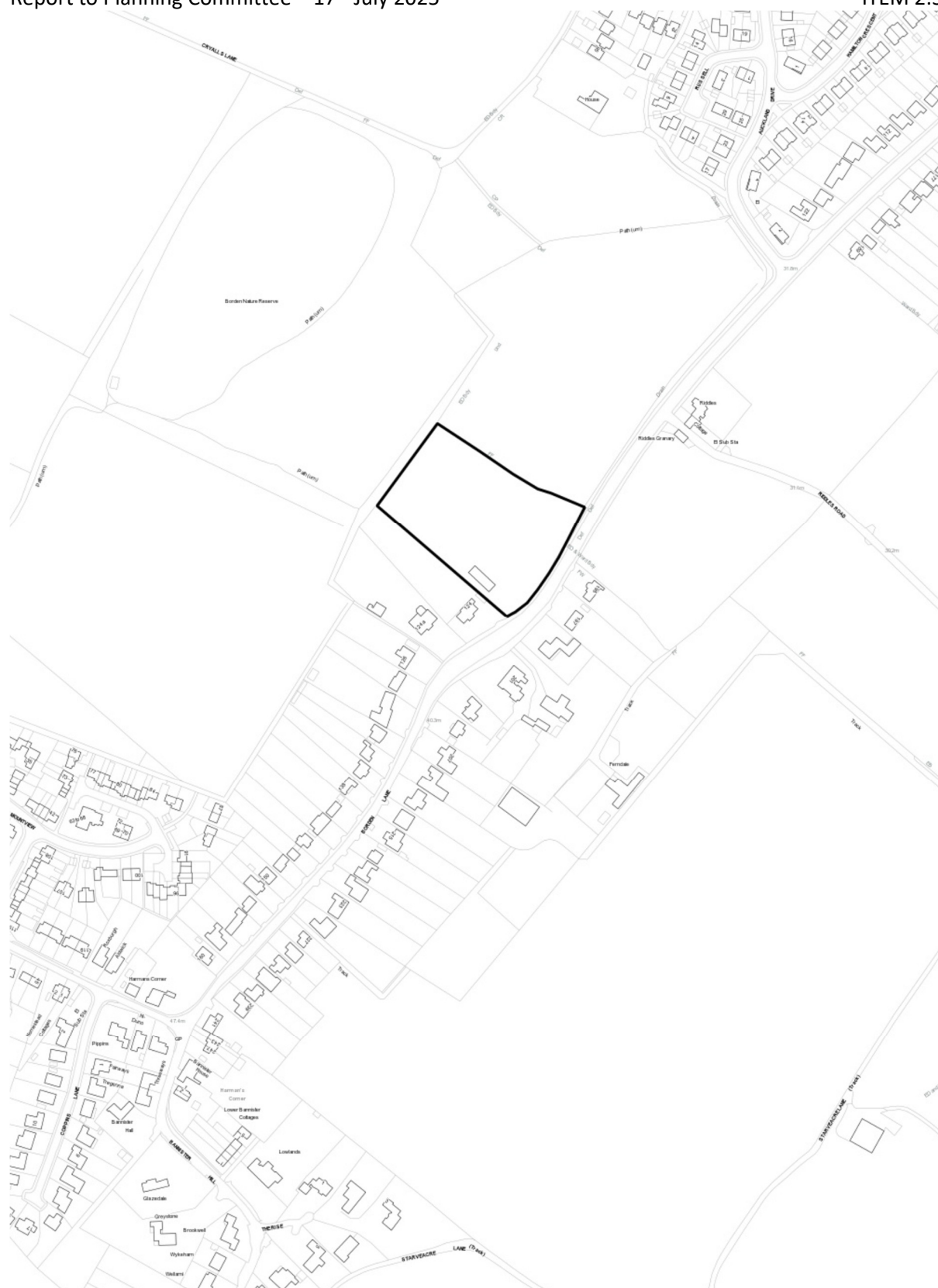
42. Upon completion of the soft landscaping works, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within the next planting season unless an alternative timetable for planting is otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the retention and maintenance of landscaping in the interests of visual amenity and in accordance with the NPPF.

Compliance: Use

43. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order with or without modification) and the Town and Country Planning (Use Classes) Order 1987 (as amended) the development herein approved shall remain in use as a C2 care home and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity and the impacts on the highway in accordance with the NPPF.



APPLICANT Voltalia UK Ltd.	AGENT Stantec (Maeve Whelan)
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This item was withdrawn from the agenda.

202 **2.3 - 24/502717/OUT Land West of Borden Lane, Sittingbourne, Kent, ME9 8HR**

2.3 REFERENCE NO 24/502717/OUT
PROPOSAL Outline Application (with all matters reserved) for erection of a care home (Class C2), with associated parking, landscaping and substation.
SITE LOCATION Land West of Borden Lane, Sittingbourne, Kent ME9 8HR
WARD Borden and Grove Park
PARISH/TOWN COUNCIL Borden
APPLICANT Aspire LPP AGENT Mr L.Wilkin, Aspire LLP

The Planning Consultant introduced the application as set out in the report. She said that since the report had been published, a further representation had been received from Southern Water which had included points already noted in the report. A further representation had been received from a member of the public who considered the comments received on the application were ignored.

Parish Councillor Lee Small, representing Borden Parish Council spoke against the application.

Ian Hunter, an objector, spoke against the application.

Ryan Nicholls, the Agent, spoke in support of the application.

The Chairman moved the officer recommendation to grant permission as per the recommendation in the report, and this was seconded by Councillor Simon Clark.

The Chairman invited Members to make comments, and these included:

- There was a demand for care homes and there were vacancies in the Borden area;
- considered care homes should be included within larger developments, not as a standalone;
- the application was in conflict with several of the Council's policies;
- the site was within an Important Local Countryside Gap;
- concerned with the impact on wildlife habitats;
- noted that the committee was not privy to some of the wildlife data received on the site;
- the car park on the site was right next to the nature reserve and this was detrimental to wildlife and considered this outweighed the benefits of the application;
- the traditional orchard on the site was a priority habitat;
- the application meant a loss of biodiversity and agricultural land;
- considered it strange that a compensatory orchard would be established in Faversham as part of the Biodiversity Net Gain (BNG);
- understood Kent County Council (KCC) Ecology carried out desktop reviews of studies, rather than going out on site;
- considered the Committee should be allowed to view the badger reports;

- there was really good wildlife connectivity at this location and this would be lost;
- the secure fencing around the care home would impact wildlife;
- considered off-site mitigation measures for the impact for the loss of traditional orchard was not sufficient;
- moving wildlife to another location was not always successful;
- needed to consider the impact of the removal of the green corridor on the mental health of residents, this was the last bit of green between Sittingbourne Town and Borden Village;
- concerned with access from the site onto a busy road;
- referring to paragraph 5.18 on page 88 of the agenda pack, considered there should be National Health Service (NHS) contributions as the residents might need medical care outside of the care home;
- considered the site was no longer an orchard, but an overgrown parcel of land;
- highlighted that the nearest bus stop to the application site was 0.7 miles away;
- the Committee should listen to the advice from the statutory consultees;
- welcomed the siting of a care home in a greener environment;
- considered parking on the site was inadequate;
- the building needed to demonstrate sustainability/energy efficiency measures;
- this was a finely balanced application;
- would prefer to see compensatory land closer to the application site, not in Faversham;
- it was difficult to go forward if not all the details of the wildlife reports were accessible;
- all additional residential developments should contribute to the NHS; and
- needed to consider the cumulative impact of developments on the loss of greenspace and the impact on highways.

In response, the Planning Consultant said that this was a balanced application. In terms of the need, Swale did not have an up to date Local Plan with allocations for care homes; she referred to the appeal decisions set out in report and noted that there was a conflict with policy ST3; the need had been demonstrated by the applicant and the current Housing Market Area data also stated a need. In terms of the traditional orchard it would be deemed as being agricultural and the BNG process allowed for loss of priority habitat on a site and for mitigation to be found off-site. KCC Highways & Transportation had been consulted on access to the site and they said that the access was sufficient. She confirmed that the NHS had not requested any contributions. Parking, referred to under paragraphs 7.9.7 and 7.9.8 was above the standard requirement. Condition (26) could be amended in terms of tightening up energy and efficiency. She confirmed that KCC Ecology had looked at the wildlife and habitat considerations. In terms of the site at Faversham, in an ideal world the compensatory site would be onsite, but it was permitted to be elsewhere. In response to discussions on non-determination and deferral, the Planning Consultant advised that the cut-off date for a decision on the application was 25 July 2025.

The Senior Planning Solicitor referred to the tilted balance and advised Members that they needed to show that the harm of the development was substantial and could be demonstrated over and above the benefit. He added that the appeals within the report were there for guidance and reminded Members that each application had to be decided on its own merits.

On being put to the vote, the motion to approve the application was lost.

At this point the meeting was adjourned for ten minutes.

The Chair moved the following motion to refuse the application and this was seconded by Councillor Monique Bonney:

- (1) The proposed development, by virtue of its position outside the built-up area boundaries of the Swale Borough would conflict with the Council's Settlement Strategy. Moreover, development at this site, however it is brought forward, would conflict with the purposes of the Important Local Countryside Gap. Furthermore, the proposal would result in the inadequately justified loss of Best and Most Versatile Agricultural Land. The proposal is, therefore, unacceptable and contrary to Policies ST1, ST3, DM25 and DM31 of Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 and the National Planning Policy Framework.
- (2) The proposed development would result in the loss of priority habitat and it has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would not have a detrimental impact on protected species at and within the vicinity of the site. The proposal is, therefore, unacceptable and contrary to Policy CP7 and DM28 of Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 and the National Planning Policy Framework.

On being put to the vote, the motion to refuse the application was agreed.

Resolved: That application 24/502717/OUT be refused as per the reasons set out in the above minute.

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PLANNING COMMITTEE – 5th March 2026

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – Gate Service Station, London Road, Dunkirk, Kent ME13 9LN**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision: DELEGATED REFUSAL

Observations

Advertisement Consent was sought for a 7m totem pole sign. The application was dismissed on the grounds of the visual impact of the signage and the potential for it to impact on highway safety, noting that National Highways had objected. Amenity and Highway Safety are the only matters able to be considered in respect of these types of applications and appeals.

The Inspector provided a commentary of the adjacent listed building and its rural setting, even allowing for the erosion of that setting by the petrol station and other surrounding developments. Whilst noting the appellant's claim that the signage was smaller and of more subdued colour than what it replaced, the Inspector found that the increased height of the advert and its more bulky design caused it to appear materially different and, as such, it was considered on its own merits. From that basis, the Inspector found that, by virtue of its height, design, modern materials and prominence, the advert is harmful to the amenity of the area and fails to respond to the historic and natural environment that it sits within. Other nearby adverts were not found to be grounds to support the advert and it was, therefore, found to be harmful and contrary to local plan policies (albeit such policies are not as determinative for applications and appeals of this type).

No Safety Risk Assessment had been undertaken which was the basis for the National Highways objection and the Inspector found that the potential impact on highway safety of the structure, if it should fall, had not been addressed.

The appeal was, therefore, dismissed for both of these reasons.

- **Item 5.2 – Land off Riddles Road, Borden, Sittingbourne, Kent ME9 8HP**

PINS Decision: APPEAL DISMISSED (PARTIAL AWARD OF COSTS)

Committee or Officer Decision: COMMITTEE DECISION

Observations

Planning permission was sought for the erection of 38 dwellings, with 20 dwellings adjacent to the built-up area boundary of Borden and 18 located adjacent to Sittingbourne. Public open space was to be provided between the development plots. The application was refused for two reasons, the first relating to the suitability of the site for a housing development in terms of its location, the impact on the Important Local Countryside Gap, the character and appearance of the area and the arrangement of the affordable housing.

The Inspector found that the development would not preserve the attributes of the countryside described in Policy ST3 and the development would not be suitably located having regard to the Council's Settlement Strategy. The landscape impact was found to be contrary to Policy DM24 and the impact on the character and appearance of the areas was found to be harmful. The proposal was also found to be contrary to at least one of the purposes of the ILCG and it was found that the affordable housing provisions did not align with policy requirements and was arranged in such a way that it would not support the creation of a mixed and balanced community.

The second reason for refusal related to the ecological impacts of the development. In this regard, the Inspector found that there was no harm and that objecting to the application on this ground, in light of the evidence of the applicant and the conclusions of the Council's consultees, represented unreasonable behaviour. A partial award of costs was awarded to the applicant on that basis.

The Inspector noted the acceptability of the proposal in many respects and afforded weight to the oversupply of affordable housing, the boost to housing supply more generally, the accessibility of the dwellings, the provision of level access to some of the dwellings, the new planting provisions, the open space provisions and the economic benefits of development. However, it was concluded that the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, it was concluded that the proposal was contrary to the development plan and other material considerations, including the NPPF, did not lead to the conclusion that planning permission should be granted. Therefore, the appeal was dismissed.

- **Item 5.3 – Former Kingsfield Care Home, Jubilee Way, Faversham ME13 8GD**

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision: NON-DETERMINATION

Observations

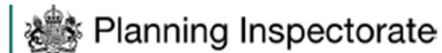
Planning permission was sought for a retirement living complex comprising of 48 flats and 3 houses replacing the former care development at the site. Officers were supportive of the application, but the applicant contested making financial contributions in relation to several elements of social infrastructure that were considered necessary. As a result, rather than complete a Section 106 agreement to address these matters, the applicant chose to submit an appeal on the grounds of non-determination after the statutory period for the determination of the application had passed. Through the appeal, agreement was reached in several areas but contributions in relation to healthcare, waste disposal and fitness equipment remained disagreed. The Planning Inspector found that those financial contributions met the relevant legislative tests and, therefore, granted planning permission for a development, that was supported, subject to the financial contributions that were deemed to be required.

PLANNING COMMITTEE – 5th March 2026**PART 5**

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information



Appeal Decision

Site visit made on 15 December 2025

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2026

Appeal Ref: APP/V2255/H/25/3373710

Gate Service Station, London Road, Dunkirk, Kent ME13 9LN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Motor Fuel Group Limited against the decision of Swale Borough Council.
 - The application reference is 24/504891/ADV.
 - The advertisement is described as '7m totem pole sign'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), the National Planning Policy Framework (the Framework) and the national Planning Practice Guidance (PPG) confirm that advertisements should be subject to control only in the interests of amenity and public safety. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration; however, they have not, by themselves, been determinative for this appeal.

Main Issues

3. The main issues are the effect of the advertisement on amenity and public safety.

Reasons*Amenity*

4. 'Amenity' as defined in the PPG, is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement. The PPG advises that the local characteristics of an area are relevant when assessing amenity, including the presence of any feature of historic, architectural, cultural or similar interest. The Framework acknowledges that the quality and character of places can suffer when advertisements are poorly sited and designed.
5. The appeal site lies within an Area of High Landscape Value. The landscape surrounding the appeal site has a rolling topography and consists predominantly of areas of woodland and fields. The advertisement is sited adjacent to a road that leads to a service station and is a short distance away from a listed building, which is known as 'Little Chef' (Ref: 1069141).

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Appeal Decision APP/N2255/H/25/3373710

6. 'Little Chef' is a Grade II listed former coaching inn, which dates back to the 18th century. It is two storeys high and consists of two parallel ranges, with a modern, single storey projection to the rear. The listed building is constructed of brick, with a plain tiled roof. The front elevation features traditional, sash windows. The listed building is currently in use as a coffee shop. It is highly prominent from the public realm due to its elevated position in the landscape and its roadside location.
7. Based on my site visit and the evidence before me, I find that the listed building's special interest, insofar as is relevant to this appeal is derived from its historic and architectural interests as an illustration of an 18th century former coaching inn. The building's architectural style, surviving historic fabric, use of traditional materials, its roadside location and its rural surrounds make important contributions in these regards.
8. The rural setting of the listed building has been somewhat eroded by the highway infrastructure, adjacent petrol filling station, areas of car parking and associated paraphernalia, including advertisements. However, the approach to the listed building is largely uninterrupted, consisting primarily of soft landscaping. Given the extent of development surrounding the listed building, the approach to it provides an important connection between the building and the rural landscape.
9. The appellant argues that the advertisement has less of an impact on amenity and the setting of the listed building when compared to a previous advertisement. I appreciate that the appeal advertisement is pole mounted, has a smaller surface area and is more subdued in colour than the previous advertisement. Its pole mounted design enables views of the listed building from the approach road to be retained. Nevertheless, the appeal scheme is higher in height than the previous advertisement and consists of bulky, box-like internally illuminated advertisements. Consequently, I find that the appeal scheme is materially different and more prominent in the landscape than the previous advertisement. Full details of the circumstances of the previous advertisement are also not before me and it has already been removed. Given the above and the material differences in its appearance, I give the previous advertisement limited weight in my decision.
10. The advertisement by reason of its height, design and use of illumination is highly visible from the public realm, including from both sides of the A2. It is also constructed of modern materials, which harmfully discord with the traditional materials found on the listed building. Accordingly, I find that the appeal scheme is harmful to the amenity of the area, as it fails to be sympathetic to the historic and natural environment in which it sits.
11. I observed a plethora of advertisements surrounding the listed building, including a totem sign at the adjacent garage. While the other totem sign is larger, it has a materially different context and is viewed against the backdrop of the petrol station and its canopy. I also observed a number of advertisements associated with the coffee shop; however, these were far lower in height and set further back from the highway and are less visible from the surrounding highway network. Overall, I do not find that the presence of the other advertisements in the locality justifies further erosion of the amenity of the area, in particular to the setting of the listed building.
12. For the reasons given above, I conclude that the advertisement is harmful to amenity. Although not determinative, I have had regard to Policies DM14, DM15, DM32, CP4 and CP8 of the Swale Borough Local Plan: Bearing Fruit 2031,

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adopted July 2017 (the Local Plan). These policies are of relevance insofar as they require that advertisements are designed in a manner that minimises harm to amenity and that schemes conserve and enhance the natural and built environment and sustain and enhance the significance of designated heritage assets.

Public safety

13. The advertisement is set a short distance away from the slip road that leads to the service station. Between the advertisement and the highway is an area of soft landscaping and a post and rail fence. The fence is a relatively light-weight structure and would do little in the event of a vehicle impact. I appreciate that vehicles are likely to be decelerating as they travel uphill on the slip road towards the service station area. However, vehicles may still be travelling at some speed, after exiting the dual carriageway.
14. The appellant has submitted a drawing of the foundations of the advertisement, which has been carried out by a structural engineer. However, there is no safety risk assessment (SRA) before me, as required by National Highways. Given its height, there is the potential for the advertisement to fall into the public realm, particularly in the event of a vehicle impact. The appellant argues that a vehicle strike is unlikely to move the advertisement due to its design and if it were to fall it would fall away from the road due to the angle of hit. However, in the absence of a SRA, there is no substantive evidence before me to demonstrate that the advertisement would be acceptable in terms of public safety, particularly in the event that it was hit by a fast moving vehicle. As the location, height and design of the appeal scheme are set out on the submitted plans, I do not find that a SRA could be dealt with by condition.
15. The appellant advises that failure of the advertisement could be addressed by the maintenance regimes and is a requirement of one of the standard conditions. The appellant argues that the advertisement has been installed by an experienced operator of signs at service stations, with no record of any signs falling. While I appreciate that there was a previous advertisement in this location, with no record of incidents, I do not find that these factors fully address the issue of public safety, particularly relating to vehicle impact.
16. Accordingly, for the reasons given above, I am not fully satisfied that the advertisement is acceptable in terms of public safety. Although not determinative, I have had regard to Policy DM15 of the Local Plan. This policy is of relevance insofar as it requires that advertisements are designed in a manner that minimises harm to public safety.

Other Matters

17. I have had regard to the standard conditions set out in Schedule 2 of the Regulations and the conditions suggested by the appellant. Nevertheless, the proposed conditions would not overcome the harm that I have identified to amenity and public safety.
18. The Regulations require that I exercise my powers with regards to amenity and public safety only. The benefits therefore cannot be taken into consideration in my decision.

<https://www.gov.uk/planning-inspectorate>

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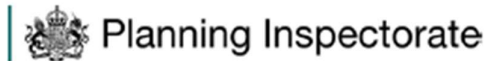
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Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

A James

INSPECTOR



Appeal Decision

Hearing held on 17 December 2025

Site visit made on 18 December 2025

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2026

Appeal Ref: APP/V2255/W/25/3372645

Land off Riddles Road, Borden, Sittingbourne, Kent ME9 8HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Fernham Homes Operations Limited against the decision of Swale Borough Council.
 - The application ref is 24/503677/FULL.
 - The development proposed is described as 'Erection of 38 no. residential dwellings, together with associated two access points, open space, landscaping, drainage, and infrastructure works.'
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Fernham Homes Operations Limited against Swale Borough Council. This is determined in a separate decision letter.

Preliminary Matters

3. A legal agreement between the Council and the appellant was submitted after the hearing, dated 18 December 2025 (the S106). I have had regard to this document in reaching my decision and the obligations it contains are discussed below.
4. During the course of the appeal the government published a consultation National Planning Policy Framework (the Framework), which sets out changes to the Framework along with other changes to the planning system and accompanied by a Written Ministerial Statement. Both main parties were given the opportunity to comment on the implications of these documents after the hearing and the responses received have been taken into account. This decision refers to the Framework of December 2024, except where stated otherwise.
5. For ease of reference, throughout this decision I have adopted the appellant's terms for the two parts of the appeal site. The southern parcel of land, adjacent to the edge of Borden, is referred to as 'Parcel A', and the northern parcel of land, adjacent to Sittingbourne, is referred to as 'Parcel B'.

Main Issues

6. In light of the S106, the Council confirmed that its third reason for refusal, relating to securing mitigation for impacts on local infrastructure, has fallen away. As this is no longer a matter in dispute between the main parties it is not a main issue of the appeal.

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7. Accordingly, the main issues are:

- Whether the site is suitably located for new housing, having regard to the Council's Settlement Strategy and effects on the open countryside;
- Effects on the character and appearance of the area;
- Effects on the separation of settlements;
- The acceptability of the proposed affordable housing; and
- Effects on protected species.

Reasons

Settlement Strategy and Open Countryside

8. Policy ST1 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the LP) requires, among other things, that development proposals accord with the Local Plan settlement strategy. This is set out in Policy ST3, which establishes a hierarchical approach to the location of new development, with the urban centre of Sittingbourne being the primary focus for growth, followed by other urban centres, rural local service centres, and a lesser amount of development in villages with built-up area boundaries.
9. The appeal site lies outside any built-up area boundary and is considered open countryside for the purposes of assessment against Policy ST3. Policy ST3(5) states that development here will not be permitted, unless supported by national planning policy and (my emphasis) able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. Whether the proposal accords with Policy ST3 therefore requires an assessment of the development against those attributes.
10. There are several studies which have included consideration of the quality of landscape surrounding, and including, the appeal site. The Landscape Assessment of Kent, October 2004 includes the appeal site within the Fruit Belt, of which the key characteristics include its agricultural landscape and small scattered villages and farms. At a more localised level, the Swale Landscape Character and Biodiversity Appraisal¹ identifies that historic villages and hamlets in the area maintain rural character despite the influence of modern development. Specifically, it states that the southward expansion of Sittingbourne has somewhat urbanised the northern edges of Tunstall and Borden, but they nonetheless remain rural in character. It refers to the well defined urban edge of Sittingbourne being locally visible and the integrity and setting of some rural settlements is described as sensitive.
11. Most recently, the Council's Landscape Sensitivity Assessment (LSA)² identifies the site as forming part of an area of strong rural character and an important narrow rural separation between the outlying villages and Sittingbourne, forming part of Sittingbourne's rural setting. These are among the factors which inform the

¹ The Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document Revision A November 2011- Tunstall Farmlands Character Area

² Swale Landscape Sensitivity Assessment October 2019- Area SE4

study's finding of a moderate-high sensitivity to future change from residential development.

12. Despite being tightly enclosed by the housing of Sittingbourne and Borden, the appeal site maintains distinctly rural qualities. Its rural character is derived from its open grassland and the absence of built form, together with its enclosure by predominantly low level post and wire fencing. Together with its use for grazing, these features give a simplicity and tranquillity to the site's character and Riddles Cottage sits harmoniously in this setting as a rural farmhouse. Although I observed no obvious visual connection with the Kent Downs further beyond the M2 to the south, from parts of Borden Lane longer views are possible to the southeast of various tree canopies and open farmland. Together with the enclosure by woodland on the opposite side of Borden Lane, these views contribute to the appreciation of the site's connection to the surrounding countryside and the setting of the settlements. The same is apparent in views from Starveacre Lane back across the appeal site. In turn, I find the site contributes to the factors which informed the LSA's sensitivity of parcel SE4 as 'moderate-high'.
13. Based on what I have seen, I do not consider that the proximity of the site to the edges of the two settlements reduces the rural character of the site. Instead, the stark contrast with the adjacent residential areas emphasises its rural character and relative tranquillity. While the appreciation of this character from Borden Lane will inevitably be diluted to some extent by the new roundabout and its paraphernalia, I do not find this necessarily reduces the site's contribution to the appreciation of the countryside. Overall, for the reasons given, the site contributes positively to the countryside attributes described in ST3.
14. The proposed development on both Parcels A and B would introduce a relatively dense pattern of residential development, permanently enclosing the land. Houses on Parcel A would be set back behind belts of trees and hedgerow planting which, overtime, would provide some screening and provide a visual connection to the nearby woodland. However, the increase in built form on the site, in localised views from the road and from views across the allotments to the south east, would substantially reduce the site's rural qualities. While the proposal would include an area of open space, this would be characterised by paths and paraphernalia associated with its public use, similarly heavily diluting the simple rural character of this part of the site. The proposal would fail to preserve, and would not enhance, the intrinsic value, landscape setting, tranquillity and beauty of the countryside.
15. In conclusion on this main issue, the proposal would not preserve the attributes of the countryside described in Policy ST3 and the development would not be suitably located having regard to the Council's Settlement Strategy. The proposal would therefore conflict with Policy ST1 and consequently Policy ST3 of the LP. There would also be conflict with Policy DM24 part B, insofar as it requires minimisation and mitigation of adverse impacts on non-designated landscapes.

Character and Appearance

16. For the same reasons above, relating to the effects on the character and appearance of the site and its contribution to the countryside setting of Sittingbourne, harm would be caused to the character and appearance of the area. In addition, the proposed layout on Parcel A would be at odds with the character of this edge of Borden, established by the regularity of its deep plots and linear

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arrangement which extends away from the centre of the village. While Borden includes cul-de-sacs and clusters of development set among its spinal routes, these are tightly clustered around the centre of the village where there is a more dense pattern of development and smaller, irregular shaped plots. The depth of the development from the road and its plot sizes would appear as an incongruous addition to this part of the village. I observed that those visual effects would be experienced in localised views from Riddles Road and Borden Lane, but also in longer views from behind the site along Starveacre Lane where the homes would extend beyond the line of tall conifers, accentuating their contrast with the established pattern of development in the village.

17. For the reasons given, the proposal would cause harm to the character and appearance of the area. It would be contrary to Policy CP4, which requires development to enrich the qualities of the existing environment by promoting and reinforcing local distinctiveness and strengthening sense of place, and DM14 which requires development to reflect positive characteristics and features of the site and locality and be sympathetic and appropriate to the location.

Separation of Settlements

18. The LP acknowledges that the identity, character and setting of settlements are formed, in part, by their physical separation from one another. The site forms part of the designated Important Local Countryside Gap (the ILCG) which wraps around the southern side of Sittingbourne and which separates and distinguishes it from the surrounding rural villages. Policy DM25 states that within these gaps, unless allocated for development, planning permission will not be granted for development that would undermine one or more of the gap's purposes, as set out in the supporting text.
19. The appeal site occupies the entire width of the ILCG at this point. The main parties agreed that the gap between these settlements is primarily experienced when travelling along Wises Lane and Borden Lane, consistent with the Wises Lane appeal decision³. For the reasons set out above, I have found the appeal site has a rural character. Its heavy contrast with the adjacent developments of Sittingbourne contributes to its value as a visual break and the appreciation of two distinct settlements. For these reasons in combination, the appeal site plays a particularly important role as part of the ILCG.
20. Together the proposed housing on the edges of both Sittingbourne and Borden would significantly narrow the Gap and reduce the perception of space between them. While the landscaped buffers around Parcel A would provide verdant edges to the roads, this would contribute little to the appreciation of the gap since the housing behind it would remain apparent, even once the landscaping were established.
21. The proposed public open space on Parcel B would be the only open space remaining. Given its position, the appreciation of a break between the two settlements when travelling along Borden Lane would be fleeting, particularly given the partial enclosure of the road by new orchard planting. Furthermore, its value as a gap between the settlements would also be heavily reduced by its appearance. At paragraph 7.7.35 the LP acknowledges that public open space is among the development types which could be suitable within the ILCGs, provided their

³ Wises Lane- Council's reference 17/50511/HYBID, Appeal reference APP/N255/W/19/3233605

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- purposes are not undermined or the need to protect the countryside compromised. The proposed public open space would include features characteristic of open space within a settlement, including a circular route of paths and managed landscaping including the formal orchard planting and natural playspace. As a consequence, while providing a physical gap between the settlements, I agree with the Council that the space would not function as maintaining the sense of separation. Its value against the ILCG purposes relating to rural open character and safeguarding the open and undeveloped character, would be severely limited.
22. Together, the new housing and the design of the new public open space would result in the substantial loss of the visual break and perception of a gap between the Sittingbourne and Borden, nearing coalescence. The development in its entirety would conflict with the ILCG purpose to safeguard the open and undeveloped character of the areas and prevent encroachment and piecemeal erosion by built development or changes to the rural open character.
 23. The design, layout and plot sizes within each Parcel would be visually distinct, in turn maintaining some visual distinction in the character of Borden and Sittingbourne. However, this alone would not be effective in maintaining the separation of the settlements for the purposes set out in the LP. I have had regard to the decisions relating to development at Ufton Court Farm⁴ and Wisles Lane⁵, which similarly affected the ILCG. However, in both cases the effects on the gap and its purposes were notably different and, in the case of Wisles Lane, the harm identified was balanced against the benefits of that particular scheme. As such, different circumstances applied.
 24. In conclusion on this main issue, the proposal would result in the substantial loss of separation between the settlements, contrary to one or more of the ILCG purposes. The proposal would conflict with Policy DM25.

Affordable Housing

25. Policy DM8 of the LP sets varying affordable housing targets depending on location. In this instance, the policy requires provision of 10% affordable housing in Sittingbourne and 40% in rural areas, which would include Borden. Given the appeal site spans both housing market areas, the Council have not objected to the use of a 'blended' approach to affordable housing provision across the site as a whole. Nonetheless, the proposal would entail all the affordable housing provision on the edge of Sittingbourne, and no affordable housing to Borden, which would be at odds with the policy requirement.
26. While the mix of affordable housing sizes on Parcel B would not fully align with the Council's identified need⁶, they would nonetheless offer a range of unit sizes. Parcel B would include a mix of affordable tenures, as well as three market homes, and would be set among the context of other adjoining houses, where it would contribute to creating a mixed community. Parcel A, in contrast, would be entirely market homes, clearly discernible by their gated access, scale and plot size. In considering the appeal scheme as a whole, the affordable homes would not be integrated across the development or support notions of mixed and balanced communities. Other developments have been evidenced where clusters of

⁴ APP/V2255/W/23/3333811

⁵ App/V2255/W/19/3233606

⁶ Housing Market Assessment, cited in the Council's Statement of Case.

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affordable homes have been approved, however the distances and visual distinctions involved are not as significant as those before me. While there is a benefit to the managing parties in the close proximity of those homes, it is not apparent that this necessitates the layout and stark separation of tenures before me. I accept, however, that Policy DM8 does not specifically require integration.

27. Nonetheless, for the reasons given, there would be conflict with DM8 in the location of the affordable homes and the settlements which they would form a part. The proposal would also conflict with Policy CP3, cited in the Council's statement, as well as the Developer Contributions SPD, which seek inclusive and mixed communities. I accept that the quantum of affordable homes provided would be more than the average which would otherwise be sought by Policy DM8 across the two market areas, and this is considered in the balancing exercise below.

Protected Species

28. Both parcels of the appeal site comprise predominantly grassland in part suppressed by horse grazing and adjoining mixed off-site hedgerows offering limited connectivity across the site itself. The application was accompanied by an Ecology Impact Assessment (ECIA) which included consideration of potential species on and near the appeal site following a site visit and an earlier preliminary ecological appraisal. In summary, its recommendations included precautionary and mitigation measures to address the potential effects of the development on species including bats, badgers, hedgehogs, reptiles and nesting birds which could reasonably have been secured by planning conditions. The ECIA did not suggest that further surveys of any protected species, or wider effects, were necessary given the site's characteristics and the findings of the associated site visit. As part of the appeal documentation the appellant's ecological specialist considered those earlier findings to remain correct. Those documents acknowledge Borden Nature Reserve and have regard to a 'zone of influence' as an area over which ecological features may be subject to significant effects. That document was reviewed by the County Council Biodiversity Officer who commented specifically on the adequacy of the document during the course of the application⁷ and raised no concerns.
29. It is not in dispute that badgers are active in the vicinity of the site, potentially using the appeal site for some commuting or foraging. However, there is very little substantive evidence to demonstrate that the appeal site has particular value for this purpose and the appellant's ecologist considers any use for foraging is unlikely to be significant based on their observations. While I note the comments of local residents, it remains that there is not substantive or convincing evidence before me which would lead me to doubt the findings of the appellant's technical evidence and the County Council's Biodiversity Officer.
30. There would be a significant reduction in open space arising from the proposal and the site would undoubtedly be different in terms of how it derives its ecological value. However, in the absence of any detailed evidence to the contrary, I am not convinced that an unacceptable 'squeezing' of the corridor for wildlife would occur or amount to harm as a result of this proposal. Unlike the existing situation, future landscaping and open space would be managed to ensure it remains available for this purpose. Overall, I am satisfied that subject to appropriate planning conditions and landscape management provisions in the S106, the effects of the proposal on

⁷ Ecological Advice Service' comments 31 October 2024, 20 May 2025 and 13 June 2025

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badgers and other species including bats and hedgehogs, would be acceptable. The proposal would comply with policies CP7 and DM28 of the LP which relate to biodiversity considerations and conservation of the natural environment.

Other Matters

Planning Obligations

31. The only obligation in dispute is the contribution to the Borden Nature Reserve to the west of the appeal site. New occupants of the development would be very likely to use this area for recreation, in turn increasing the need for management and maintenance to prevent harm to its habitats. I see no strong reason why its lack of a formal planning designation would remove this need and I have been provided with Management Plans⁸ which set out details of ongoing management. I am satisfied that the contribution would be necessary and directly related to the development. A contribution of £60 per dwelling is referred to. While a similar amount was agreed on the Wises Lane decision, I do not have details before me as to how that figure was derived and I cannot be certain that the contribution would be fairly and reasonably related in scale and kind to the development. For this reason the contribution would not meet the necessary tests for a planning obligation⁹.
32. The S106 includes a number of other obligations, including contributions towards infrastructure, at both Borough and County level, relating to sports facilities, healthcare, education at varying levels including libraries as well as waste collection and a contribution to improving the junction of the A249 with Key Street. An associated monitoring fee is also included. Based on what I have seen, including representations from the County Council, I am satisfied that those obligations meet all of the required tests and are necessary to mitigate the effects of the proposed development, compliant with policies CP5, CP6 and DM17 regarding health, recreation and community facilities. The S106 also includes provisions for the delivery of the affordable housing and delivery and management of open space, as well as contributions towards designated Special Protection Areas (SPA). Overall, I find these acceptable having regard to the tests, and there is not substantive evidence to support that greater contributions should be made.

Heritage

33. The appeal site is close to a number of designated heritage assets and I have had regard to the relevant statutory duties in considering matters of heritage¹⁰. Riddles Cottage and Posiers, further south along Borden Lane, are both grade II listed buildings. Riddles Cottage derives significance from its age, as a remnant of the 17th century development of the area, and the openness of the appeal site forms part of its immediate setting across which its significance as a rural dwelling is appreciated. While Riddles Cottage would be adjacent to the proposed open space, its setting would nonetheless be urbanised to some degree by the associated paraphernalia and its rural setting and sense of isolation diluted by the increased proximity of housing. The adjacent new orchard planting would reinstate the appreciation of the building within a working landscape. However, given the visual and functional separation of Riddles Cottage from the orchard, its value as

⁸ Borden Nature Reserve 'Proposed Management Plan 2021- 2024' and 'Management Plan 2025- 2028'

⁹ As set out in paragraph 58 of the Framework

¹⁰ Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

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an enhancement would be limited. Considered as a whole, the proposal would amount to less than substantial harm to the significance of Riddles Cottage for the purposes of assessment against the Framework and this would be at the lower end of the scale.

34. The Framework therefore requires this to be weighed against the public benefits of the scheme, and I must give great weight to the asset's conservation. In this instance those public benefits would include new housing and affordable homes, as well as publicly accessible open space. I am satisfied that the extent of these benefits would outweigh the harm to the designated heritage asset.
35. Turning to Posiers, this is a substantial and attractive detached property located further south along Borden Lane and it sits among a group of other detached houses within generous plots which line the eastern side of the road. The property is therefore experienced within that context. Given the distance of the appeal scheme from Posiers, together with the intervening houses and structures and the very limited intervisibility between the two, the proposal would preserve its setting and the way in which the listed building is experienced.
36. The Conservation Areas of The Street and Harman's Corner exist around the centre of Borden. While these are rural in their character, given the distance of the appeal site from them, and as their setting is derived from the adjoining residential development and land, I do not consider the appeal site forms a part of their setting within which their significance is experienced. I am satisfied that harm to potential archaeological remains could be avoided through suitably worded conditions, which would be a proportionate response here.

Habitat Sites

37. The site lies close to the North Kent coastline, which encompasses three SPA's, being the Thames Estuary and Marshes, Medway Estuary and Marshes and the Swale SPA. These are designated European sites which could be potentially impacted by the development. As the appeal is being dismissed on other grounds, it is not necessary to complete an Appropriate Assessment, since Regulation 63(1) of the Habitat Regulations indicates the requirement is only necessary where the competent authority is minded to give consent¹¹. For the purposes of the balancing exercise below, I have assumed this matter is capable of resolution and does not weigh against the proposal.

Planning Balance

38. The LP is over five years old but the weight to be attached here does not hinge upon its age, since the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. In any event, the main parties agree that, given the absence of a five year land supply for housing, the provisions of paragraph 11d) of the Framework are applicable to the appeal.
39. In respect of 11d)i. I have not found that the application of policies in the Framework that protect areas or assets of importance provide a strong reason for refusing the development proposed. As such, a balancing exercise is required under 11d)ii. This states that permission should be granted unless any adverse

¹¹ Conservation of Habitats and Species Regulations 2017

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impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to the key policies listed in footnote nine.

40. In undertaking this balance I am mindful of the weights given by Inspectors on other appeal decisions in the area. However, it is reasonable that the weight in many instances will vary, given the differences between the schemes including their quantum of development and different effects.
41. As set out above, the proposal would conflict with the Council's Spatial Strategy for the location of new homes. Importantly, that strategy is based on a housing need of 776 dwellings per year, far below the current housing target. The Council's Housing Land Supply Position Statement 2025¹² identifies the need for a minimum of 1,064 homes in the Borough per year plus a 5% buffer, equating to 5,586 homes over a 5 year period. It sets out that the Council currently have a land supply of 3.97 years, representing a shortfall of 1,149 homes.
42. Despite the commitment in LP Policy ST2 to a review of the LP in 2022, this has not been completed and the Council accept there is no prospect of an emerging Local Plan being adopted until at least October 2027. As a consequence, there is significant uncertainty surrounding when and where new homes will be built in the Borough. Given these factors, I consider the Spatial Strategy to be out of date and I give limited weight to the conflict with those associated policies.
43. The most notable harm of the proposal would arise from the effects on the ILCG. As above, the proposal, including its public open space, would very substantially erode the gap between Sittingbourne and Borden, reducing it to a fleeting view of trees and public open space when travelling along a very limited section of Borden Lane. This harm would be long lasting, permanently diluting the separation of the settlements. Given the importance of the gap to the identity of those settlements and their setting, the proposal would conflict with paragraph 135 of the Framework which, among other things, requires development to add to the overall quality of the area, be sympathetic to the surrounding built environment and landscape setting, and maintain a strong sense of place. While acknowledging that the ILCG is not a landscape designation, for the reasons set out, this part of the ILCG has value for these purposes.
44. I appreciate that, given the context of housing need above, settlement growth at Sittingbourne is likely to have implications for the ILCG, however, decisions such as that for Wises Lane¹³ reflect options which exist for sites affected by this constraint and where a lesser degree of harm would arise. Overall, I give the harm to the ILCG very substantial weight. There would also be harm to the character and appearance of the area, to which I give significant weight given the value of the site to the rural setting of Sittingbourne and Borden. This would conflict with paragraph 129 of the Framework, which seeks efficient use of land taking into account, among other things, the desirability of maintaining an areas prevailing character and setting.
45. The parties also agree the proposal would entail the loss of Best and Most Versatile agricultural land, in conflict with LP Policy DM31. However, the site is not in productive agricultural use and the proposal would not adversely affect a wider

¹² Housing Land Supply Position Statement 2025/ 2026, November 2025

¹³ APP/V2255/W/19/3233606

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agricultural holding. I also acknowledge the proposal would displace the existing grazing facilities which I understand form part of a rural enterprise. Based on the information before me, and the level of the losses involved, limited weight is given to those adverse effects.

46. Turning to the benefits, the most notable benefit would be the delivery of new homes. Given the context of the Council's housing land supply set out above and ongoing uncertainty on the matter, this is of particular importance here. The Framework acknowledges the important contribution which small and medium sized sites can make to meeting the housing requirement of an area and that they are often built-out quickly.
47. Those homes would be well related to the existing settlements, with both Sittingbourne and Borden identified in the LP as locations suitable for future development of varying extents. In particular, all new homes would be well connected to Sittingbourne which is identified as the largest town in the Borough and with the greatest range of services and facilities, as well as the new facilities approved as part of the nearby Wisers Lane development. All the new homes would be linked to these facilities, and also those in Borden, by a continuous lit footpath and the routes would be attractive to cyclists. Future occupants could also access bus routes further afield in Sittingbourne, providing accessibility to onward public transport links. Together these would provide reasonable and attractive alternatives to private car use. Accordingly, the development would offer a genuine choice of transport modes and reduce the need to travel, in line with the aims of paragraphs 110 and 115 of the Framework. Those homes would include four level access homes and the bungalows could accommodate older occupants. The proposed homes would make a tangible contribution to the housing shortfall and, in combination, I give the above factors significant weight.
48. Turning to the affordable housing, evidence provided by the Council suggests an acute need for new affordable homes, with a need recently described as 'consistently well below what is required and fails to meet affordable housing need year on year'¹⁴. While there are important shortfalls regarding its location and distribution across the development, the proposal would nonetheless deliver 15 affordable homes of a tenure and size supported by the Council and which would meet an identified need and include accessible homes. Given the context of the affordable housing crisis in the Borough, considered as a whole, I give the delivery of affordable homes significant weight in favour of the proposal. This delivery aligns with paragraph 66 of the Framework, similarly among the key policies referenced in paragraph 11d)ii.
49. The Council state that the provision of open space is a policy requirement, however I do not have details of the extent that would be required by the policy for this scheme, or whether the proposal exceeds it. Nonetheless, as a new area of publicly accessible space which could serve and contribute to the well-being of local residents, I give this moderate weight as a benefit of the scheme.
50. The scheme would provide new planting and biodiversity net gain, even if in part off-site, and there would be economic benefits arising from ongoing expenditure into the local economy by future occupants, including in the rural community of Borden. There would also be some economic benefit arising from the construction

¹⁴ Report titled 'Affordable Housing Delivery' to Housing, Health and Communities Meeting 28th October 2025

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period, albeit for a limited period and the Framework acknowledges the importance of schemes of this size to Small and Medium Enterprise housebuilders, which includes Fernham Homes. To these factors I give moderate weight, given the scale of the proposal. I have not given weight to the benefit of new Council Tax receipts, since these would help fund services required by the new occupants.

51. Where the proposal has been found to be acceptable in other respects, these are neutral matters rather than benefits. Other than in respect of affordable housing and open space, the other obligations contained in the S106 would provide mitigation for the effects of the development, rather than providing benefits. The appellant considers the development on Parcel A would provide efficient use of the land. However, given the conflict with paragraph 129, discussed above, I have not given this weight in favour of the proposal.
52. In conclusion, the benefits and adverse impacts of granting planning permission would be numerous. Having considered all matters, taken together the weight of the adverse impacts would significantly and demonstrably outweigh the benefits. Accordingly, the proposal would not benefit from the presumption in favour of sustainable development set out in the Framework.

Further Matters

53. In undertaking the above assessment I am mindful of the consultation version of the Framework, on which I asked the main parties to comment. In particular this contains policies which may alter the weight of the considerations here, for example given the proximity of the development to Sittingbourne and its rail links. It nonetheless also includes policies relating to context and the environmental qualities of land, which would be applicable here. In considering these factors however, it is relevant that the document is only in a consultation form at this stage and there is not certainty surrounding the final form which its policies may take. Accordingly, I give it only very limited weight at this time and it does not amount to a reason to alter the above assessment.
54. I am aware of other matters raised by the interested parties which have not been addressed in detail in this decision. These include the effects on occupants of the nearest properties and effects on mineral safeguarding. However, it is not necessary for me to address those matters further since they would not alter the outcome of the appeal.

Conclusion

55. For the reasons given, the proposal would conflict with the development plan and there are not material considerations of sufficient weight, including approaches in the Framework, which indicate a decision should be made other than in accordance with it.

C Shearing

INSPECTOR

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APPEARANCES

FOR THE APPELLANT:

James Maurici	KC, Landmark Chambers
Matthew Woodhead	DHA Planning
Danielle Lawrence	DHA Planning
Richard Hammond	Pegasus Group (Design)
Karl Goodburn	Bennu Environmental Ltd (Ecology)
Steve Baughen	Femham Homes

FOR THE LOCAL PLANNING AUTHORITY:

Ian Harrison	Planning Manager, Swale Borough Council
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INTERESTED PARTIES, INCLUDED:

Sarah Brooker	Local Resident
Mr Keith Middleton	Local Resident
Vivien Smith	Local Resident and Borden Wildlife Group
Mrs Astin	Local Resident
Cllr Lee Small	Borden Parish Council



Planning Inspectorate

Costs Decision

Hearing held on 17 December 2025

Site visit made on 18 December 2025

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2026

Costs application in relation to Appeal Ref: APP/V2255/W/25/3372645 Land off Riddles Road, Borden, Sittingbourne, Kent, ME9 8HP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Fernham Homes Operations Limited for a partial award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for 'Erection of 38 no. residential dwellings, together with associated two access points, open space, landscaping, drainage, and infrastructure works.'
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

Reasons

2. The application for a partial award of costs was made in writing by the applicant the evening before the hearing. During the hearing the applicant confirmed they no longer wished to pursue the second ground for costs ('Ground 2') and accordingly I shall only consider the first ground for costs, relating to ecology matters. The Council provided its response to the application verbally at the hearing and the applicant gave their final comments.
3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The applicant considers the Council behaved unreasonably in respect of its second reason for refusal, relating to effects on protected species, which went against officer advice. Members of the Planning Committee were entitled to reach a different view from its officers and this is a fundamental principle of local decision making.
5. However, the application and appeal were accompanied by technical reports prepared by suitably qualified specialists. It was stated by an interested party during the hearing that it was disappointing those documents were not reviewed by an independent party. However, this did occur as the documents were reviewed by the Biodiversity Officer of the County Council, who was consulted three times on the application and commented specifically that the ECIA¹ was sufficient and that

¹ Ecological Impact Assessment, August 2024

Costs Decision APP/V2255/W/25/3372645

no ecological surveys were required in respect of protected or notable species. The Officer's Report clearly recounts those findings to the Planning Committee².

6. It is not clear, based on what I have seen, why a contrary view was subsequently reached or that there was conflicting technical evidence to contradict, or draw into doubt, the applicant's findings and the conclusions of the Biodiversity Officer. The committee minutes refer to generalised concerns for wildlife corridors. It is not clear in what way the technical information provided by the applicant was inadequate, or why the matter could not be reasonably addressed by the imposition of planning conditions as suggested. This is similarly not substantiated in the Council's case, which refers to the presence of badgers in the surrounding area, which was already acknowledged within the ECIA. The potential effects of habitat 'squeezing' were also put forward during the appeal, although not supported by any compelling evidence to demonstrate the proposal would cause harmful effects.
7. As such, the Council failed to produce evidence to substantiate its second reason for refusal, and made vague, generalised assertions about the proposal's impact, which were unsupported by any objective analysis. These are both among the examples of unreasonable behaviour given in the PPG. As set out in the appeal decision, the ecological impacts of the proposal were capable of being dealt with by condition. In turn, the Council's behaviour caused the applicant to incur unnecessary expense in the appeal process, through the need to respond to the second reason for refusal.
8. For the reasons given, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's second reason for refusal and a partial award of costs is therefore warranted, as set out in the PPG.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay to Fernham Homes Operations Limited the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the second reason for refusal, such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Swale Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Shearing

INSPECTOR

² Report to Planning Committee 17th July 2025



Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2025

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2026

Appeal Ref: APP/V2255/W/25/3368586

Former Kingsfield Care Home, Jubilee Way, Faversham ME13 8GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Churchill Living Ltd against Swale Borough Council.
- The application reference is 24/505332/FULL.
- The development proposed is retirement living accommodation for older people (sixty years of age and/or partner over fifty-five years of age) comprising 48 retirement apartments and three retirement cottages including communal facilities, access, car parking and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for retirement living accommodation for older people (sixty years of age and/or partner over fifty-five years of age) comprising 48 retirement apartments and three retirement cottages including communal facilities, access, car parking and landscaping at Former Kingsfield Care Home, Jubilee Way, Faversham ME13 8GD in accordance with the terms of the application, Ref 24/505332/FULL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The site lies in close proximity to the Faversham Conservation Area and four Listed Buildings. I have, therefore, had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).
3. A signed Planning Obligation, in the form of a Unilateral Undertaking (UU) was provided by the appellants, relating to various social, ecological and infrastructure contributions to mitigate the effects of the proposal. The UU includes a 'blue pencil' clause. I return to this matter later in the decision.
4. Since the Council made its decision the Government has, on 16 December 2025, published a consultation document regarding proposed changes to the National Planning Policy Framework (the draft Framework), together with proposed reforms and other changes to the planning system. This document was accompanied by a Written Ministerial Statement.
5. The consultation and draft Framework do not constitute Government policy or guidance, although they may be treated as material considerations in appeals. The proposed reforms are in draft and therefore may be subject to change before the final document is published and so the draft Framework carries limited weight in my deliberations.

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6. There is, within the draft proposals, little change to the thrust and direction of the National Planning Policy Framework (the Framework) and this remains substantially unaltered in regard to the matters in dispute in this appeal. It has, therefore, not been necessary to consult the parties concerning the documents.

Main Issues

7. The Council have set out in their written statement the matters still in dispute between the parties, and these are confirmed in a Statement of Common Ground. On this basis the main issues in this appeal are whether the proposal makes appropriate provision for: -
- National Health Services Healthcare
 - Waste disposal; and: -
 - Fitness equipment.

Reasons

Background

8. The parties have agreed a Statement of Common Ground, and it is a matter of agreement that the proposal is acceptable in principle.
9. The site is located within the built-up area boundary of Faversham and is a disused care home. To the north and east of the site lies residential development. Former industrial warehouses and a sports centre lie to the west, across Jubilee Way.
10. The proposal would demolish the existing building and replace it with 48 retirement living apartments and 3 retirement living cottages for independent retired people with associated communal facilities, vehicular access, car parking and landscaping.
11. Whilst many of the contributions within the UU are agreed between the parties as set out in the Statement of Common Ground, it is necessary that I consider those matters, and their associated contributions, that remain in dispute against the tests that require the obligations to be a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. The UU includes a 'blue pencil' clause. This has the effect that if I find that any of the contributions do not comply with the tests, then they fall away.

Healthcare services

12. A contribution of £22,464 is included in the UU to be paid to the NHS for the refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
13. The proposal would increase the local population, and, thereby, demand on local healthcare facilities. This is particularly relevant to this proposal as the proposed development comprises specialist accommodation for older people enabling longer independent living. The NHS identifies that there is currently limited capacity within existing healthcare facilities and that this demand, and that from other local development, needs to be addressed by increased capacity local to the

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development. The NHS identifies that the additional demand from this proposal would fall, in all likelihood, predominantly on the Newton Place Surgery and Faversham Medical Practices, within whose operative areas the site lies, and it is in this area that the money would be spent.

14. The appellants have brought my attention to an appeal at 26-38 Commercial Road, Paddock Wood¹. In that appeal the Inspector did not consider that it had been identified with sufficient clarity where the monies would be spent. It will be seen, above, that the NHS have identified where these moneys will be committed, and so that is not the case here.
15. The appellants identify that the provision of their proposal would result in savings to the NHS. However, this relates to revenue savings whilst the identified need is for infrastructure.
16. There is no certainty that the future occupiers currently live within the catchment of the facilities that would bear the brunt of the demand from the proposal. Whilst those patients would already have healthcare needs in their current location, any relocation would be likely to result in their changing practice and thus alter demand locally. Whilst central NHS funding for treatment would follow, it is necessary to ensure that the base infrastructure is available to accommodate future patient demand.
17. Further, any homes becoming vacant as a result of future occupiers of the development relocating would not remain so, and new occupiers would move in and need healthcare infrastructure.
18. The contribution is based on occupancy of the accommodation and is, therefore directly proportionate to the local increase in demand for healthcare.
19. The Council, through Policy CP5 of Bearing Fruits 2031 - The Swale Borough Local Plan (2017) (the Local Plan), promotes the health of the Borough's population and the provision of appropriate healthcare facilities, whilst Policy CP6 aims to provide community facilities and services to meet local needs, identifying in Statement 6 of the Local Plan, that health facilities are within the definition of infrastructure.
20. The Framework identifies that part of the social objective of good planning is to support healthy communities. Further, the Framework identifies that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lives through both promoting good health and preventing ill-health.
21. I therefore find that the provision of the healthcare contribution is necessary to make the proposal acceptable, and is directly and fairly related to the proposal, thus satisfying the tests.

Waste disposal

22. The UU makes provision for a contribution of £7248.63 to be paid to Kent County Council (KCC) for increasing capacity at Waste Transfer Stations (WTSs) as part of their duties as the local Waste Disposal Authority (WDA). The proposal would, as identified above, increase the number of local residents.

¹ PINS Ref: APP/M2270/W/3225289

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23. These residents would have needs for the disposal of domestic waste and thus increase demand on the existing infrastructure of WTSs. The WDA has calculated that, on average, Kent households generate 1/2 of a tonne of waste that needs to be processed at WTSs each year. Thus, each of the households within the proposed development would contribute to an increase in pressure on the WTS infrastructure.
24. The Kent Waste Disposal Strategy 2017-2035 makes provision for contributions to be sought towards the extension or upgrading of existing Waste facilities, or towards the creation of new facilities where a proposed development is likely to result in additional demand for Waste services.
25. The WDA has calculated the proportionate costs, on a per household basis, for additional provision in line with housing growth during the period of the Development Plan. From this the scale of the contribution required by the Council has been calculated for an average household.
26. The appellants argue that the proposal would not provide for a typical household, as the accommodation is mainly in the form of small, flatted development, primarily is single person occupancy, and the grounds would be managed by a management company, thus obviating the generation of garden waste on an individual household basis.
27. Nonetheless, garden waste would still be generated, albeit pooled over the entire development. No specific means of its disposal has been identified that would not use the WDA facilities. Further, green waste is not restricted to garden waste, but also includes kitchen waste, which will be generated by occupiers.
28. In calculating an average, in terms of generation per household, the WDA has produced a practicable, manageable means of allocating costs for additional infrastructure generated by development. Generating individual costs based on the likely specifics of any particular household within a proposed development would be unwieldy and impractical. I find that the WDA and Council have adopted a pragmatic, practicable approach within the planning system.
29. Waste disposal facilities qualify as public service infrastructure as defined in Statement 6 of the Local Plan and is therefore within the remit of Policy CP6 of the Local Plan. Thus, the mitigation of additional demands on such infrastructure is justified within that policy.
30. I therefore find that the planning obligation is necessary to meet the policy requirement for the provision of adequate infrastructure, and is directly related to the development as it is sought to address the effects of increased waste generated by the development. By calculating the tariff based on an average household, rather than the specific needs of the development on a plot-by-plot basis, the Council have related the effects of the proposal to the tariff in a sufficiently direct and practicable way. The contribution is thus fairly and reasonably related in scale and kind to the development. I therefore find that the obligation meets the tests.

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Fitness equipment

31. There is dispute between the parties whether the contribution of £13,992.62, set out in the UU for the enhancement of fitness equipment on the Faversham Recreation Ground fulfils the test on necessity.
32. Policy CP5 of the Local Plan seeks to promote, protect and work to improve the health of Swale's population, and reduce health inequalities. It identifies that the policy will seek to safeguard or provide as appropriate, open space, sport and recreation in accordance with Policy DM 17, where this is appropriate.
33. Statement 6 of the Local Plan identifies social and community facilities, sports facilities, open spaces (including accessible natural space), and parks, as social infrastructure and so such facilities fall within the scope of Policy CP6 in regard to the provision of infrastructure, as appropriate, in association with development proposals.
34. Policy CP7 of the Local Plan seeks to ensure that natural assets are enhanced, as appropriate, by seeking the provision of new recreational facilities in accordance with Policy DM17.
35. Policy DM17 of the Local Plan seeks, where it is not appropriate to make provision for new open space, as would be the case here, to make contributions to the off-site funding of facilities to meet local deficiencies or to the qualitative or quantitative improvement of existing provision.
36. The contribution requested by the Council has been calculated using the sum as set out in the Council's Open Space Strategy, modified to reflect the likely usage of residents of the proposed retirement development.
37. The Framework seeks to promote healthy communities and prevent ill-health, for example through the provision of accessible sports facilities, to provide the recreational services the community needs of social and cultural well-being for all sections of the community.
38. The proposal is specifically for persons aged sixty years and over, with partners over 55 years of age. Whilst usage of outdoor sports and fitness equipment may fall off as residents age, and this has been addressed by a reduction in the tariff, that does not mean that they should not have the opportunity to maintain and prolong a healthy lifestyle through out-door exercise.
39. The appellants have identified that provision already exists at Faversham Recreation Ground. However, the proposal, through increasing the local population, would increase the demand for and reliance upon such facilities. Further, the contribution would allow the enhancement of the facilities to address any specific needs of the demographic of future occupiers.
40. Given the location of the recreation ground in regard to the appeal site I find that the provision would directly relate to the proposal.
41. I therefore find that the planning obligation is necessary to meet the policy requirement for the provision of adequate infrastructure, and is directly related to the development, as it is sought to address the effects of increased demand for facilities generated by the development. By adjusting the tariff on the basis of the demographic of future occupiers, the Council have related it to the specific needs of

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the proposal and so the contribution is fairly and reasonably related in scale and kind to the development. I therefore find that the obligation meets all of the tests.

Other Matters

Heritage

42. The site is located within close proximity to the Faversham Conservation Area (the CA) and four Grade II Listed Buildings (LBs); the former Goods Shed to Faversham Station, Gardener's Lodge, Church of St. Saviour and Boundary Stone sited 50m northwest of Gardner's Lodge.
43. Whilst the parties are in agreement that the proposal would not have an unacceptable effect on the CA or LBs, the Act places a duty on me to have special regard to sections 66(1) and 72(1) of the Act. I have, therefore considered the effect of the proposal on heritage assets further. The parties have had the opportunity to comment on the effect of the proposal on heritage assets and I do not consider that any party would suffer injustice in my so doing.
44. The heritage significance of the CA derives from its architectural, artistic and historical interests and relate primarily to the area's historic development and relationship with the railway, as well as the development and design of civic communal spaces like the Recreation Ground and Cemetery.
45. The appeal site can be seen in views of Jubilee Way. However, due to the local topography of the CA the current building is not perceived to be dominant in the landscape and does not draw attention away from the Conservation Area. The proposal will be experienced against the contemporary residential backdrop of its surrounding area. The appeal site lies some way from the cemetery and the recreation ground and does not inform their immediate settings due to intervening development and planting. I therefore find that the proposal would conserve the historic significance of the CA.
46. The significance of the former Goods Shed to Faversham Station (Grade II Listed; Ref: 1261086) relates to its historic and architectural interest associated with the operational needs of the railway network. The setting of the LB insofar as it relates to this appeal, relates to its position on Jubilee Way and its relationship to the surrounding warehouses which form a group relating to the operation of the railway network, which is still evidenced by the line to the south.
47. The proposal would be some distance from the LB but appears in views along Jubilee Way towards the Listed Building. However, in its context it would not draw the eye away from, or interrupt these views of, the LB and would conserve its historic interest.
48. The significance of the Gardener's Lodge (Grade II Listed; Ref: 1240641) derives from its historic and architectural interests. Its setting is defined by its position within the Faversham Recreation Ground. There is no visual linkage between the appeal site and the LB, due to the local topography and intervening development and vegetation. The proposal will not, therefore, impact on the setting of the LB and its historic interest will be conserved.
49. The significance of the Church of St Saviour (Grade II Listed; Ref: 1240313) derives from its historic and architectural interests. Its setting is defined by its position on the north side of Whitstable Road and corner of Cyprus Road, facing

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the Recreation Ground. Again, there is no visual linkage between the appeal site and the LB, due to intervening development. The proposal will not, therefore, impact on the setting of the LB and its historic interest will be conserved.

50. The significance of the Boundary Stone sited 50m northwest of Gardner's Lodge (Grade II Listed Building; Ref: 1240605) derives from its historic interests. Its setting is its position within the Recreation Ground. The setting is therefore limited to the Recreation Ground and there is no linkage in visual or historic terms to the appeal site. Thus, the proposal will not affect its setting and the historic interest of the LB will be conserved.
51. I therefore find that the proposal will not have any adverse effect on heritage assets and therefore accords with the aims of Policy CP8 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (the LP) in as much as this, amongst other things, seeks to sustain the historic environment.

Protected sites

52. There is no dispute between the parties that the site is located within the zone of influence (Zol) of the Swale Special Protection Area (SPA) and RAMSAR site, which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (The Habitat Regulations).
53. Notwithstanding the agreement of the main parties on these matters the Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on the European Designated Site, must consider mitigation within the framework of an Appropriate Assessment (AA) rather than at the screening stage. This responsibility now falls to me within this appeal.
54. Within the development plan the north Kent Strategic Access Management Plan and Monitoring Scheme (SAMMS) incorporates strategic mitigation measures to be delivered to avoid adverse impacts.
55. There is a potential impact pathway whereby development within the Zol is likely to result in significant effects on the SPA in regard to the effects of urbanisation, with a particular focus on the effects of disturbance from recreational activities arising from new residents, on the over-wintering bird interest at the SPA.
56. The development would increase the number of residents within the district who would be likely to participate in recreational activities in the locality. Thus, the development would, alone or in combination with other development, result in a likely significant effect on the integrity of the SPA, as a result of recreational pressures.
57. Through the development of the SAMMS the Council has, with the agreement of Natural England, provided a strategic district-wide approach to mitigating recreational pressures on the SPA through the securing of financial contributions for mitigating measures. As this is an agreed approach with Natural England, the proposed development can be assessed within the context of the SAMMS. On this basis I consider that this is an appropriate approach to mitigating identified harms.
58. The UU makes provision for the payment of the appropriate financial contributions, and it is a matter of agreement between the parties that the UU satisfactorily addresses this matter.

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59. I therefore conclude that following mitigation secured through the UU there would be no adverse residual effect on the European Protected Site and, as a consequence, the proposal is in accordance with the requirement of Policies DM28 and CP7 of the LP which amongst other things, seeks to provide long term protection to SPAs and RAMSAR sites.

Other considerations

60. In addition to the matters discussed above, local residents have raised concerns about the disposal of surface and foul waste water. The local drainage authorities have raised no objection to the proposal and, subject to the imposition of suitable planning conditions, there is no substantive evidence before me on which I find the proposal unacceptable in this respect.

Conditions

61. I have considered the conditions agreed in the Statement of Common Ground between the appellants and the Council, together with those suggested by third parties, having regard to Planning Policy Guidance.
62. Condition 1 limits the time within which the development must be begun and is necessary to comply with the requirements of legislation, and to prevent the accumulation of unimplemented planning permissions.
63. Condition 2 is necessary to provide certainty in what this permission authorises.
64. Conditions requiring details of materials and hard and soft landscaping and boundaries have been suggested. Such details are necessary to ensure that the visual appearance of the proposal is acceptable such that the amenity of occupiers of neighbouring properties and visitors to the area is protected. These aims are achieved through Conditions 3, 4 and 5. Condition 4 also satisfies the need to encourage wildlife and biodiversity.
65. It is necessary to restrict occupancy of the proposed residential units in order to deliver the benefits indicated within the application for the provision of older persons accommodation. This is achieved by Condition 6.
66. The site lies within a residential area. Thus, a Construction and Environment Management Plan (CEMP) is necessary to safeguard the amenity of local residents. This is ensured by Condition 7. As any works on site have potential to impact neighbour's amenity or highway safety the plan is needed prior to the commencement of any work on site. The appellants have agreed the wording and necessity for this condition.
67. In order to preserve the character and appearance of the locality and the living conditions of surrounding occupiers, I have included a condition, Condition 8, requiring details of any external lighting to be installed on the development.
68. Condition 9 requires the installation and retention of measures required to achieve the identified energy efficiency and energy generation for those apartments that are detailed within the Energy Statement that accompanied the application. These are necessary to achieve the Government's intention of moving to a low carbon economy.

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69. It is necessary, in the interests of highway safety and residential amenity, to secure and retain adequate space for car parking within the site, and for their manoeuvring to enter and leave the site in forward gear. This is secured by Condition 10.
70. Condition 11 secures and retains the provision of suitable cycle and buggy storage. This is necessary to ensure that the development has suitable access to appropriate and sustainable modes of transport and to reduce reliance on the private car.
71. Condition 12, requiring the installation and retention of storage facilities on the site is necessary so as to safeguard residential amenity and to support the sustainability of the site.
72. Whilst the site has been previously developed, it lies in an area previously associated with rail transport and employment. It is, therefore, necessary to ensure that any unexpected contamination encountered during the works is addressed effectively. This is achieved through Condition 13.
73. To ensure that the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding an appropriate drainage system must be secured and retained thereafter. This is achieved through Condition 14. These details and accompanying calculations are required prior to the commencement of any development other than demolition.
74. To safeguard the amenity of nearby occupiers it is necessary to control the use of impact pile drivers on the site and so I have included Condition 16.
75. The Council have suggested other conditions, the need for which is disputed by the appellants.
76. In regard to a condition suggested by the Council requiring the submission of a Verification Report pertaining to the surface water drainage system and prepared by a suitably competent person, whilst the matters within such a report are largely covered within the Building Regulations, these do not secure details of future maintenance of the system to the detail necessary and so, to secure this, I have included Condition 15.
77. The Council have suggested a condition requiring the demonstration that internal and external noise levels are acceptable for the proposed use. However, the appellants consider that the development on a site with a similar existing use suggest that the condition is unnecessary.
78. However, the existing building will be demolished and a new building constructed. The site lies in close proximity to noise-generating uses. It is necessary, in order to ensure that future occupiers would have adequate living conditions, to ensure that the new building can provide these with regard to noise disturbance. I have, therefore, included Condition 17 to this end. I have modified the wording of this condition to reflect that this need is only in regard to internal noise. I have consulted the parties in regard to the proposed wording of the condition and have taken any comments that they have made into account.
79. The Council have suggested a condition requiring that off-site water drainage works be appropriately secured. However, the off-site drainage lies outside of the control of the appellants and so the imposition of such a condition would be unreasonable.

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80. The Council has suggested a condition requiring the provision of Electric Vehicle Charging Points. These are required under the Building Regulations. The Local Highway Authority is concerned that these may not be delivered, as the Building Regulations allow for such charging points to be omitted if costs are prohibitive, whilst no such provision for their omission is made in planning policy.
81. As such, the condition would seem to make a higher requirement than an existing regulatory regime and this would be unreasonable. A case for omission of charging points would need to be made under the Building Regulations regime, in any case. Therefore, a condition to require their provision is unnecessary and would be unreasonable.
82. I have, where necessary, amended the Council's suggested wording for the conditions for clarity and to secure the ongoing provision and maintenance of some features of the development.

Conclusion

83. For the reasons given above the appeal should be allowed.

I A Dyer

INSPECTOR

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SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: -
 - Site Location Plan 20094FV-PL01 Rev P1
 - Site Plan 20094FV-PL02 Rev P1
 - Ground Floor Plan 20094FV-PL03 Rev P1
 - First Floor Plan 20094FV-PL04 Rev P1
 - Second Floor Plan 20094FV-PL05 Rev P1
 - Roof Plan 20094FV-PL06 Rev P1
 - Elevation AA 20094FV-PL07 Rev P1
 - Elevation BB 20094FV-PL08 Rev P1
 - Elevations CD 20094FV-PL09 Rev P1
 - Elevations EG 20094FV-PL10 Rev P1
 - Cottages plans & Elevations 20094FV-PL11 Rev P1
3. The development shall be carried out in accordance with the materials detailed within the materials schedules shown on the plans hereby approved.
4. Prior to the commencement of any above ground works, details of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The hard landscape proposals shall include hard surfacing/paving materials. The soft landscaping details shall include schedules of plants noting species, plant sizes and proposed numbers/densities.

The approved landscaping scheme shall be carried out fully prior to the first occupation of any of the apartments hereby approved. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
5. No development beyond the construction of foundations shall take place until details of all screen and boundary walls, fences and any other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented.
6. Each unit of the development hereby permitted shall be occupied only by: -
 - i. a person aged 60 or older;
 - ii. persons living as part of a single household with the above person (i); or

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- iii. persons aged 55 or older who were living as part of a single household with the above person (i) who has since died.
7. Prior to the commencement of construction works, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Plan and BS:5228 Code of Practice for Noise Vibration Control on Construction and Open Sites 2009 (as amended) (or any subsequent revision).
- The CEMP shall include: -
- i. An indicative programme for carrying out the works, including the sequence of construction;
 - ii. Measures to minimise the production of dust on the site;
 - iii. Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery;
 - iv. Measures to reduce transport related air pollution from the development during construction;
 - v. Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site;
 - vi. Management of traffic visiting the site including temporary parking or holding areas;
 - vii. Provision of off road parking for site operatives;
 - viii. Measures to prevent the transfer of mud and extraneous material onto the public highway;
 - ix. Measures to manage the production of waste;
 - x. Measures to minimise the potential for pollution of groundwater and surface water;
 - xi. The location and design of site offices and storage compounds; and
 - xii. The arrangements for public consultation and liaison during the construction works.
8. No external lighting shall be installed until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The lighting shall be installed, maintained and operated in accordance with the approved scheme.

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9. Prior to the first occupation of the dwellings hereby approved, the measures required to achieve the identified energy efficiency and energy generation for those apartments that are detailed within the Energy Statement (Rev B, Dated December 2024) that was submitted with the application shall be installed. Subsequently these measures shall be retained at all times.
10. The parking spaces shown on plan 20094FV_PL02 hereby approved shall be provided prior to the first occupation of any part of the development hereby approved. The parking spaces shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and reenacting that Order), shall be carried out within the parking spaces or in such a position as to preclude the use of such facilities.
11. The cycle parking and buggy storage facilities shown on plan 20094FV-PL02 shall be provided for prior to the first occupation of any part of the development hereby approved.
12. The refuse storage facilities as shown on the submitted plans (Drawing number: 20094FV_PL02) shall be provided prior to the use of the development hereby approved and retained at all times thereafter.
13. If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include: -
 - a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology;
 - b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site;
 - c) If no contamination has been discovered during the build, then evidence (e.g., photos or letters from site manager) to show that no contamination was discovered should be included.
14. Development other than demolition shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment prepared by AWP dated 13 December 2024. The submitted scheme shall demonstrate compliance with the required technical standards at the time of submission and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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The detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths can be accommodated and disposed of without increase to flood risk on or off site. The drainage scheme shall also demonstrate (with reference to published guidance): -

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

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

15. No building of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed. The drainage system shall be maintained in accordance with that operation and maintenance manual thereafter.
16. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times:- Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the LPA.
17. Prior to any works above ground, a scheme to demonstrate that the internal noise levels within the residential units and internal relevant amenity areas will conform to the standard identified by the current version of BS8233 2014 - Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation and thermal comfort for future occupants. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

END OF CONDITIONS