

Agenda

Planning Committee Meeting

Date: Thursday, 2 April 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 = 5

Pages

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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 March 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 1 April 2026.

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8.	Part 5 applications	129 - 150
	Decisions by County Council and Secretary of State, reported for information.	

Issued on Tuesday, 24 March 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

2nd April 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 – 2nd April 2026

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- **Deferred Items**
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PART 1

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PART 2

2.1 25/501495/OUT FAVERSHAM Land At Perry Court

2.2 25/502451/FULL HARTLIP New Acres Spade Lane

PART 5

5.1 24/503866/OUT MINSTER-ON-SEA Land North of Nelson Avenue

5.2 22/500755/CHANGE DUNKIRK Land East to Courtenay House

5.3 25/501769/FULL EASTLING Orchard View, Eastling Road

5.4 22/500744/CHANGE BOBBING Land known as Pigeon Farm Sheppey Way

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PLANNING COMMITTEE – 2nd April 2026

PART 1

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

Item No – 1.1		
PROPOSAL – Make an Article 4(1) Direction in relation to the permitted development right set out within Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) insofar as it permits the change of use of a building from use falling within Use Class C3 (dwellinghouses) to a use falling within Use Class C4 (Houses in Multiple Occupation).		
RECOMMENDATION – It is recommended that the Planning Committee determines whether an Article 4(1) direction is made in respect of the permitted development right set out within Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) insofar as it permits the change of use of a building from use falling within Use Class C3 (dwellinghouses) to a use falling within Use Class C4 (Houses in Multiple Occupation). If it is determined that an Article 4(1) direction should be made, the Planning Committee should consider a) whether the necessary provisions are taken for the Direction to be made on an immediate basis as opposed to a non-immediate basis and b) whether the Direction should be made on a Borough wide or more localised basis. In the event that it is determined that an Article 4(1) direction should be made, delegated authority shall be given to the Head of Planning and/or Head of Legal to take all steps required to make the direction.		
REASON FOR REFERRAL TO COMMITTEE – Section 2.4.4.2 of the Swale Borough Council Constitution states that the Planning Committee shall have responsibility for making decisions under the Town and Country Planning Act 1990 (as amended) and Planning (Listed Buildings and Conservation Areas) Act 1990, including (at xiii) to resolve to make an Article 4 Direction.		
Case Officer – Ian Harrison		
WARD All	PARISH/TOWN COUNCIL All	
BACKGROUND PAPERS AND INFORMATION: Agenda item - Motion - Management and Regulation of HMO's in Swale		

Census Data - <https://www.ons.gov.uk/>
[Swale Borough Council Housing Market Assessment](#)

1. BACKGROUND TO PROPOSAL

1.1. At a full meeting of the Council on 1st October 2025, a motion was presented that was titled “*Management and Regulation of HMOs in Swale*”. A summary of the resolution is set out below. In this regard the Council noted:

- The allowances of permitted development rights and the implications for the ability to control HMOs.
- That HMOs are a valuable element of the housing supply, but that they can have significant impacts on local amenity, including increased parking demand, refuse generation, local infrastructure and public services impacts, housing balance effects and changes to the character of residential areas.
- That unregulated or concentrated growth of HMO’s in specific neighbourhoods may lead to a lack of available properties for families and single occupiers.
- That several local authorities across England have implemented Article 4(1) Directions to require planning consent for all new HMO’s, thereby allowing for better local oversight and policy application.
- Article 4(1) Directions can either be non-immediate or immediate.

1.2. This Council therefore resolved (at point 2.2 of the resolution) to refer the matter to the relevant Committee to develop a Supplementary Planning Document (SPD). At points 2.1 and 2.3, the Council resolved to:

2.1. *Commence the process of introducing a borough-wide Immediate Article 4 Direction under the Town and Country (General Permitted Development) (England) Order 2015 to remove the permitted development right allowing the conversion of a dwelling house (Use Class C3) into an HMO for up to six residents (Use Class C4), where the following types of property will be among those most likely to be classed as an HMO:*

- 2.1.1. *an entire house or flat which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet*
- 2.1.2. *a house or flat which has been converted entirely into bedsits or other non self-contained accommodation and which is let to three or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities*
- 2.1.3. *a converted house which contains one or more flats which are not wholly self [1] contained (i.e. each flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households*

2.1.4. a building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies

2.3. Consult with residents, ward councillors, parish councils, area committees, and other stakeholders to ensure the proposed Article 4 Direction and revised SPD are responsive to community concerns while supporting access to affordable housing.

1.3. Section 2.4.4.2 of the Swale Borough Council Constitution states that the Planning Committee shall have responsibility for making decisions under the Town and Country Planning Act 1990 (as amended) and Planning (Listed Buildings and Conservation Areas) Act 1990, including (at xiii) to resolve to make an Article 4 Direction. This report is, therefore, presented to the Planning Committee to address the resolution of the Motion that is set out above.

1.4. The proposal is that the Planning Committee determines whether an Article 4(1) direction is made in respect of the permitted development right set out within Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) insofar as it permits the change of use of a building from a use falling within Use Class C3 (dwellinghouses) to a use falling within Use Class C4 (Houses in Multiple Occupation).

1.5. If it is determined that an Article 4(1) direction should be made, the Planning Committee should consider a) whether the necessary provisions are taken for the Direction to be made on an immediate basis as opposed to a non-immediate basis and b) whether the Direction should be made on a Borough wide or more localised basis.

1.6. In the event that it is determined that an Article 4(1) direction should be made, delegated authority shall be given to the Head of Planning and/or Head of Legal to make the direction.

2. LEGISLATION

2.1. Section 59 of The Town and Country Planning Act (1990) is primary legislation which allows the Secretary of State to make an order that provides for the granting of planning permission. This is built upon by, amongst others, Section 60 of the Act.

2.2. Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 (The GPDO) is secondary legislation which sets out that, subject to certain defined provisions including that which is set out below, planning permission is granted for the classes of development described as permitted development in Schedule 2 of the GPDO.

2.3. One such ‘permitted development,’ set out at Class L of Part 3 of Schedule 2 of the GPDO is “*development consisting of the change of use of a building:*

- (a) *from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule;*
- (b) *from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.”*

- 2.4. The Motion and the wider understanding of the issue raised is that it is only the development listed at (b) above that is intended to be controlled by the proposed Article 4(1) direction. It is taken that there is no reason to wish to control the change of use of HMOs falling within Use Class C4 to dwellinghouses falling within Use Class C3.
- 2.5. At Article 4(1) of the GPDO it is stated that if the local planning authority is satisfied that it is expedient that development described in any Part, Class or paragraph in Schedule 2 (other than a few exceptions that are not applicable here) should not be carried out unless permission is granted for it on an application, the local planning authority, may make a direction that the permission granted by article 3 does not apply to (a) all or any development of the Part, Class or paragraph in question in an area specified in the direction; or (b) any particular development, falling within that Part, Class or paragraph, which is specified in the direction. It goes on to state that the procedures which must be followed in making, modifying or cancelling any direction made under article 4(1) are set out in Schedule 3 of the GPDO. In summary, this allows for the restriction of permitted development rights, where it is considered expedient to do so, subject to the specified procedures being followed.
- 2.6. Schedule 3 of the GPDO address non-immediate and immediate Article 4(1) directions separately. The Full Council motion makes it clear that the preference is to serve an immediate Article 4(1) direction and as such only the provisions related to that approach are set out below. Officers would be able to provide further details of the non-immediate approach if requested.
- 2.7. Section 2 of Schedule 3 states that the “immediate effect” procedure can apply to developments included within Parts 3 of Schedule 2. It goes on to set out that the procedure can be used where *“the authority consider that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area.”*
- 2.8. Various provisions within Schedule 3(2) apply including a requirement to notify the Secretary of State of the direction on the same day that notice is given under paragraph 1(1). The legislation makes provisions for the Secretary of State to then cancel or modify any Article 4(1) direction that is made.
- 2.9. Section 5 states that *“The direction comes into force in respect of any part of the land within the area to which it relates (a) on the date on which the notice is served in accordance with paragraph 1(1)(c) on the occupier of that part of the land or, if there is no occupier, on the owner; or (b) if paragraph 1(2) applies, on the date on which the notice is first published or displayed in accordance with paragraph 1(1).”*

- 2.10. Section 6 states that *“A direction to which this paragraph applies expires at the end of the period of 6 months beginning with the date on which it comes into force unless confirmed by the local planning authority in accordance with paragraphs 1(9) and (10) before the end of the 6-month period.”* As a result of this, if an immediate Article 4(1) direction is made, the matter will need to return to the Planning Committee in order for the Article 4(1) direction to be confirmed and remain in effect. Further provisions relating to that aspect of the procedure will be set out at the appropriate time. However, it is relevant to note that there are notification requirements at that stage, but no such requirements exist in relation to the making of the Article 4(1) direction.

Other Relevant Legislative Considerations

- 2.11. Section 108 of the Town and Country Planning Act 1990 states that where a planning permission granted by a development order is withdrawn or revoked, if an application is submitted within 12 months of the applicable revocation or withdrawal and planning permission for a development formerly permitted by that order is refused or is granted subject to conditions other than those imposed by that order, Section 107 of the Act shall apply. Section 107 of the Act allows for compensation to be paid where planning permission, which in this case is the planning permission granted by the permitted development right, has been revoked or modified.
- 2.12. However, Section 108 of the Act clarifies the above does not apply if 12 months passes between the making of an order and the withdrawal or revocation of the permitted development coming into effect. This is a difference between the immediate and non-immediate approaches.

Policy Consideration

- 2.13. It is considered relevant to note that paragraph 54 of the NPPF states that the use of Article 4 directions to remove national permitted development rights in scenarios such as those addressed by this report should be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area, be based on robust evidence and apply to the smallest geographical area possible.
- 2.14. Similarly, the Planning Practice Guidance makes it clear at Paragraph 37 of the *when is planning permission required?* Section that an Article 4(1) direction can be used *“provided that there is justification for both its purpose and extent.”* The guidance goes on to state that:
- *“all article 4 directions should be applied in a measured and targeted way. They should be based on robust evidence, and apply to the smallest geographical area possible.”*
 - *“The potential harm that the article 4 direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to a wide area (eg those covering.... the entire area of a local planning authority).”*
- 2.15. Regard has also been had to the 2008 DCLG document titled “Evidence Gathering – Housing in Multiple Occupation and possible planning responses” which pre-dated the

change to permitted development rights and the use classes order that introduced the arrangements that now exist.

3. CONSULTATION AND NOTIFICATION

3.1. No consultation or notification is required prior to the making of an Article 4(1) direction.

3.2. However, as set out above, upon making an Article 4(1) direction, the Council is required to:

- Notify the Secretary of State of the direction on the same day that notice is given by way of local advertisement.
- Give notice of the Article 4(1) direction by way of local advertisement.
- Give notice of the Article 4(1) direction by way of site notice at no fewer than 2 locations within the area to which the direction relates.
- Give notice of the Article 4(1) direction to Kent County Council.

3.3. In some instances, there is an additional requirement to serve notice of the Article 4(1) direction on every owner and occupier within the area. However, this requirement is waived where *“the number of owners or occupiers within the area to which the direction relates makes individual service impracticable.”* There are other options available to the Council to publicise the Article 4(1) direction as a matter of good practice which can occur, but it is not considered that it would be practicable to serve notice on every owner and occupier of land in the Borough and, therefore, the waiver is considered applicable.

3.4. It is noted that the Council Motion requires that the Council *“Consult with residents, ward councillors, parish councils, area committees, and other stakeholders to ensure the proposed Article 4 Direction and revised SPD are responsive to community concerns while supporting access to affordable housing.”* In this regard, it is considered that there is appropriate scope to undertake this consultation following the making of an Article 4(1) Direction and its subsequent confirmation (or otherwise) by the Council which would be required to occur within 6 months of the making of the Article 4(1) Direction.

3.5. If the non-immediate procedure was followed, comparable notification would be required.

4. ASSESSMENT

Existing and Increasing HMO Stock

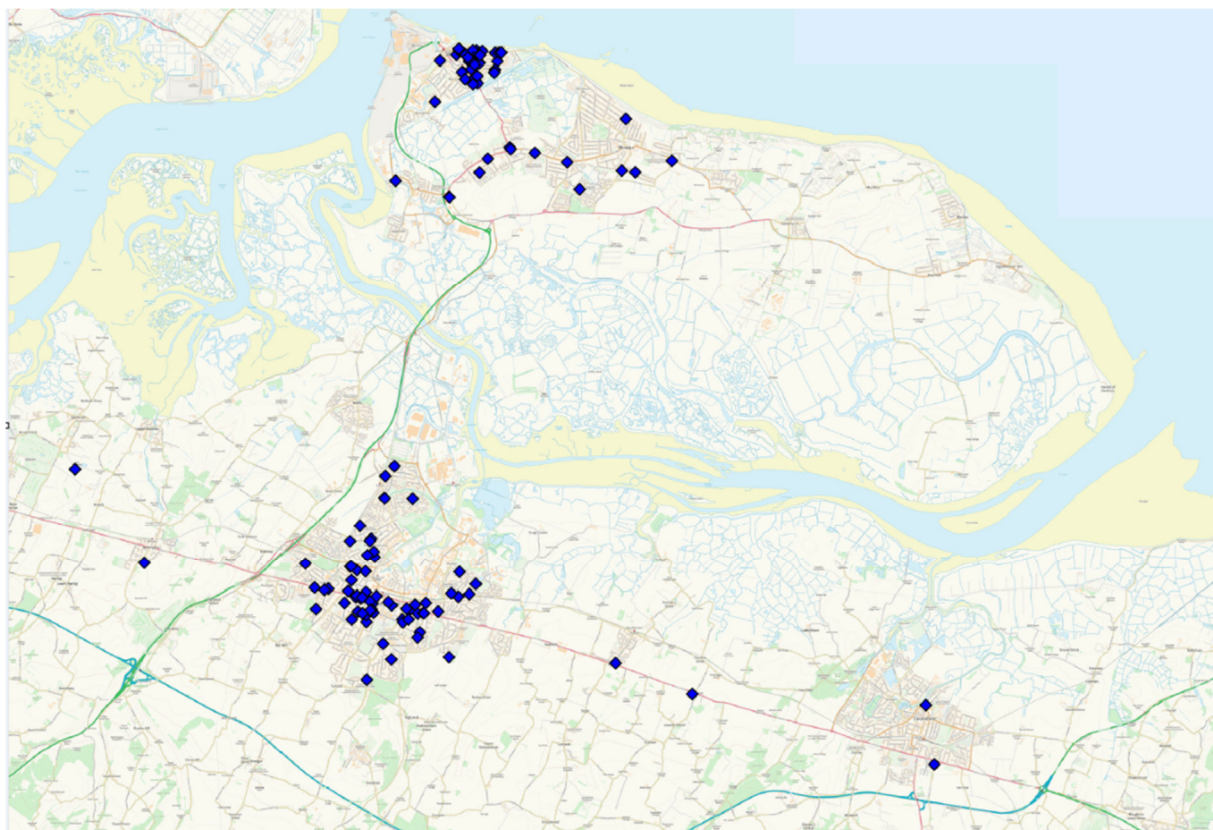
4.1. Identifying the existing HMO stock with reliance solely on planning records is problematic given that, as set out above, many can be formed without needing planning permission and without recourse to the Council's Planning Service. In short, many could have been created without the Planning Service knowing, especially where there are a lower number of residents that might not attract the same amount of attention as larger HMOs. Notwithstanding this, the Council's planning application, local plan monitoring and planning enforcement records have been reviewed and this

has enabled several HMOs to be identified. Other Council records have also been utilised to identify HMOs including the HMO License Register and Council Tax records.

- 4.2. Research undertaken as part of the preparation of the Draft HMO SPD in February 2026 indicates that at that time there were 126 HMOs known to be within the Swale Borough. On a ward level, the 126 HMOs that have been identified are broken down as follows:

Abbey	1	Milton Regis	8	Sheppey Central	5
Borden and Grove Park	6	Minster Cliffs	1	Teynham and Lysted	2
Chalkwell	12	Murston	4	Watling	1
Hartlip, Newington and Upchurch	2	Queenborough & Halfway	8	Woodstock	3
Homewood	15	Roman	16		
Kemsley	3	Sheerness	39	TOTAL	126

- 4.3. Evidence sourced from the Office for National Statistics (ONS) indicates that when the 2021 Census was undertaken, there were 61 Small HMOs and 14 Large HMOs in the Swale Borough. In total there were, therefore, 75 HMOs.
- 4.4. The existence of 126 HMOs at the recent point when an assessment was made would represent an increase of 51 HMOs in a period of less than 5 years, this amounts to a 68% increase. Excluding applications for the enlargement of an existing HMO, 8 planning applications for new HMOs appear to have been received in that time and so, it appears that most of those 51 HMOs would have been created without the need to obtain planning permission, through the use of permitted development rights. It is noted that some might have needed planning permission but been undertaken without such permission, which could be the subject of enforcement investigations and, as such, the number cited above should be taken as an approximate figure rather than definitive.
- 4.5. For reference, the location of known HMOs in the Borough is shown in the following: (Map on next page)



Effects of HMOs

- 4.6. The Motion for Full Council and the debate of that motion identified the following potential impacts of HMOs:
- Impacts on local amenity
 - Increased parking demand
 - Refuse generation
 - Impacts on local infrastructure and public services
 - Impacts on housing balance and changes to the character of residential areas
 - A reduction of the supply of properties for families and single occupiers
 - Poor living conditions for occupiers
- 4.7. The Motion acknowledged that there are benefits arising from the existence and provision of HMOs and these will also be explored below.
- 4.8. A feature of the conversion of dwellings (falling within Use Class C3) to HMOs is that they are no longer used as dwellings. In many instances, the properties that are attractive for conversion would currently have 2 to 5 bedrooms, with perhaps a living room or two and other such habitable space. This is the type of accommodation that might conventionally be expected to be occupied, in the majority of cases but not all, by families. A reconfiguration to a HMO would, therefore, reduce the housing stock of dwellings available to families.
- 4.9. The Council's Housing Market Assessment (HMA) identifies that the most needed accommodation within the Swale Borough is three bedroom housing. As a result,

developments that reduce the availability of that housing would work against the needs of the Borough.

- 4.10. In respect of owner-occupied housing, table 4.5 of the HMA identified that the greatest requirement was for 3 bedroom housing (20,776) and that this would increase to 25,030 dwellings by 2038. This was the greatest increased requirement identified (41%) of the differing house types. A 34.6 % increase was required in relation to two bedroom housing (from 9,120) and a 17.5% increase was identified to be required (from 11,416) for four bedroom dwellings. It is considered that this demonstrates that the highest requirement for owner-occupiers within the Borough is, and will continue to be, for three bedroom housing (both in terms of the overall number and the increasing requirement moving forward). For context, 715 additional one bedroom properties were identified to be required and 4,255 three bedroom houses were identified to be required.
- 4.11. In respect of private rented accommodation, table 4.6 of the HMA identified that the greatest requirement was for two and three bedroom accommodation (4,694 and 4,843 dwellings) in 2022 but the greatest increase of requirements was identified in respect of three bedroom accommodation (a 34.9% increase) and four bedroom housing (a 28.7% increase) by 2038. Again, for context, the increase required for three and four bedroom properties was 639 and 524 respectively, compared to 323 one bedroom properties and 343 two bedroom properties.
- 4.12. From this basis and as set out above, it is considered that the greatest requirement for housing, across non-affordable housing tenures, is for three bedroom housing. It is considered that housing of that size range is amongst the most likely to be converted to form small HMOs falling within Use Class C4.
- 4.13. In terms of broader demographics, there is a fairly even split of projected households within the Borough across one person households, couples with children and couples with no children (28.5%, 28% and 26.4%). By 2038, the household make-ups are forecast to be 29.5%, 27.6% and 24.9% within those categories, indicating no greater increases of any specific category of household. One person accommodation can take various forms, perhaps including accommodation within HMOs. Overall, this element of the evidence suggests that the household make-up is not materially greater for any one type than any other. As such, the demographic changes of the area do indicate that three and four bedroom properties will remain needed and that there is grounds to protect them from conversion to HMOs.
- 4.14. In terms of refuse storage, the Council's refuse collection arrangements operate in the same way for dwellings as they do for smaller HMOs falling within Use Class C4. There are no additional refuse storage provisions and, whilst it is noted that there is a perception that refuse storage facilities are not kept in the same way, it is not considered that this could be proven as there are just as likely to be persons in dwellings (Use Class C3) that do not store their waste in a neighbourly manner as there is in smaller HMOs.
- 4.15. Similarly, whilst there would be more adults at a site, it is not considered that the overall population of an area would increase as a result of the provision of small HMOs, which are limited to 6 residents, to an extent that there would be an undue impact on

infrastructure such as medical services. In this regard, it is noted that extra bedrooms would likely be created within a HMO but, even if a three bedroom dwelling was converted to a 6 person HMO, noting that the average occupation of a three bedroom dwellings is likely to be in the region of 4 persons, the net increase in population would be limited. Compared to occupation by a family with children of school age, there is almost certainly a reduction of demand for primary and secondary education services.

- 4.16. The minutes of The Motion highlight that a perception exists that there is a connection between HMOs and anti-social behaviour or crime. Utilising crime report statistics from the Kent Police website (covering a period from February 2025 to January 2026) it is noted that there is a loose correlation between the wards where the most HMOs are known to exist and the wards with the most crimes reported. This is not considered to demonstrate a statistically significant link between the two factors as it is noted that there will be many variables. Notwithstanding this, the evidence identified is presented below:

	Abbey	Bobbing, Iwade & Lower Halstow	Borden & Grove Park	Boughton and Courtenay	Chalkwell	East Downs
Crimes Reported	714	381	440	291	1271	116
Crime Report Rank	9	19	16	20	3	24
Existing HMOs	1	0	6	0	12	0
HMOs Rank	14	15	7	15	4	15
	Hartlip, Newington & Upchurch	Homewood	Kemsley	Milton Regis	Minster	Murston
Crimes Reported	428	684	438	825	509	795
Crime Report Rank	18	10	17	5	14	6
Existing HMOs	2	15	3	8	1	4
HMOs Rank	12	3	10	5	14	9
	Priory	Queenborough & Halfway	Roman	Sheerness	Sheppey Central	Sheppey East
Crimes Reported	482	951	785	2621	761	1402
Crime Report Rank	15	4	7	1	8	2
Existing HMOs	0	8	16	39	5	0
HMOs Rank	15	5	2	1	8	15
	St Ann's	Teynham and Lysted	The Meads	Watling	West Downs	Woodstock
Crimes Reported	574	548	277	596	226	241
Crime Report Rank	12	13	21	11	23	22
Existing HMOs	0	2	0	1	0	3
HMOs Rank	15	12	15	14	15	10

- 4.17. Anti-social behaviour records for January 2026 were available from the same source, showing no particular correlation between HMO numbers and reports of anti-social

behaviour, albeit Sheerness and Chalkwell wards again appear in the three wards with the highest number of reports of anti-social behaviour.

- 4.18. In terms of the adequacy of living conditions for occupiers of HMOs, it is noted that certain HMOs require a licence and elements of the living conditions of occupiers are addressed within that regime. However, there could be circumstances where neither planning permission nor a licence are required and, in that circumstance a development would have the ability to provide standards of a lower quality.
- 4.19. In terms of increases of parking demand, it is inevitable that there would be more adults occupying any particular building and, as such, there is a greater likelihood of persons being able to own a car.
- 4.20. Census data from the 2021 Census indicates that there were 11,119 private rented properties in the Swale Borough. HMOs align closest with this type of property.
- 4.21. Within that, 4,646 of the properties had just one usual resident aged 17 years or over. It is considered that this figure is relevant as most HMO rooms are occupied on a single adult basis and where there are more, this is likely to be balanced out with periods of under-occupancy elsewhere as not all properties are occupied at all times.
- 4.22. Within those properties, 1793 had no access to a car, 2571 had access to a car and 282 had access to two or more cars.
- 4.23. Using that data and proceeding on the basis that the two or more category would most likely be not more than two cars in the majority of cases, it can be assumed that the 4,646 persons renting privately in the Swale Borough led to car ownership amounting to approximately 3,135 cars. This amounts to a car ownership rate of 0.67 cars per person living alone.
- 4.24. More broadly, again based on the 2021 Census, of the 15,957 one-person households within the Swale Borough, 5,871 had no access to a car, 8866 had access to one car, 961 had access to two and 259 had access to 3. That equates to a total of 11,565 cars which amounts to an average of 0.72 cars per person living alone.
- 4.25. Expanding this data to a small HMO which could accommodate 6 persons, this could derive a parking demand of approximately 4 cars. Consequently, there would be an uplift relative to the amount of parking that would be required to be provided for a dwelling of comparable size having regard to the Council's adopted parking standards. Noting the spread of existing HMOs and their accumulation in areas of generally more close-knit housing, it is considered that most parking would occur on-street and within areas where parking availability is already limited, either through restrictions or existing stresses.
- 4.26. In terms of beneficial effects of HMO stock, it is noted that they provide accommodation for, mostly, single persons, who might not have the means to afford other private rented accommodation.
- 4.27. The increase in the number of HMOs is likely to correlate to a demand for HMOs which is understandable in light of the issues that exist around the cost of accommodation,

throughout society. HMOs are not likely to fall within the definition of “Affordable Housing” in the context of the recognised definitions. However, they are a cheaper form of accommodation and, in the context that the Council has declared an “Affordable Housing Emergency” it is considered that it is appropriate to note that there is a Council acknowledgement that insufficient affordable housing exists and, by extension of that, there is likely to be a demand for accommodation to meet the needs of those with a lower budget that is not able to be met by affordable or market housing.

Benefits of an Article 4(1) Direction

- 4.28. Fundamentally, the making of an Article 4(1) direction would align with the Motion of Full Council and represent the democratic function of the Council following its course.
- 4.29. A further benefit is that the Council would be able to have greater control over the creation of HMOs. By requiring planning permission for the future creation of any HMOs falling within Use Class C4, the existing control that exists for larger HMOs (with more than 6 residents) would be applied to HMOs with 6 or fewer residents. Benefits of this include:
- The ability to control the concentration of HMOs within specific areas.
 - The ability to ensure that adequate parking is available to serve the residents of HMOs to ensure compatibility with any existing on-street parking provision or avoid the unacceptable worsening of any existing situations where parking stress occurs.
 - The ability to ensure that smaller HMOs (which might not need a licence) feature the same minimum room sizes in respect of kitchen and bedrooms that currently only apply to HMOs that require a licence.
- 4.30. As with any restriction on development, it creates a greater likelihood that the status quo would exist either for a longer period or into the future. This could be perceived as a benefit where the existing character of an area, the living conditions of neighbouring residents and availability of parking is considered to be acceptable or preferable to any alternative situation that might include HMO provision.
- 4.31. A matter for consideration is whether any Article 4(1) direction is made on an immediate or non-immediate basis. A benefit of an immediate direction is, clearly, that it comes into effect immediately and avoids a year long ‘rush’ for persons to introduce smaller HMOs within the window where planning permission is not required to do so.
- 4.32. A benefit of a non-immediate direction is that there would be a reduced risk of compensation being sought within the first year after the making of the direction by any persons who consider that the provisions set out at Section 107 and 108 are applicable. The issue of potential compensation claims and liabilities is discussed in further detail at 2.11 and 2.12 above.

Risks of an Article 4(1) Direction

- 4.33. A risk could be that the making of an Article 4(1) direction could be subject to challenge. As highlighted at paragraph 2.12 above, the NPPF indicates that Article 4(1) directions should only be used where necessary to protect local amenity or the

well-being of the area, where they are based on robust evidence and subject to them being applied to the smallest geographical area possible.

- 4.34. Moreover, at paragraph 2.6 above, it is highlighted that the relevant test for the use of immediate directions should be where “*the authority consider that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area*”.
- 4.35. A decision to make an Article 4(1) direction could potentially be challenged if it is considered that the direction does not meet these tests. Similarly, if any procedural requirement is not met, there would be a risk of challenge.
- 4.36. A risk could arise from the ability of the Secretary of State to choose to modify or cancel any direction made by a Local Planning Authority. This would alter or remove the direction and cause any costs incurred as a result of making the direction (including the cost associated with the time of those involved) to have been abortive.
- 4.37. Conversely to the abovementioned benefit relating to the retention of an existing stock of dwellings falling within Use Class C3 and related to the commentary provided above about the beneficial effect of providing HMOs (i.e. that they meet the needs of those who might not be able to afford or wish to pay more expensive accommodation). A risk would be that serving a direction would reduce the potential to increase the provision of HMO accommodation, limiting the ability to meet a need and potentially increasing rental costs due to a limit on supply.
- 4.38. The above provided commentary in relation to the making of an immediate or non-immediate Article 4(1) direction is applicable in reverse in relation to the risks that would exist. In short, the risk of an immediate direction would be the liability of the Council to any compensation claims made under Sections 107 and 108 of the Act. However, a risk from the non-immediate approach would be that there would be a year long period where HMOs could be introduced under the terms of permitted development rights, possibly with the less desirable effects that have been assessed above being experienced.

5. OPTIONS

- 5.1. Drawing from the above, it is considered that the Planning Committee has several options comprising the following:
 - A. An Article 4(1) direction can be made that would have Immediate Effect or a “Non-Immediate” direction can be made that would come into effect in 12 months time.
 - B. An Article 4(1) direction can be made that would have effect throughout the Borough or specific parts of the Borough.
 - C. A combination approach could be taken where an Article 4(1) direction is made that has immediate effect for part of the Borough and a further Article 4(1) direction is made that does not immediately come into effect for the remainder of the Borough.

- D. The Planning Committee could choose to not make any Article 4(1) direction.
- E. The Planning Committee could defer the matter to enable any aspect to be explored further and/or addressed in more detail if it is considered that any of the tests set out above are not met.

6. RECOMMENDATION

- 6.1. It is recommended that the Planning Committee determines whether an Article 4(1) direction is made in respect of the permitted development right set out within Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) insofar as it permits the change of use of a building from use falling within Use Class C3 (dwellinghouses) to a use falling within Use Class C4 (Houses in Multiple Occupation).
- 6.2. If it is determined that an Article 4(1) direction should be made, the Planning Committee should consider a) whether the necessary provisions are taken for the Direction to be made on an immediate basis as opposed to a non-immediate basis and b) whether the Direction should be made on a Borough wide or more localised basis.
- 6.3. In the event that it is determined that an Article 4(1) direction should be made, delegated authority shall be given to the Head of Planning and/or Head of Legal to take all steps required to make the direction.

7. IMPLICATIONS

Issue	Implications
Corporate Plan	The making of an Article 4(1) direction would have implications for the following Corporate Plan priorities: • Community • Economy • Environment • Health and housing • Running the Council
Financial, Resource and Property	There are financial and resource implications associated with preparing and making an Article 4(1) direction, undertaking public consultation in relation to it and as a result of due process. This is within the base budget. A financial risk could arise from persons making claims under Sections 107 and 108 of the Town and Country Planning Act 1990 as a result of any implications occurring within the first year following the 'planning permission' that is automatically granted by Development Order being revoked. No public examples of this have been identified and so the likelihood and cost risk is

	unknown. It could address any circumstance where a condition of planning permission causes an applicant to incur additional costs or any financial effects arising from the refusal of a planning application.
Legal, Statutory and Procurement	The preparation and making of an Article 4(1) direction would be carried out under a national legislative and regulatory framework. There would be resource requirements within the Council's legal service as a result of the formal making of the Direction.
Crime and Disorder	As set out in the body of this report, there is a perception of a link between the existence of HMOs and anti-social behaviour and crime. Although it is unlikely that a subsequent planning application could be refused on the grounds of potential events of crime or anti-social behaviour, a control could have an effect on these matters if the perception is accurate.
Environment and Climate/Ecological Emergency	There are no environment and climate/ecological emergency impacts arising from this decision.
Health and Wellbeing	There are no direct health and wellbeing impacts arising from this decision. However, an Article 4(1) direction could result in more control being had over HMO development which would give greater scope to control the provision of adequate living conditions for future occupiers and the environment and living conditions of existing residents.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	As set out above, there is a potential financial risk from compensation claims made under Section 107 and 108 of the Town and Country Planning Act 1990. There is a risk of work being abortive if an Article 4(1) direction is challenged or altered/withdrawn by the Secretary of State.
Equality and Diversity	None at this stage.
Privacy and Data Protection	None at this stage.
Local Government Reorganisation	There could be an issue around controls in the existing Swale Borough not aligning with controls that exist in other parts of any future Authority.

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PLANNING COMMITTEE – 2nd April 2026

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 25/501495/OUT		
PROPOSAL - Outline application (with all matters reserved except access into the site) for residential development (Use Class C3) including dwellinghouses and extra care accommodation; 1.2 hectares of land for commercial, business and service uses (use class E(b), (c)(i,ii,iii), (f), (g) and hot food restaurant for consumption on and off premises including drive through restaurant (use class sui generis); electric vehicle charging infrastructure (sui generis); access onto Ashford Road, noise attenuation mitigation, landscaping, open space, drainage, and other associated infrastructure.		
SITE LOCATION - Land At Perry Court London Road Faversham Kent ME13 8YA		
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 – Outline		
REASON FOR REFERRAL TO COMMITTEE The recommendation of Officers is contrary to the objection of Faversham Town Council and the Town Council has requested that the application be presented to the Planning Committee in that scenario.		
Case Officer – Andrew Gambrill		
WARD Watling	PARISH/TOWN COUNCIL Faversham	APPLICANT Hallam Land AGENT LRM Planning Ltd.
DATE REGISTERED – 20/05/2025		TARGET DATE – 08.04.2026
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=SUEO5KTYFUC00>

1. SITE LOCATION AND DESCRIPTION

- 1.1. The site comprises a roughly 7.24 ha site to the south of the existing Perry Court estate, which is allocated under Policy MU7 for a mix of development, including a minimum of 370 dwellings (including care home) and 18,525sqm of B1 (now E(g) floorspace). The site is bound by the M2 to the south, residential development and the Aldi supermarket to the north, Ashford Road/the A251 to the east and open space to the west (including allotments).
- 1.2. Mature trees border the site to east, with vegetation also present along the southern edge of the site alongside the M2. The site is currently in an agricultural use and comprises no built development. The site is relatively flat near to the A251 but the topography declines heading west.
- 1.3. To the immediate south of the M2 lies an Area of High Landscape Value (Kent Level), with the Kent Downs National Landscape circa 800m to the south and south west of the site. The site is therefore not within any designated landscape but falls within the Faversham and Ospringe Fruit Belt Landscape Character Area (LCA) as defined by the Swale Landscape Character and Biodiversity Appraisal 2011. PRoW ZF18 is located just to the west of the site and provides connection to London Road to the north and Brogdale Road to the west. The site does not comprise any Flood Zone 2 or 3, but parts of the site along the southern and eastern edge, as well as a small pocket to the north west are identified on EA flood maps as at a medium/high risk of surface water flooding.
- 1.4. The site was previously known as 'Plot E' under the grant of planning permission 15/504264/OUT and was earmarked for employment.

2. PLANNING HISTORY

- 2.1. SW/14/0015 - Outline application (with some matters reserved other than access into the site) for a mixed use development comprising: up to 315 dwellings; 11,875sqm of B1a (offices) floorspace; 3,800sqm of B1b (research and development) floorspace; 2,850sqm of B1c (Light industrial) floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; internal accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2;

vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure – Refused June 2014

- 2.2. 15/504264/OUT – Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: internal accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2; vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure – Granted March 2017
- 2.3. 17/506603/REM - Approval of reserved matters relating to scale, layout, appearance and landscaping for the erection of 310 dwellings, pursuant to conditions 1, 4, 10 and 24 of outline planning permission 15/504264/OUT. Approval sought for residential part of outline scheme only – Granted March 2019
- 2.4. 18/503057/FULL - Erection of a 3 storey, 66 bed care home for older people with associated access, car park and landscaping – Granted October 2019
- 2.5. 18/502735/FULL - Erection of a new supermarket (Use Class A1) and a hotel (Use Class C1) along with associated accesses, car and cycling parking, lighting, drainage, hard and soft landscaping and associated infrastructure – Granted February 2020
- 2.6. 20/501936/FULL - Erection of a retail terrace (Classes A1, A2, A3, A5 and D1) – Withdrawn June 2021

3. PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission with all matters reserved (except for the access into the site). Permission is sought for up to:
 - 100 dwelling units (Use Class C3), unless extra care unit accommodation is submitted as part of any future reserved matters application. In which case, the quantum of development shall be limited to 80 dwelling units and 60 extra care units (Use Class C3). The uses all fall within Use Class C3 as per the description, so can be considered under this one application.

A total of 1.2 hectares of non-residential commercial and business uses (totalling up to 4,800sqm of floorspace) is also proposed, comprising;

- Up to 4,800sqm of office, research and light industrial uses (E(g)(i, ii and iii));

- No more than 500sqm of restaurant/drive-thru uses (Use Class E(b)/Sui Generis);
- No more than 850sqm of creche, day nursery or day centre uses (not including a residential use) (Use Class E(f));
- No more than 2000sqm of professional/financial service uses (Use Class E(c)(i, ii and iii); and,
- 16 Electric Vehicle (EV) charging bays (Sui Generis) as a standalone use not specifically associated with any of the uses described above.

- 3.2. As per the Design and Access Statement submitted with the application, development on the site is anticipated to be between two and three storeys in height across the site with the site split into four different character areas.
- 3.3. A noise mitigating bund and acoustic fence of a combined 5.5m in height is proposed along the southern boundary of the site in order to mitigate the noise arising from the surrounding road network on future occupiers. Other supporting infrastructure, such as open space and drainage ponds are incorporated within the submitted Development Framework Plan.
- 3.4. Access into the site would be via Tettenhall Way where an existing access into the site already exists. A footpath would be provided along the eastern edge of the access, tying into the footpath already in situ on Tettenhall Way which would then lead to Ashford Road, with all of that route shown within the site.
- 3.5. With regards to Environmental Impact Assessment, the development falls within the description at paragraph 10(b) of Schedule 2 to the 2017 EIA Regulations, and is located near the Kent Downs National Landscape and the Swale SSSI/SPA/Ramsar. The inclusion of a proposal within Schedule 2 does not in of itself mean that an EIA is required, merely that the development may be of a significant environmental impact or size that could require an EIA to be undertaken. As per the ES Note submitted alongside the application, the proposals would have broadly comparable environmental effects to those already recognised in the extant ES submitted alongside the originally permitted application, 15/504264/OUT. Given this and that much of the development consented on the site has already been carried out, the environmental impacts of the site as a whole are known and understood. The proposals can therefore be considered under normal planning procedure, with relevant information set out in suitable assessments supporting the planning application. No Environmental Statement has therefore been requested in support of this application. This reflects a similar approach to that taken by the Secretary of State under 18/500815/ENVSCR.

4. REPRESENTATIONS

- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers. Site 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. During the first round seven letters of representation objecting to the proposal were received. Following receipt of further information and amendments to the description, one letter of representation objecting to the proposal was received in relation to the second consultation. Concerns/comments were raised in relation to the following matters:
- 4.3.

First Round Comments	Report Reference
Overlooking impacts	7.9.2
Impacts on view across fields/visual disturbance/tranquillity	Impact on views is not a material planning consideration. Other matters addressed by 7.6 and 7.9.2
Impacts arising from noise and odour pollution/will bring further noise and pollution to Faversham/air quality impacts from increased traffic	7.9.2; 7.13.7
Will increase vehicular traffic in the area/will cause gridlock/safety concerns around the access and interaction with visitors to the hotel/Aldi	7.12.6 - 7.12.13
Impact on quality of life due to wider Perry Court site being used as a rat run between Brogdale Road/Ashford Road	Comment on existing situation rather than proposal.
Query need for business units when others are empty in the area	7.2.20 – 7.2.33
Query need for fast food chains and restaurants when other locations are better suited, as well as impact on town centre/would take away valuable business from family run cafes and restaurants in the town and attract extra traffic	7.2.26; 7.6.24
Woodland buffer should be incorporated into the residential part of the site rather than between commercial and motorway/the landscaped area shouldn't be behind Aldi but in front of housing	7.6.24

Tettenhall Way suffers from parking by non-residents and there are issues of safety for residents and young children/no discussion of entrance into site or crossings available	7.12.11; 7.12.14
No mention regarding the hours of business proposed	7.9.3 – 7.9.4
Noise survey has been carried out but takes no account of wind direction or air density	7.9.4; 7.9.7 – 7.9.9
Odours from refuse and cooking can be obtrusive and there is likely to be an increase in litter from commercial uses	7.9.4
Impacts on the light received at neighbouring properties following the development	7.9.4
Impacts on wildlife/biodiversity and land available for recreation	7.11; 7.14.2
Impacts on water supply/pressure	7.15.12
No mention of affordable housing	7.5.4
Impact on services such as GP surgeries and schools	7.19.7
No mention of who the housing is for ie local or further afield	The council are required to meet a housing need, notwithstanding the current living arrangements of future occupants.
Detrimental impact on house prices	Not a relevant planning consideration.
Negative impact on mental health of residents	Noted. As this has been referred to in generic terms, it has not been cited in the context of a characteristic that would require detailed consideration under the PSED.
Impact on foulwater network and existing sewerage system capacity which is already suffering from overload/potential increase for flooding/impacts on sewer network, pumping stations and WWTW arising from inadequate capacity/developer should immediately engage with Southern Water/impact on creek from sewerage/query infrastructure improvements required to sewer network to accommodate development	7.15.10 – 7.15.11

Disagree that the alignment of access remains consistent with the previously approved planning consent	7.12.6
While Class E(g) may fall within the permitted use of access via Tettenhall Way, uses such as a takeaway restaurant or pub-classified as Sui Generis do not	7.2.32 – 7.2.33
Roads are too narrow and the junctions too busy to accommodate heavy delivery traffic safely, efficiently, or in an environmentally sustainable way without a second access point or significant road improvements	7.12.6 - 7.12.13
Nearby fast food outlet would likely become a popular lunch destination, encouraging unhealthy eating habits among students at the Abbey School despite being beyond 400m from the school	7.20.2
Flooding emanates from sewers near to the site and downstream/potential for flooding to arise from development	7.15.10 – 7.15.11

4.4. The objection received in the second round of consultation reiterates comments raised in the first round.

4.5. **Faversham Town Council** object and comment on the application as follows:

First Round Comments	Response
Request that the application is heard by the Planning Committee	Noted.
Land is not zoned for housing in the local plan - lack of employment opportunities is forcing people to commute generating car journeys and train travel	7.2.32 – 7.2.33
No Design and Access has been submitted	This was submitted at the time of the application.
No Drainage Strategy has been submitted - off site discharge of surface water should be no greater than discharge from green field site	This was submitted at the time of application.
Natural England have requested information that the Faversham Town Council would like to see	7.11.1 – 7.11.12
Affordable housing within the site being tenure blind and integral within the development is supported by the Town Council – proposals should provide a mix and split set out in FAV3	7.5.5
Supports the provision of electric vehicle charging within the development including for commercial uses	Noted.

Proposed development should not result in a severe impact on the critical road junctions identified A2 Canterbury Road and A521 Ashford Road	7.12.6 – 7.12.10
The area identified as 'Structural Planting' on the proposed development framework plan adjoins 'green spaces' and 'green linear features' as shown in figure 7 of the Faversham Neighbourhood Plan and 20% BNG should be provided given the site is for major greenfield development	7.11.23
Lack of information on the impact on air quality Tettenhall Way or any information on mitigation	7.13.7 – 7.13.9
Town Council support the provision of mixed-use community facilities including a range of E use classes to support a walkable neighbourhood	Noted.
There is a desire line for pedestrians and potentially cyclists from the development to ZF18 which runs from Brogdale Road through Abbey School which the developer needs to respond to. Further the developer should make S106 contributions to the improvement of the crossing on the A2 and the Cross Town Route (North-South).	7.12.17
Considered the Southern Water comments about statutory area for water supply/wastewater drainage services inaccurate, as they are responsible for sewage in Faversham.	7.15.10 – 7.15.12
The path from Abbey School to Tettenhall is a muddy path, which is well used and not satisfactory.	7.12.20
Second Round Comments	Response
Disappointed that concerns raised by the Town Council's Active Travel Committee have not been addressed. The Ashford Road is an unpleasant place to walk, and improvements are needed to the crossing at Abbey School on the London Road. If the application is successful S106 funds should be used for the installation of a level crossing at this location.	7.12.14 – 7.12.20

- 4.6. **Faversham Town Council Active Travel Committee** comment on the application as follows (in support of the Faversham TC objection):

First Round Comments	Response
The assumption in the application is that pedestrians and cyclists will exit the development onto the A251 Ashford	Noted and discussed in 7.12.17.

Road - a better solution is to exit via ZF18 to the A2 near the Abbey School, where a surface level walking and cycling crossing is planned	
Tettenhall Way is 30mph - with no segregated infrastructure for cycling, this does not meet LTN 1/20 design standard. While it is understood that Tettenhall Way is not part of this application, developer encouraged to press for a 20mph speed limit throughout the site	Noted.
Brookbank TA makes no reference to the Department of Transport Guidance on Cycle Infrastructure Design LTN 1/20 nor to Faversham's Neighbourhood Plan	Noted.
A2 does not form part of SRN – that follows the M2	Noted.
TA takes no account of the policies of FTC, SBC and KCC to achieve a modal shift towards active and sustainable travel from 2.26 onwards	Noted.
References to active travel in 3.1 of TA onwards take no account of the need for suitable infrastructure if those journeys are to be walked or cycled	7.12.14 – 7.12.20
Para 3.9 of TA about Tettenhall Way is incompatible with Manual for Streets and LTN 1/20 and with the DfT guidance on Setting Local Speeds Limits 01/2013, which specifies 20mph as the appropriate speed limit where people and motor vehicles mix	7.12.16
Discusses useability issues with the pedestrian route on Ashford Road, including obstruction by bins, being sprayed by cars in wet weather and no provision for cyclists – comments that active travel to the south of Tettenhall Way is worse	7.12.14; 7.12.16
Paragraph at 3.15 paints a rosy picture of able-bodied pedestrians and cyclists accessing the town centre via the A2. This is not easy without significant improvements to infrastructure. Neither is there any consideration for those who are not able-bodied/active travel to the south of Tettenhall Way is worse	7.12.14 – 7.12.17
ZF18 is KCC's preferred route for walking and cycling. This route should be fully usable by all pedestrians and cyclists throughout the year, through provision of a fully bound surface (currently rolled gravel)	7.12.18 - 7.12.20
Developer should provide a contribution to the proposed surface level crossing of the A2 at the Abbey School	7.12.17
No mention of the new access road planned to the Preston Fields development onto the A251 south of Tettenhall Way. This could provide a useful active travel	7.12.15

link between Perry Court and developments east of Ashford Road	
Request the developer to note that they comply with the DfT's Local Transport note 1/24: Bus User Priority	Noted and would be considered at reserved matters stage.

4.7. **Ospringle Parish Council** comment on the application as follows:

First Round Comments	Response
Acknowledge that the site is outside Ospringle parish but development is likely to have an effect in terms of additional traffic and effect on air quality	7.12; 7.13.6 – 7.13.9
Do not regard the site as greenfield given that it has already been granted outline planning permission several years ago, albeit remaining presently undeveloped	Noted.
Support part of the site being used for care home purposes, either as an extension to the existing nearby facility or as a standalone	Noted.
Strongly oppose a takeaway/drive through restaurant on any part of the site. This would be likely to generate high volumes of traffic, at potentially unsocial hours, and the use would increase litter in the area. It would have the potential to disturb the nearby residential areas	7.12.9; 7.9.3 – 7.9.4
Cautiously support some residential development on the site, but heed (in relation to the housing element as well as the other elements of the application) the comments and caveats in Faversham Town Council's response - a proper allocation of affordable housing should be insisted upon and enforced	7.5.4
Unconvinced by the Transport Assessment as they do not often reflect reality - have concerns about the amount of additional traffic which would use the A251/Tettenhall Way junction and especially the estate access road leading to the site off Tettenhall Way, given the combination of the proposed uses in this application. Intensity of development could be limited, to in turn limit the traffic generation from this site	7.12.8 – 7.12.13
Would wish to see significant developer contribution to cover essential matters such as highway improvements, medical and education facilities, and especially funding for proper affordable housing	7.19

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 subject to conditions relating to contamination investigation and remediation, piling and surface water drainage.
- 5.3. **Mid-Kent Environmental Health** – No objection subject to conditions securing the implementation of necessary noise mitigation, air quality mitigation measures, contamination remediation, a Construction Environmental Management Plan, details of lighting and a scheme and maintenance schedule for the extraction and treatment of fumes and odours associated with any hot food production.
- 5.4. **Kent Fire and Rescue** – Comment that access routes in and around the proposed development must meet the minimum specifications for Fire and Rescue Service vehicles, whilst an emergency access may be required and should be considered as part of the assessment of any full planning application. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority.
- 5.5. **KCC Highways** No objection subject to conditions securing a Construction Management Plan (CMP), provision and retention of parking spaces/cycle parking, completion of relevant highway works between dwelling and road, completion of access road and details of road infrastructure.
- 5.6. **National Highways** – No objection subject to conditions securing details of drainage, a landscaping plan and a Construction Traffic Management Plan.
- 5.7. **KCC Flood and Water Management** – No objection subject to conditions for a surface water drainage strategy, verification reports and any future reserved matters applications being accompanied by detailed drainage assessment to ensure that there are no resultant unacceptable risk to groundwater source protection zones.
- 5.8. **KCC Strategic Development and Place** – Requests contributions towards Primary Education, Secondary Education, SEND, Community Learning and Skills, Integrated Childrens Services, Library, Registrations and Archives Service, Adult Social Care and Waste for dwellings and flats. Requests Community Learning and Skills, Library, Adult Social Care and Waste contributions for any extra care units.
- 5.9. **KCC Ecological Advice Service** – No objections subject to conditions securing details of a Construction Environmental Management Plan, Habitat Management and Monitoring Plan and details of ecological enhancements to be incorporated.
- 5.10. **KCC Minerals and Waste** – Brickearth is present within the site but the county council advise that it can be reasonably concluded that the overall size of the affected deposit

would not be sufficient for any viable prior extraction of the safeguarded minerals. Therefore raise no objection and have no further comments to make.

- 5.11. **KCC Archaeology** – No objection subject to a condition securing an archaeological programme of works.
- 5.12. **KCC Public Rights of Way (PROW)** - A sum of £24,000 is requested to upgrade the existing compacted stone surface on the south eastern section of ZF18 to tarmac, which includes a short link onto Brogdale Road from ZF18 that will improve pedestrian safety when joining/leaving Brogdale Road. This will also improve connectivity to the surrounding Public Right of Way Network.
- 5.13. **SBC Heritage and Design** – No objection from a heritage perspective - there would be no impact on the setting of heritage assets and certainly no greater heritage effects in comparison to the scheme previously granted on the site. In urban design terms, there is no reason to conclude on the basis of the information submitted that an appropriate scheme could not be provided on the site. The Illustrative layout shows the mix of uses proposed could be comfortably accommodated and in a way that could be designed to respond to the characteristics of the site and surrounding context. Provide advice on the illustrative layout that should be considered at reserved matters stage.
- 5.14. **SBC Housing** – Advise that on the basis the extra care accommodation is proposed to come forward as C3 units, 35% of the residential units on the site (extra care and dwellinghouses) should be delivered as affordable housing. KCC will need to be fully consulted in the event of any social care housing being provided to enable appropriate facilities and a suitable referral process to be agreed with the council.
- 5.15. **SBC Tree Officer** – No objection - the layout itself will have little effect on the existing boundary trees subject to conditions securing a detailed tree survey, arboricultural impact assessment, arboricultural method statement and tree protection plan. Suggests tree lined streets should be incorporated throughout the site and the entire southern and western boundaries enhanced with more shelterbelt planting.
- 5.16. **Natural England (NE)** – No objection subject to the necessary contribution towards SAMMS being made.
- 5.17. **NHS** – Request £157,072.70 if 100 dwellings are provided or £157,228.48 if 80 dwellings and 60 extra care units are provided. This contribution would go towards 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. **Active Travel England** – No specific comments to make other than suggesting that standing advice should be considered.
- 5.19. **SBC Active Travel** – There is both a residential and commercial travel plan submitted which is good to see. In order to promote active travel via walking, cycling or wheeling, the site would benefit from the footpaths joining up with the adjacent housing estate if possible. This could potentially reduce walking and/or cycling time to local amenities and public transport. Also note that there is no clear walking/cycling access route out towards Ashford Road and it looks like all cycling and walking modes of travel would need to go via Tettenhall Way. This reduces the permeability of the site and this could be improved if these route were considered.
- 5.20. **Lower Medway Internal Drainage Board (LMIDB)** – No comments to make as it lies outside of their drainage district.
- 5.21. **Southern Water** - The development site is not located within Southern Water's statutory area for water supply/wastewater drainage services. There is insufficient capacity in the foul network, so recommend a condition be applied requiring details of foul drainage prior to commencement. Also recommend that a condition be imposed regarding Trade Effluent Consent in connection with the non-residential uses on the site.
- 5.22. **Kent Police** – Recommend that the site follows SBD guidance to address designing out crime.
- 5.23. **Health and Safety Executive (HSE)** – No objection - HSE does not advise, on safety grounds, against the granting of planning permission in this case. As the proposed development is within the Consultation Distance of a major hazard pipeline, advise that the Local Planning Authority should consider contacting the pipeline operator before deciding the case (Southern Gas Networks).
- 5.24. **Southern Gas Networks** – No comments received.
- 5.25. **UK Power Networks** – Comments that there are overhead cables on the site running within close proximity to the proposed development so prior to commencement of work accurate records should be obtained from UKPN. If any diversion is necessary, should discuss with UKPN customer service. In the instance of overhead cables within the vicinity, All works should be undertaken in line with GS6 guidelines as published by the HSE.
- 5.26. **Kent Downs National Landscape Unit** - Satisfied that based on the submitted Development Framework Plan, there should be no adverse impacts arising to the Kent Downs National Landscape.

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
- ST7 The Faversham area and Kent Downs strategy
- MU7 Perry Court Farm, Faversham
- 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
- DM1 Maintaining and enhancing the vitality and viability of town centres and other areas
- DM2 Proposals for main town centre uses
- 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

DM28 Biodiversity and geological conservation

DM29 Woodland, trees and hedges

DM31 Agricultural land

DM32 Development involving listed buildings

DM34 Scheduled Monuments and archaeological sites

Faversham Neighbourhood Plan (made December 2024)

FAV2 Housing Development

FAV3 Residential Mix and Standards

FAV4 Mobility and Sustainable Transport

FAV5 Critical Road Junctions

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

FAV7 Natural Environment and Landscape

FAV8 Flooding and Surface Water

FAV9 Air Quality

FAV10 Sustainable Design and Character

FAV11 Heritage

FAV12 Community Facilities

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 Downs AONB Management Plan 2021-2026

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
- Agricultural Land
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Archaeology
- Living Conditions
- Trees
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Water Quality
- Contamination
- Sustainability / Energy
- Brickearth
- 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 Swale Borough Local Plan 2017 (the Local Plan) seeks to deliver sustainable development that accords with the settlement strategy for the Borough, with industrial and housing development brought forward on site allocations (policy ST7(1) and (7). Policy ST3 sets out the settlement strategy and directs development to existing defined settlements and allocated sites. Policy ST7 covers the Faversham area and seeks to bring forward industrial development at Local Plan allocations.
- 7.2.6. Policy FAV12 of the Faversham Neighbourhood Plan advises that facilities to support more flexible live/work patterns will be supported in new developments, subject to there being no significant adverse impacts on the amenities of residential properties or on the historic or natural environments.
- 7.2.7. The site itself falls within the mixed use Perry Court allocation under Policy MU7 of the Local Plan. This allocates the overall site for a minimum of 370 dwellings (including care home), together with 18,525 sq. m of B1a, B1b, B1c class employment uses (with a further 2 ha reserved for future employment use), supporting uses and landscaping and open space.
- 7.2.8. A number of applications have come forward on the wider site since 2015. Most notably, permission was granted under 15/504264/OUT for up to 310 dwellings on the wider site, together with 18,525sqm of B1 floorspace and a C2 care home (alongside other uses set out in the planning history section above). Reserved matters were granted for the 310 dwellings under 17/506603/REM, with a separate permission then granted for the 66 bed C2 care home on site (18/503057/FULL). A further permission for a hotel (the current Premier Inn) and the Aldi supermarket on the site was granted under 18/502735/FULL. The introduction of the large scale retail use departed from the allocation, but as a result of the various approvals, the site now comprises a complementary mix of uses broadly in line with the intention of Policy MU7 to deliver a mixed use development. The proposals submitted under the current application would also continue to support the delivery of a mixed use development.
- 7.2.9. The allocation of the site under MU7 is for a minimum of 370 dwellings. Whilst the proposals would result in the number of residential dwellings on site exceeding the

370 referred to in the allocation, this in and of itself would not result in any conflict given the use of the word minimum in the policy. Instead the key consideration in this case is the use of the southern part of the site for purposes other than employment (Use Class B1 now E(g)), reducing the potential for the delivery of 18,525 sq. m of B1 (now E(g)) floorspace.

- 7.2.10. Picture 6.6.1 in the Local Plan provides the development concept for the site, which shows the part of the site subject of this application as an employment area. The permission granted under 15/504264/OUT also earmarked this part of the site for B1 employment uses, which would have supported the delivery of 18,525 sq. m of B1 use in accordance with Policy MU7 of the Local Plan.
- 7.2.11. Whilst the residential dwellings approved under 15/504264/OUT were delivered following approval of 17/506603/REM, no reserved matters applications were submitted for the employment part of the development. The ability to submit reserved matters application for that area (referred to at that time as Plot E) has since lapsed. No further application for employment uses has been submitted for this part of the site since that time.
- 7.2.12. The Local Plan is now more than five years old and is currently in the process of being reviewed. As part of the evidence base for this review, an Employment Land Review (ELR) Update (2023) has been prepared which identifies that there have been major structural changes in employment and business habits since the previous 2018 ELR was produced (largely as a result of Covid). In the context of Perry Court, the ELR 2023 states that the prospects for traditional office on the scale currently envisaged at the site is very unlikely now or at any point over the Plan period.
- 7.2.13. As an alternative, the ELR 2023 considers that the site could be attractive for industrial uses including an element of the hybrid light industrial / office flexible space, but only a quantum to provide for the local walk to work market. Moving forward, the ELR 2023 states that should other options for future growth (to the east and south-east) be taken up then those locations would be likely to better serve the industrial market. It concludes by setting out that the allocation of the site should be reconsidered.
- 7.2.14. In view of the findings of the ELR 2023 that the prospects of delivering offices on the scale originally envisaged at the site is “*very unlikely now or at any point over the Plan period*”, it is considered reasonable to conclude that there is little prospect of an application coming forward for the quantum and type of employment allocated under Policy MU7 of the Local Plan.
- 7.2.15. As part of the justification for an alternative mix of uses, the applicant has submitted a detailed Marketing Summary and Appraisal document. This sets out the dates of marketing, advertising methods used and the interest received between 2017 and 2025. It provides detail on discussions held with interested parties over this period and

the difficulties in securing B1 uses (now E(g)) on the site in accordance with the allocation. It also sets out the interest received for other uses on the site, such as drive-thru uses, a day nursery, senior living and EV charging operators.

- 7.2.16. The marketing document explains that during the entire marketing period (since 2017), only one offer was received by the landowner's agents from an entity who were proposing a scheme comprising a solely B1 / E(g) use conforming to the original outline consent and the current allocation. This offer was selected and scrutinised by the landowner however the offer was ultimately withdrawn.
- 7.2.17. Other than that one entity, the minor amount of interest received from office and other end users during the course of the marketing process was for a small quantum of space. After further investigation, interest was withdrawn by most parties. No interest was received from long-term large-scale end users that would enable viable development of office accommodation to proceed. The marketing established that specialist commercial developers would only have appetite to deliver a mixed use commercial scheme extending to approximately 2 - 3 hectares, and that there was not sufficient interest for the whole site to come forward for a single-phase development for B1/E(g), B2 and B8 use.
- 7.2.18. It is noted that permission has recently been granted on appeal at Brogdale Farm for 1,710sqm of flexible workshop, industrial & research and development floorspace (use Class Eg (ii, iii) (APP/V2255/W/25/3368880)). Given the location of the Brogdale Farm site in a rural area to the south of the M2, the scale of the development and the type of employment accommodation permitted there, it is not considered that this demonstrates a need for the quantum and type of employment floorspace originally allocated at the MU7 site.
- 7.2.19. Given the lack of interest with regard to large scale employment uses, and in considering whether or not the proposals represent an appropriate alternative use in this location, paragraph 127 of the NPPF provides guidance in situations where there is no reasonable prospect of an application coming forward for the use allocated in a plan. This is set out below:

Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

- 7.2.20. The evidence submitted in the Marketing Summary and Appraisal reinforces the findings of the 2023 ELR that there is currently no established demand for B1 employment uses on the site at the scale originally envisaged. On this basis and despite the partial conflict arising with the Local Plan Policy MU7 (and associated conflict with policies ST1 and ST4) as a result of the 18,525sqm of floorspace not being secured, the use of the land for purposes other than solely B1/E(g) could support the effective use of land available to address an unmet need as per paragraph 127 of the NPPF – in this case through the provision of housing and a policy compliant level of affordable housing. The proposals would also support up to 4,800sqm of commercial floorspace on the site, with the introduction of small-scale office and light industrial workshop floorspace (Use Class E(c) and (g)) capable of providing for the local walk to work market, as specifically recommended in the ELR 2023.

Sequential Test

- 7.2.21. As submitted, the proposals comprise a mix of commercial uses, some of which (financial/professional services, offices, drive through and restaurant) are classified as main town centre uses in Annex 2 of the NPPF.
- 7.2.22. Policy DM2 of the Local Plan relates to proposals for town centre uses and directs development of such to the Borough's designated town / local centres first. The proposed town centre uses would all be located outside of Faversham, or any other designated town or local centre in the Borough. Where it is demonstrated that no town centre sites are available, the policy then directs town centre uses to edge of town centre sites. Outside of the built up area boundary of Faversham, as is the case here, policy DM2 goes on to state that proposals will be permitted where they address the tests set out in national policy and accord with various other criteria, including demonstrating via an impact assessment that it would not undermine the vitality and viability of existing town centres; does not materially prejudice the supply of land for 'B' class uses, housing, community use and open space; and is well located in relation to the main road network and easily accessible by public transport, pedestrians and cyclists.
- 7.2.23. The NPPF at paragraph 91 requires LPAs to apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. It states that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

- 7.2.24. Paragraph 92 of the NPPF goes onto say that *“when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”*
- 7.2.25. Paragraph 94 of the NPPF deals with the impact test and states that *“When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace).”*
- 7.2.26. Whilst Policy MU7 of the Local Plan specifies that proposals for town centre uses will need to be subject to an impact assessment, the supporting text to this policy states that such a requirement should be in accordance with Policy DM2. It is relevant to the above paragraph that in 2019 the Council’s Cabinet adopted a locally set threshold of 500sqm for retail and leisure development outside of the designated town centres. In this case, the leisure uses (restaurant and drive thru) are to be restricted to 500sqm, reducing any impacts on the vitality and viability of other restaurant uses in the town centre. The other main town centre uses on the site (financial/professional services) are also to be limited so that in combination with the leisure uses they do not exceed the 2,500sqm threshold set out in national policy (paragraph 94). No impact assessment is therefore required in this case.
- 7.2.27. The proposals include the provision of office space (use class E(g)(i)) but on the basis this is an allocated use, it is not that use that necessitates a sequential test (and neither does it require an impact assessment). Instead, as the proposals also incorporate financial/professional service uses alongside restaurant and drive through uses – main town centre uses - the applicant has submitted a Retail – Sequential Test document in order to address the sequential test, as required by Policy DM2 and the NPPF.
- 7.2.28. This Sequential Test submission by the applicant has reviewed sites available in the town centre on the open market, within 300m of the town centre (the edge of centre) and allocations within the Faversham Neighbourhood Plan capable of accommodating the development.
- 7.2.29. The Sequential Test document has been independently reviewed by Lambert Smith Hampton (LSH) on behalf of the council. They advise that the six town centre sites, three edge of centre sites and Faversham Neighbourhood Plan sites reviewed are not suitable and/or not available to accommodate the floorspace requirements of the town centre commercial and service uses proposed under this current application. With regards to paragraphs 91 and 92 of the NPPF, LSH asked the applicant to review the potential for accessible out of centre sites alongside those sites already considered

within the Sequential Test document. Lady Dane Farm was considered by the applicant, but on the basis it is further from the town centre than the application site and the mix of uses permitted there does not comprise those applied for under this application, it does not represent a suitable alternative. In view of this clarification, LSH concluded that there are no sequentially preferable sites to support the proposed scheme.

- 7.2.30. The conclusions reached by LSH are considered sound and Officers are in agreement, such that the Sequential Test is considered to have been passed for the main town centre uses proposed. Despite this, there is some conflict with Policy DM2(4)(b), insofar that the proposals would materially prejudice the provision of other land uses, particularly the supply of land for 'B' use class uses. This conflict will therefore need to be weighed in the planning balance.

Summary

- 7.2.31. In considering whether or not the proposals represent an appropriate alternative use in this location, paragraph 127(b) of the NPPF provides clear guidance in situations where there is no reasonable prospect of an application coming forward for the use allocated in a plan as is the case here. It effectively lends support to alternative proposals where the proposed use would contribute to meeting an unmet need for development in the area.
- 7.2.32. In this case the proposals would effectively replace the part of the site capable of accommodating the 18,525sqm of employment floorspace with residential (some of which may comprise extra care units) and a mix of commercial uses (up to 4,800sqm) as per the description of development. In preventing the allocated quantum of employment floorspace from coming forward, the proposals would be in partial conflict with the allocation Policy MU7 (and partially DM2(4)(b), as well as ST1 and ST4). However, Policy MU7(6) is also broadly supportive of alternative employment uses (including main town centre uses) where it is clearly shown that B1 uses would not be achievable.
- 7.2.33. The harms and benefits arising from the proposals are discussed in the planning balance section at the end of this report. However, there is a clear and established unmet need for housing and affordable housing in the Borough, with the Council unable to demonstrate a five year housing land supply (currently 3.97 years) and having declared an Affordable Housing Emergency. This proposal would make a valuable contribution to addressing that unmet need which weighs in favour of the proposals. It would also deliver employment through the various commercial uses proposed and although at odds with the requirement for 18,525sqm of B1 floorspace, would still deliver on the mixed use aspirations of the site. As set out in NPPF paragraph 127(b), alternative uses should be supported where proposed uses contribute to meeting an unmet need for development in the area.

- 7.2.34. For the reasons set out above, the proposals could represent an appropriate set of uses for this part of the Perry Court site, despite the conflict with elements of Policies MU7, ST1, ST4 and DM2. This is considered further in the planning balance section at the end of this report.

7.3. **Agricultural Land**

- 7.3.1. Policy DM31 of the Local Plan sets out the circumstances in which development of best and most versatile (BMV) agricultural land is acceptable, such as when a site is allocated for development. Policy ST7(13) reiterates this, setting out that unless allocated by the Local Plan, proposals should avoid the loss of high quality agricultural land in accordance with Policy DM31
- 7.3.2. The loss of Grade 1 BMV land on this site has already been considered acceptable by virtue of its allocation. The proposals are therefore considered to accord with policies ST7 and DM31 of the Local Plan.

7.4. **Size and Type of Housing**

- 7.4.1. 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.
- 7.4.2. 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), whilst also meeting the housing requirements of specific groups, including families, older persons, or disabled and other vulnerable persons.
- 7.4.3. In terms of residential need, policy FAV3 of the Faversham Neighbourhood Plan states that:

Residential schemes should include a mix of accommodation to meet local housing need, based on the latest available evidence, including:

- a. accommodation suitable for families (3 bedrooms) as a predominant part of the mix;*
- b. smaller accommodation (2 bedrooms or fewer) suitable for first-time buyers or renters or those seeking to downsize;*
- c. accommodation suitable for older people and those with limited mobility.*

- 7.4.4. As well as conventional housing (including affordable housing), the proposal includes the potential for delivery of specialist extra-care accommodation (Use Class C3). Little detail of the nature of those units and how they would be operated has been provided at this stage. Nonetheless, the provision of extra care accommodation (C3) of any type (including older persons accommodation) would help, if delivered, to support the delivery of a mix of housing types on the site, which is encouraged by Policy CP3(6) of the Local Plan.
- 7.4.5. In terms of the general housing mix and provision of different sized properties, planning permission is sought on an outline basis, such that details of scale, layout and appearance of the residential units (both standard dwelling units and extra care units) within the site have not been provided. In order to secure a mix in keeping with the Council's Housing Market Assessment and the needs identified by policy FAV3 of the Faversham Neighbourhood Plan (which broadly align), a condition is recommended requiring any forthcoming reserved matters submissions to be accompanied by a Housing Mix Statement informed by up-to-date housing needs evidence to demonstrate how it meets local need. Subject to such a condition, an appropriate housing mix would be able to be achieved on the site.
- 7.4.6. 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 in this context. The illustrative layout plan submitted demonstrates that residential units within the development could be arranged in such a way that would appear compatible with the existing residential development to the north.
- 7.4.7. In view of the above, the proposals would be in general accordance with the requirements of Policy CP3 of the Local Plan, whilst the imposition of a condition controlling the mix on site would also ensure any future proposals accord with the requirements of policy FAV3 of the FNP.

7.5. **Affordable Housing**

- 7.5.1. Policy DM8 of the Local Plan indicates that the development at this site should include 35% 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.
- 7.5.2. Policy FAV3 of the Faversham Neighbourhood Plan advises that:

Affordable housing provision should include:

- a. 66% affordable rent;*
- b. 34% affordable ownership.*

- 7.5.3. As above, there is a requirement in this location for 35% affordable housing due to the location of the site within the Faversham built-up area boundary.
- 7.5.4. The applicant has confirmed that 35% of the residential dwelling units provided within the site would be secured as affordable housing units in accordance with the requirements of the Local Plan. They have also agreed to the split set out in policy FAV3 being secured as part of any legal agreement. In the event that the extra care accommodation is delivered on site as older persons housing in accordance with the definition set out in the Local Plan, no affordable housing would be required from that part of the development, as per Policy DM8. This exemption can be incorporated into any subsequent Section 106 agreement.
- 7.5.5. As with the market properties, the mix of the affordable homes can be controlled through a condition imposed on this permission, ensuring that any reserved matters provides for a sustainable mix of affordable properties in accordance with local need. Although a reserved matter, reference can also be made in that same condition to ensure that any future affordable properties are designed to appear as indistinguishable as reasonably practicable from the market properties.
- 7.5.6. In line with Policies DM8 and CP3 of the Local Plan, affordable homes should be designed for use by disabled persons and made available for a variety of groups including families, vulnerable and older persons. As such there should be a number of accessible and wheelchair adaptable homes provided, and it is recommended that the 10% of the affordable homes on the site be provided to Part M4(3) standard (wheelchair user dwelling) with the remaining affordable homes provided to Part M4(2) standard (accessible and adaptable dwellings).
- 7.5.7. Subject to 35% of the residential units on the site being secured as affordable housing (excluding any older persons accommodation provided as part of any extra care element) in line with the split set out in policy FAV3 above and M4(2) and M4(3) units being secured as part of the affordable package in any legal agreement, the proposals would be in accordance with the both local and neighbourhood plan policy.

7.6. **Landscape and Visual**

Landscape effects

- 7.6.1. 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.
- 7.6.2. 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. In situations where proposals could affect the setting of a National Landscape, the Local Plan requires that the impacts of individual proposals and their cumulative effect on the AONB (now National Landscape) and its setting are minimised. No specific requirements for impacts on the setting of AHLV are referenced in policy DM24, but in any event avoidance, minimisation and mitigation of adverse landscape impacts on AHLV should be incorporated as part of development proposals.

- 7.6.3. Policy ST7 of the Local Plan requires proposals to ensure that the landscape qualities and distinctive features of the Kent Downs National Landscape remain valued, secure and strengthened, alongside other local landscape designations. It also requires development to ensure that it is appropriate to landscape character and quality.
- 7.6.4. The Kent Downs AONB Management Plan 2021-2026 is referred to in policy DM24 of the Local Plan. In terms of impact on setting, the Management Plan states the following:

Proposals which would affect the setting of the AONB are not subject to the same level of constraint as those which would affect the AONB itself. The weight to be afforded to setting issues will depend on the significance of the impact. Matters such as the size of proposals, their distance, incompatibility with their surroundings, movement, reflectivity and colour are likely to affect impact. Where the qualities of the AONB which were instrumental in reasons for its designation are affected by proposals in the setting, then the impacts should be given considerable weight in decisions.

- 7.6.5. Policy FAV7 of the Faversham NP states amongst other matters that development should have no adverse impacts upon designated landscapes and that any potential adverse impacts should be minimised and, if required, appropriate mitigation and enhancement should be secured as part of development proposals, in line with other requirements within this policy. The policy also states that the loss of green or natural landscape through development should be balanced through the provision of green infrastructure, landscaping, planting and net gains to wildlife and biodiversity in the design and layout of development. Policy FAV11 states that development should have no adverse impact on the rural setting of Faversham.
- 7.6.6. The site itself is in an undesignated landscape, with the closest landscape designation an Area of High Landscape Value to the immediate south of the site, beyond the M2. The Kent Downs National Landscape lies in excess of 800m from the south of the site, again on the other side of the M2.

7.6.7. The site falls within the Faversham and Ospringe Fruit Belt Landscape Character Area (LCA) as defined by the Swale Landscape Character and Biodiversity Appraisal 2011. Key characteristics of this area are identified as the:

- Gently undulating landscape that steadily climbs southwards;
- Mixed geology of head brickearth, Thanet beds drift, clay-with-flints and chalk;
- Small to medium-scale orchards and large open arable fields;
- Woodland shaws and new plantation;
- Mature fragmented hedgerows supplemented with post and wire fencing;
- Many fine historic buildings in local vernacular style;
- Motorways, A and B roads, narrow winding lanes. Many lanes of historic interest including former drovers' routes and the A251, a former turnpike road.

7.6.8. Although in arable use at the time of submission, the site lies in an urban context bound by existing residential and supermarket development to the north and the strategic road network to south and east. Due to its location and surrounding context, it shares very few of those key characteristics identified above and found elsewhere within the Faversham and Ospringe Fruit Belt LCA. That said, the development offers the opportunity to conserve and reinforce the LCA through the introduction of rectilinear landscaping and by reinforcing the continuity of hedgerows and shelterbelts.

7.6.9. As set out throughout the report, the site lies within the allocated Perry Court site (MU7) in a location where employment development has previously been approved under 15/504264/OUT. Building on this site is accepted through its inclusion within an allocated site.

7.6.10. Notwithstanding that development in this location is acceptable in principle, it is still important that any future proposals respond sufficiently sympathetically to the landscape character surrounding the site – particularly from viewpoints to south, west and east.

7.6.11. In its current form, the topography of the site gently declines as you head from east to west. Mature vegetation is present along the eastern edge of the site, with intermittent mature tree planting present to the south alongside the M2.

7.6.12. The proposals could see the introduction of a mix of commercial, residential and extra care development on site. Whilst scale is a reserved matter, the submitted Design and Access Statement advises that between two and three storey development is proposed on the site. Given the undeveloped nature of the land, it is inevitable that a development of this scale would have an urbanising impact on the landscape character in this location. A noise mitigating bund and associated acoustic fencing are proposed to the southern edge of the site where it borders the M2. This would be a combined total of 5.5m in height. Structural planting is proposed alongside the entire

eastern edge and partially along the southern edge of the site. Whilst the bund and acoustic fencing would introduce a new feature of a circa 5.5m combined height, it would be seen in the context of existing road infrastructure and would be vegetated on both sides, helping to soften the visual impacts of new built development on the site.

- 7.6.13. A Landscape and Visual Impact Assessment has been submitted in support of the application which assesses the impacts of the proposals from nine different viewpoints surrounding the site. Of those viewpoints assessed, views from 1, 2, 8 and 9 provide the clearest view of the site. Viewpoints (VP) 1 and 2 are taken from Tettenhall Way and PRow ZF18 in immediate proximity to the site, with viewpoint 9 taken from Ashford Road with filtered views into the site through trees. Viewpoint 8 has been taken circa 400m to the south of the site. It is not on a PRow but demonstrates that from that distance the existing Aldi supermarket and housing within the Perry Court estate can be seen. Other viewpoints (3, 4, 5, 6 and 7) are taken from further afield to the east, south, north and west of the site such that intervening vegetation and landform prevents any clear views of the site from those locations.
- 7.6.14. The LVIA summarises the visual effects of the proposals upon completion. It identifies an adverse effect of major significance from VP1, adverse effect of moderate significance from VPs 8 and 9 and adverse effect of minor significance on VP2. Given the location of VPs 3-7, the development proposal is expected to result in no change from those locations. The conclusions are considered appropriate and emphasise that the visual impacts arising from the development are relatively well contained, with the greatest changes primarily restricted to views achievable from vantage points in immediate proximity to the site.
- 7.6.15. In terms of impacts upon completion on receptors utilising key roads around the site, the LVIA identifies an adverse effect of minor significance on users of the M2, adverse effect of negligible significance on the A251 (due to planting maturing and the fleeting nature of views) and an adverse effect of minor significance from views available on Brogdale Road. The nature of views experienced whilst in a vehicle is that they are generally transitory and limited to a short period of time. The level of effect and magnitude of significance estimated upon completion from these viewpoints is considered reasonable and reflective of the speed at which vehicles would be travelling along these routes.
- 7.6.16. With regards to the impact on the Area of High Landscape Value to the south, the LVIA concludes that there would be an adverse effect of minor significance on that designation at completion, with the impacts restricted by new planting, the landscape bund and acoustic fencing. Where intervisibility is possible, any views towards the proposed development would be in the context of the existing southern settlement edge of Faversham, and the M2. By year 15 it is anticipated that the landscape setting

of the development will have established such that the proposals have a ‘no change’ impact on the setting of the designation. This is considered a sound conclusion.

- 7.6.17. Due to the distance of the proposals from the Kent Downs National Landscape Designation (circa 800m) and the limited intervisibility with the site, the proposals are considered to have an adverse effect of minor significance at completion, with this reducing down to a ‘no change’ impact by year 15 due to planting maturing. The Kent Downs National Landscape were consulted on the application and confirmed that based on the submitted Development Framework Plan, there should be no adverse impacts arising to the Kent Downs National Landscape. The conclusions reached by the LVIA are therefore considered appropriate and reflect the views of the Kent Downs National Landscape Unit.
- 7.6.18. The Local Plan seeks to ensure that sites in non-designated landscapes minimise and mitigate adverse landscape impacts. Through the introduction of structural planting to east and south coupled with the landscaped bund and fencing proposed to be installed alongside the M2, the proposals would avoid having a significant adverse visual impact once the development is complete and the vegetation matured. In any event, the social and economic benefits arising from the development would outweigh any residual harm identified. The proposals would also conserve the setting of the Kent Downs National Landscape and would have no long term adverse effect on the designated Area of High Landscape Value to south.
- 7.6.19. In view of the above, the impact on landscape character and surrounding designations is considered to accord with policy DM24 of the Local Plan and policies FAV7 and FAV11 of the FNP insofar as they relate to ensuring that no adverse impacts on designated landscapes arise and proposals having no adverse impact on the rural setting of Faversham.

Urban design

- 7.6.20. The Local Plan requires that development proposals are of a high quality design that are appropriate to their surroundings.
- 7.6.21. Whilst all matters are reserved other than access, the Design and Access Statement submitted with the application sets out the general design principles for the development. It clarifies that development across the site would range between two to three storeys in height. Residential building heights will generally be two to two and a half storeys with the potential for some key or feature buildings of up to three storeys. The commercial area will comprise buildings up to three storeys. The heights of the buildings proposed are compatible with the scale of properties found elsewhere within the Perry Court development and in immediate proximity to the site.
- 7.6.22. The site is proposed to be split into four different character areas – Gateway, Northfield, Southfield and Ashford Park (commercial).

- 7.6.23. The Gateway Character Area relates to the entrance into the site and is indicatively shown to be framed by built development to the west, tree lined streets and traffic calming measures to control vehicle speeds and help prioritise pedestrians and cyclists. The Northfield Character Area would be more urban in character in proximity to existing residential development, with Southfield comprising a residential neighbourhood set within a strong landscape framework to establish a well-designed and generously landscaped southern edge for Faversham. The Ashford Park Character Area will comprise the commercial area and has been configured to provide separation and distinction between the residential and commercial vehicular traffic for amenity and legibility reasons. A central pedestrianised public realm space will become a focal point for activity and social interaction in this area, around which active frontages are proposed to be arranged.
- 7.6.24. The Design and Access Statement provides a strong framework for the delivery of a well-designed and high quality development. This is reinforced by the illustrative layout plan submitted which shows how the mix of uses proposed can be comfortably accommodated on the site in a way that would respond to the characteristics of the site and surrounding context. In combination, the submissions demonstrate that reserved matters coming forward on this site could be laid out and designed in a way that is both sympathetic and appropriate to the location and the wider character of Faversham. It is also noted that the structural planting would support the identified green space in Figure 7 of the FNP.
- 7.6.25. The SBC Urban Design Manager has reviewed the proposals and advises that there is no reason to conclude on the basis of the information submitted that an appropriate scheme could not be provided on the site. They recommend that any reserved matter should be required by condition to follow the design principles contained within the submitted Design and Access Statement. This is recommended below.

Summary

- 7.6.26. In view of the above, it is considered that the proposals accord with policies CP4, DM14 and DM24 of the Local Plan, the Faversham Neighbourhood Plan and the NPPF insofar as they relate to landscape and visual impacts.

7.7. Heritage

- 7.7.1. 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.

- 7.7.2. 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.
- 7.7.3. 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.
- 7.7.4. 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.
- 7.7.5. 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.
- 7.7.6. In this case, there are no listed buildings located within or adjacent to the application site. The nearest listed buildings are located to the south of the M2 and include the Grade II listed Copton Windmill and 148 Ashford Road which are in excess of 200m from the site at their closest point. Given the M2 severs any connection between the site and those heritage assets, the proposals would not give rise to any adverse impact on the setting of those designated heritage assets. SBC Heritage raises no objections.
- 7.7.7. 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. In view of the above, 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.

7.8. **Archaeology**

- 7.8.1. 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.

- 7.8.2. 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.
- 7.8.3. A Historic Environment Desk-Based Assessment (DBA) has been submitted in support of the application which concludes that the study site has high potential for prehistoric, Roman and early medieval archaeology due to the density and proximity of surrounding remains, with there being moderate potential for medieval and post medieval archaeology.
- 7.8.4. KCC Archaeology have been consulted on the application and advise that they agree with the conclusions of the DBA in respect of prehistoric, Roman and Early Medieval remains, but disagree that the potential for medieval remains is moderate given findings on an adjacent site that illustrate an area of medieval settlement focused on Ashford Road.
- 7.8.5. The illustrative masterplan for the development shows potential impacts over much of the site. Open space areas are included in the design but include SUDS features and a noise bund adjacent to the motorway, as well as planting. KCC Archaeology advise that archaeology is likely to be buried at shallow depth over much of the site, though there is shallow subsoil noted in some areas that overlies earlier remains.
- 7.8.6. 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.
- 7.8.7. 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 and the abovementioned section of the NPPF.

7.9. **Living Conditions**

Existing residents

- 7.9.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.9.2. The Development Framework Plan submitted in support of the application clarifies where the residential, extra care and employment uses would be located on the site. Although indicative, they demonstrate that the proposals could be designed in such a way so as to avoid any unacceptable impact on neighbouring living conditions as a

result of any overbearing, overshadowing or overlooking impacts. There is a degree of noise already experienced at the site from the traffic present along the M2, but in any event, the dwellings and extra care units, given their nature, do not give rise to any concerns in respect of noise and disturbance.

- 7.9.3. Notwithstanding the above, concern has been raised in some of the comments received about the potential for noise and disturbance impacts arising from the commercial uses proposed under this application – particularly the drive through and any associated restaurant use. As per the Development Framework Plan, the commercial uses have been positioned away from existing residential properties on Tettenhall Way and Costard Drive, and have been set to the south of the existing Aldi supermarket. A number of the uses proposed, such as offices and the creche/nursery would be unlikely to give rise to any unacceptable noise and disturbance impact, but it is acknowledged that the opening hours of any restaurants and drive through could extend later into the evening and will need to be carefully controlled in order to prevent any adverse impact from arising. It is also recognised that those types of uses may also require external plant to facilitate their day-to-day operation which could generate noise, as well as systems in place to prevent the unacceptable spread of odour.
- 7.9.4. In order to exercise control over any commercial uses brought forward, it is recommended that a condition be imposed on the commercial uses requiring details of opening hours, delivery times, litter management and any noise mitigation required in connection with any plant to be installed at the site prior to their first use. Environmental Health do not object to the proposals, but have specifically requested that details for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on any of the commercial premises proposed are submitted to and approved in writing by the Local Planning Authority prior to the operation of any premises. This can reasonably be secured by condition. A condition securing details of any external lighting to minimise impacts on residents is also recommended.
- 7.9.5. Subject to the conditions above, the proposals would avoid an adverse impact on neighbouring living conditions, in line with the requirements of policy DM14 of the Local Plan.

Future residents

- 7.9.6. The Illustrative Layout Plan submitted alongside the outline application demonstrates that the proposals could be arranged in such a way that the residential units on the site would be provided with a good standard of external amenity. Details of bins and cycle storage can be secured by condition. Further assessment in terms of internal layout and general amenity would be determined at reserved matters stage.

- 7.9.7. Given the site lies in immediate proximity to the M2 to south and Ashford Road (the A249) to the east, a Noise Assessment has been submitted in support of the application. The main concern from a noise perspective for future residents is the M2 to south, given that the residential part of the development would be separated from the A249 with commercial buildings between.
- 7.9.8. The document identifies that in order to achieve an acceptable external acoustic environment, a 5.5m acoustic barrier in the form of a 3m bund and 2.5m fence would need to be installed along the southern edge of the site. It also clarifies that trickle vents within the window frames of habitable rooms, together with intermittent fans within bathrooms for properties overlooking the M2 would enable an acceptable internal acoustic environment to be provided. Environmental Health have reviewed the proposals and agree with the recommendations, advising that they be secured as part of any planning permission granted. A condition requiring the development be carried out in accordance with the requirements of the Noise Assessment is included in the conditions list below.
- 7.9.9. The condition recommended in the existing living conditions assessment in 7.9.4 above would also need to address the positioning of any future properties and includes a line to that effect.
- 7.9.10. In view of the above, the proposals would be compliant with policy DM14 of the Local Plan and the NPPF.
- 7.10. **Trees**
- 7.10.1. Policy DM29 of the Local Plan and the NPPF recognise the contribution of trees to the intrinsic character and beauty of the countryside.
- 7.10.2. Whilst the application has not been supported by an arboricultural assessment, the only current arboricultural constraints are those mature trees and vegetation to the eastern and southern edge of the site. The illustrative layout plan submitted with the application indicates that these areas will be retained and enhanced, helping to ensure that the proposals would maintain and enhance the character of the locality. Subject to conditions securing a detailed tree survey, arboricultural impact assessment, arboricultural method statement and tree protection plan be submitted prior to construction, there would be suitable measures in place to safeguard existing trees and hedging along the south and east of the site during construction, maintaining the important contribution they make to the character of the area. SBC Trees raise no objection subject to such conditions being imposed.
- 7.10.3. Although indicative at this stage, both the SBC Trees and SBC Urban Design Officer have identified that additional planting would need to be incorporated throughout the site to secure the delivery of tree-lined streets, in accordance with the NPPF. As the

proposals are in outline form with all matters reserved except for access, further planting can be secured at the reserved matters stage to better reflect the requirements of paragraph 136 of the NPPF. A condition has been recommended below to require future reserved matters proposals to incorporate tree-lined streets.

- 7.10.4. Subject to the conditions set out above, the proposal is considered to accord with the abovementioned development plan policy and the NPPF.

7.11. **Ecology**

Habitats

- 7.11.1. 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.
- 7.11.2. 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).
- 7.11.3. 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.
- 7.11.4. 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 and C3 extra care unit. 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. 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

- 7.11.5. The project being assessed would result in a net increase of C3 residential dwellings and extra care units 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' 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.
- 7.11.6. 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
- 7.11.7. 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.
- 7.11.8. 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 (including extra-care units) tariff of £337.49 is required as a contribution towards the SAMMS.
- 7.11.9. 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.

7.11.10. The applicant has agreed to securing the necessary SAMMS payment via a Section 106 legal agreement. This would secure the necessary payment prior to commencement, with the legal agreement to be in place prior to the issuing of any consent. 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).

7.11.11. 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.

7.11.12. 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.

Biodiversity

7.11.13. 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.'

- 7.11.14. 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. The Faversham Neighbourhood Plan (via policy FAV7) seeks to ensure that development has no adverse impact on ecology.
- 7.11.15. The applicant has submitted an Ecological Appraisal, Shadow Habitat Regulation Assessment and Biodiversity Net Gain Report in support of the application.
- 7.11.16. The Ecological Appraisal identifies that the site itself is dominated by arable habitat bordered by hedgerows and tree-lines, with the arable habitat itself offering limited ecological value. Bats and breeding birds have been recorded within and around the site, with trees around the perimeter but outside of the site recorded as having roost potential for bats.
- 7.11.17. With regards to reptiles, the submitted Ecological Appraisal explains that arable habitat onsite is sub-optimal for reptiles due to lack of cover and foraging resources, while the boundary hedgerow also provides limited suitable habitat. The boundary habitats are proposed to be retained, buffered and enhanced as part of the proposals such that reptiles should not be adversely impacted by the development. Instead, the enhancements and SUDs features installed across the site should offer improved habitat potential for reptile species.
- 7.11.18. Very limited evidence of badgers was recorded onsite. Whilst badgers may occasionally use the site for foraging, the arable habitat that dominates the site is considered to be of poor quality such that it is most likely that they commute through the site to reach better quality foraging habitats, or forage along the hedgerow base.
- 7.11.19. KCC Ecology have reviewed the Ecological Appraisal submitted and advise that sufficient information has been provided. The ecological interest of the site is largely restricted to the retained boundaries which will be enhanced and a precautionary mitigation approach during construction can be secured.
- 7.11.20. In order to ensure that bats, badgers, reptiles and breeding birds are suitably protected during construction, a Construction Environmental Management Plan (CEMP) securing full details of the ecological mitigation measures to be employed is recommended to be secured by condition. This would secure details of the mitigation proposed to avoid any adverse impacts on reptiles, birds, badgers, bats and hedgehogs during construction. Details of biodiversity sensitive lighting is recommended to be secured by condition in order to ensure that any lighting installed minimises the impacts on commuting/foraging bats and badgers.
- 7.11.21. In order to encourage biodiversity at the site, an Ecological Enhancement Plan is also recommended to be secured by condition, securing details of integrated

enhancement features within buildings and enhancement features included within the open space to be provided.

Biodiversity Net Gain (BNG)

- 7.11.22. 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. Policy FAV7 of the Faversham Neighbourhood Plan requires major development proposals to achieve 20% BNG for greenfield sites, which applies to this site. Significant gains will need to be secured for at least 30 years.
- 7.11.23. The application submissions demonstrate that in excess of 20% BNG could be achieved on-site. Whilst the KCC Ecological Advice Service comment that the proposals, once detailed, would be likely to achieve less than 20%, a condition can be imposed requiring the developer to deliver the percentage BNG in accordance with their submitted BNG Report which is in excess of 20%.
- 7.11.24. 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.
- 7.11.25. Subject to the conditions 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, policy FAV7 of the FNP and the NPPF.

7.12. Transport, Highways, Access and Parking

- 7.12.1. 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.
- 7.12.2. Faversham NP policy FAV4 requires the provision of a range of sustainable and active travel options, connections to facilities, to accommodate people with a range of needs, provide space for cycle parking and provide electric vehicle charging points.

- 7.12.3. Policy FAV5 sets out a list of junctions and states that where development impacts upon these junctions, schemes will only be supported where they do not result in a severe impact, taking into account any mitigation measures.
- 7.12.4. Faversham NP policy FAV10 states, amongst other matters, that design and layout must prioritise pedestrian convenience and public transport routes and take account of those with limited mobility.
- 7.12.5. 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 traffic impacts

- 7.12.6. The access into the site would be from Tettenhall Way, in the same place as an access already exists on the land for agricultural purposes, as well as being consistent with the RM approved on the site (17/506603/REM). A footpath would be incorporated into the eastern side of the access road, tying into an existing footpath on Tettenhall Way. The internal access routes would come forward as part of reserved matters.
- 7.12.7. KCC Highways initially commented advising that if the access route into the site were to be narrowed down to 4.8m, a separate emergency access would be required. The applicant has since confirmed that the access route into the site would be maintained at 6m, with the width of the road that continues into the residential area reducing to 5.5m but remaining as 6m for the commercial element of the site. An internal loop road arrangement would be provided as part of the detailed reserved matters element and no more than 50 residential units will be in a cul-de-sac arrangement. On this basis, KCC Highways advise that an emergency access would not be required.
- 7.12.8. With regards to impacts on the surrounding road network, a Transport Assessment has been provided with the application. Further information has also been provided during the course of the application in response to queries from both KCC Highways and National Highways, together with a Trip Review document which has assessed trips arising from the scheme on the basis of a number of scenarios (including both the 100 dwelling or 80 dwelling and 60 extra care unit option).
- 7.12.9. In assessing the impacts of the proposals on the surrounding transport network, the applicant has adopted a worst case scenario approach in terms of trip generation. The Transport Assessment provides a breakdown of the previously approved trip rates for employment at the site under 15/504264/OUT. The Trip Review document shows that

the trips generated by the residential and employment uses for this application would represent a reduction on that previously consented in the AM and PM peaks.

- 7.12.10. The impact on the Tettenhall Way/A251 Roundabout junction, The Mall (B22041)/London Road Priority junction, London Road/A251/Canterbury Road junction and the A251/M2 Slip junctions has been assessed as part of the Transport Assessment work and update notes provided during the course of the application. The junction assessments carried out confirm that they would continue to operate within capacity, with no severe impacts on the road network arising as a result of the proposals. Neither KCC Highways nor National Highways raise any objections to the impact of the proposals on junctions likely to be affected by the development.
- 7.12.11. In some of the comments received, concern about the use of Tettenhall Way by heavy goods vehicles connected with the development has been raised. The part of Tettenhall Way that leads from Ashford Road towards the site had been designed as part of the scheme approved under 15/504264/OUT to support 18,525sqm of employment uses such as light industrial workshops and offices (B1 now E(g)). In that context, the use of the site for the commercial and residential purposes is not considered to give rise to any unacceptable safety concerns. The Transport Assessment submitted provides swept path drawings demonstrating that the largest vehicles anticipated to access the site on a regular basis - considered to be a refuse vehicle or a rigid lorry – would be able to safely access and egress the site from Ashford Road.
- 7.12.12. KCC Highways raise no objection to the proposals but request a number of conditions to secure a Construction Management Plan (CMP), the provision and retention of parking spaces/cycle parking, completion of relevant highway works between each dwelling and the road, the completion of the access road prior to first occupation, together with details of road infrastructure. They also advise that the day care use should be limited to 850sqm as tested, and that a Parking/Drop-off Management Plan will be required at the detailed stage. National Highways also request a Construction Management Plan (CMP), a condition preventing discharge of surface water drainage into the strategic road network and details of planting along the M2, as well as a geotechnical survey. These conditions are recommended in the conditions section at the end of this report.
- 7.12.13. In respect of parking, a condition is to be imposed requiring any future reserved matters applications to provide sufficient parking (both vehicular and cycle) in accordance with the Swale Parking Standards SPD (2020) and Policy DM7 of the Local Plan.

Pedestrian Routes

- 7.12.14. Given the site forms part of the existing Perry Court allocation and would immediately adjoin existing residential parcels, it is well served by good quality and convenient routes for pedestrians and is accessible for those with wheelchairs and with prams into Faversham to the north. Whilst it is noted that there is no segregated route for cyclists between the site and north of the A2, the existing pathway route towards Faversham is part of an established network that provides an acceptable active travel route from the site for most users. As part of the reserved matters details that come forward at a later date, the proposals would be required to demonstrate how they incorporate good quality pedestrian and cycle routes across the development. A Travel Plan condition is also included in the conditions list below in order to support and encourage modal shift.
- 7.12.15. Whilst it is noted that Faversham Town Council and SBC Active Travel have suggested that a footpath link could be introduced towards the east side of Ashford Road from the site (potentially connecting to Preston Fields), given services and facilities are primarily located to the north of the site in Faversham, it is not considered necessary to request a crossing in this location. It is also noted that there has been no request from either KCC Highways or National Highways for a new crossing over Ashford Road to east.
- 7.12.16. Comments from the Faversham Town Council (through the Active Travel Committee) advise that the route along Ashford Road is a particularly hostile environment for those walking or cycling, with limited or no segregated infrastructure. They consider that ZF18 provides a more suitable access route for pedestrians and cyclists. A controlled pedestrian crossing is in situ on Ashford Road, with this then leading towards crossing facilities over the A2 London Road and towards the town. Whilst reference has been made to the proposed pedestrian access along Tettenhall Way and towards Ashford Road being incompatible with Manual for Streets and Local Transport Note (LTN) 1/20 – Cycle Infrastructure Design, it forms part of the established footpath and connectivity network in the area. It would support effective onwads active travel from the site and is considered acceptable.
- 7.12.17. It is noted that the Faversham Town Council's *Local Cycling and Walking Infrastructure Plan (September 2025)* proposes a number of interventions to support the delivery of a north-south active travel route through Faversham. One of the interventions proposed is a surface level crossing over the A2 near the Abbey School, which the Faversham Town Council have requested that the developer provide a contribution towards. KCC Highways have requested £50,000 towards sustainable travel and transport improvements in the area, with this crossing one of the identified projects that the money would be utilised for. The applicant has agreed to pay that contribution. This, together with the route via Ashford Road towards Faversham Town Centre, would provide future occupiers with acceptable active travel routes.

Public Right of Way

- 7.12.18. PRow ZF18 lies to the west of the site and connects to Brogdale Road, providing onward connection towards Ospringe via ZF15 and ZF16. It also provides an accessible route north through the Abbey School site and towards London Road. KCC PRow have been consulted and advise that PRow ZF18 would be subject to additional footfall as a result of the development. In order to address the increased use, they propose to upgrade the existing compacted stone surface to a hard wearing tarmac surface where the footpath network runs alongside Brogdale Road to the south west.
- 7.12.19. A sum of £24,000 is therefore requested to upgrade the existing compacted stone surface on the south western section of ZF18 to tarmac, which includes a short link onto Brogdale Road from ZF18 that will improve pedestrian safety when joining/leaving Brogdale Road. This will also improve connectivity to the surrounding Public Right of Way Network. The applicant has agreed to make this contribution, which would satisfactorily mitigate the impacts of the proposals on the designated route.
- 7.12.20. It is noted in comments received from Faversham Town Council in particular that part of the ZF18 route in proximity to the Abbey School is currently unsurfaced and should be improved as part of this application. As part of the permission granted for the wider site under 15/504264, £21,450 was secured to fund improvements to that route. KCC PRow have advised that plans are in place to provide a new surface on the grassy/muddy section, but they are awaiting confirmation as to whether or not an upgrade of ZF18 to a bridleway to allow for cycles is to be progressed in that area, which will determine the width of the new surface. As there is already funding in place for improvements to that route which KCC PRow have control over, it is not necessary to secure further funding from this development.

Overall

- 7.12.21. The proposed development is considered to be acceptable on highways safety grounds and would not have a severe impact on the highway network. The proposals would also be served by an acceptable active travel route to and from the site. In view of the above, the proposals are considered to be in accordance with policies CP2, DM6, MU7 and DM14 of the Local Plan and the NPPF in respect of highways. The proposals are also considered to broadly comply with policies FAV4, FAV5 and FAV6 of the FNP, despite the absence of a separate cycle link.

7.13. Air Quality

- 7.13.1. 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.

- 7.13.2. 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.
- 7.13.3. Policy FAV9 of the Faversham NP deals with air quality and states that development must have no significant adverse impact on local air quality; proposals that affect air quality management areas (AQMA) should include measures to avoid worsening of air quality and lead to improvements in air quality in that area; and development that generates additional car journeys should include native tree planting or other design / landscape features to improve air quality.
- 7.13.4. 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.
- 7.13.5. 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.*
- 7.13.6. Given the scale of the development, it has the potential to have an impact on local air quality, whilst the Ospringe Air Quality Management Area (AQMA) is located approximately 930m north west of the site.
- 7.13.7. An Air Quality Assessment (AQA) has been submitted in support of the application which assesses impacts at a number of locations (including outside Canterbury House Care Home in proximity to the site on Tettenhall Way). It concludes that the proposals will not have a significant impact on local air quality during the operational phase of the development. During the construction phase, the risks arising from the potential

spread of dust can be suitably controlled through the imposition of a Construction Environmental Management Plan (CEMP) condition.

- 7.13.8. An emissions damage cost of £108,037 has been calculated as part of the AQA and is required to be spent on measures to mitigate the impacts of the development arising from development traffic, such as improvements to existing walking and cycling routes. Environmental Health have reviewed the submitted information and consider the damage cost calculations to be acceptable. The AQA advises that the damage cost would be spent on monitored residential and workplace travel plans, cycle paths and footpaths to and within the site, as well as EV charging points. In order to ensure that the damage cost is spent effectively and in a way that would mitigate impacts arising from development traffic, it is recommended that a detailed Air Quality Mitigation Scheme is secured via legal agreement, clarifying where and how the damage cost is to be spent in order to reduce the air quality impacts arising from the scheme.
- 7.13.9. Subject to an Air Quality Mitigation Scheme being secured via legal agreement, the proposals could be considered to be in accordance with policy DM6 of the Local Plan and FAV9 of the FNP.

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. Policy FAV12 of the Faversham NP states that *“For housing schemes, the design of recreational space and play facilities should take account of the needs of people of all ages, including children and teenagers.”*
- 7.14.2. The site is currently in an agricultural use so offers no formal recreation opportunity. The submitted Development Framework Plan demonstrates that circa 2.6ha of open space and structural planting could be incorporated on the site, which would provide the necessary quantum of open space required through Policy DM17 for a development of this size (2.41ha). Whilst a children’s play area is shown on the Illustrative Masterplan, no outdoor sport facilities are proposed on the site. A contribution of £729.57 per dwelling towards off-site outdoor sports facilities would therefore be required.
- 7.14.3. Details of the formal and informal areas of open space would be secured through future reserved matters, with the details of the play area to be provided on site to be secured by condition.
- 7.14.4. Subject to such a condition securing the play area details, the proposal is considered to accord with Policy DM17 of the Local Plan.

7.15. Flood Risk, Drainage and Water Quality

- 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. Policy FAV8 of the Faversham NP states that development must have no significant adverse impact on the risk of flooding and take opportunities to improve flood water disposal; development will not be supported if infrastructure to prevent flooding or the management of flooding incidents is compromised; sustainable drainage systems to be included in new build developments; and requires hard landscaping to be permeable.
- 7.15.2. The site is within Flood Zone 1 in terms of fluvial and coastal/tidal flood risk. However, the Environment Agency (EA) mapping indicates that parts of the site along the very southern and eastern edges of the site are at medium/high risk of surface water flooding. There is also a small pocket of medium surface water flood risk to the north west of the site, in an area of proposed open space.
- 7.15.3. Whilst the site is allocated for development, the part of the Perry Court site subject of this application is currently allocated for B1 uses (employment) in policy MU7 of the Local Plan. Alongside the commercial element to the east of the site, the proposals seek permission for the erection of residential dwellings and C3 extra care units, at odds with the allocation. Notwithstanding that the site itself is allocated therefore, the proposals are not exempt from the sequential test as the uses proposed are not fully aligned with the allocation.
- 7.15.4. In respect of the sequential test, 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).”*
- 7.15.5. In considering the above, the parts of the site where the surface water flood risk is confined to is outside of any part of the site identified within the submitted Development Framework Plan for either commercial or residential development (including extra care). However, given the proposals include land raising to the southern edge of the site to facilitate the formation of a noise mitigating bund alongside the M2, paragraph 175 of the NPPF has the potential to engage the sequential test.
- 7.15.6. In respect of paragraph 175 of the NPPF in particular, Planning Practice Guidance (PPG) provides specific guidance, clarifying 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.”

- 7.15.7. In this case the surface water flood risk itself is confined to the perimeter of the site, outside of those areas earmarked for either residential or commercial development. The submitted Flood Risk Assessment submitted in support of the application confirms that the surface water drainage across the site would be managed by way of a basin (positioned to the north west) and cellular storage/detentions tanks elsewhere in the site (indicatively shown to the east/north east).
- 7.15.8. Neither KCC Flood and Water Management nor the EA raise any objection to the development from a flood risk safety perspective. Standard conditions securing details of a surface water drainage scheme prior to commencement and associated verification prior to occupation are recommended. In light of the PPG excerpt above and the proposals not giving rise to any safety concerns for future occupiers from a flood risk safety perspective, a sequential test is not required in this case.
- 7.15.9. In terms of groundwater sensitivity, the site itself lies partially within a designated Groundwater Source Protection Zone 1 with the remainder of the site within a Groundwater Source Protection Zone 3. No objection has been raised by either KCC Flood and Water Management and the EA to the proposals, with the EA recommending that a condition be imposed preventing infiltration or piling unless first approved by the Local Planning Authority. Subject to such a condition, sufficient controls would be in place to prevent any unacceptable water pollution events from occurring.
- 7.15.10. With regards to foulwater disposal, Southern Water have indicated that there is insufficient capacity in the current network to accommodate the development proposals. The Water Industry Act provides a right to connect into existing foul systems, but in order to ensure that the proposals do not overwhelm the existing system, a condition is recommended securing details of the foulwater arrangements proposed on site prior to commencement of each phase. This would enable Southern Water to plan the delivery of any required improvements having first had sight of that information. In terms of foul effluent from non-residential uses, Southern Water advise that Trade Effluent Consent would be required from them, with any requirement to discharge directly to the environment requiring a permit/consent from the Environment Agency. Given the requirement for effluent consent is addressed via separate process, it is unnecessary for a condition to be imposed requiring that Trade Effluent Consent be submitted to the Local Planning Authority for review.

- 7.15.11. Comments have been received about the effect of discharged sewerage further down Faversham Creek. Any impacts arising from the discharge of sewerage that are currently being experienced would need to be directed towards the infrastructure provider. As above, a condition is proposed to secure details of the foul drainage proposed to serve the site in order to ensure that Southern Water are notified as early as possible in the process so that network reinforcements, if required, can be planned.
- 7.15.12. Impacts on water pressure elsewhere within the estate could be a result of supply (which is the responsibility of the provider) or the type of equipment that has been installed within properties on the existing estate.
- 7.15.13. Overall, and subject to the imposition of the conditions referred to above, the proposals 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. A Preliminary Risk Assessment (Phase I) has been submitted in support of the application which concludes that there is a low-moderate contaminative risk arising as a result of the former agricultural use of the land, as well as the proximity of the nearby M2/Ashford Road, presence of existing railway line 950m to north and presence of former pits in proximity to the site. The document recommends that a Phase II investigation be carried out across the site.
- 7.16.3. Environmental Health have reviewed the submitted detail and agree that a Phase II site investigation should be carried out. Subject to this being secured by condition, as well as any necessary remediation and a follow up verification report where necessary, they raise no objections in respect of contamination. The EA also recommend conditions in respect of contamination which are broadly the same as those requested by Environmental Health.
- 7.16.4. Subject to these conditions being secured, the proposals would be in accordance with policy ST1 of the Local Plan.

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 homes on the site will target the Future Homes Standard (FHS). The Energy Statement clarifies that reductions in energy demand through fabric improvements and use of renewable technologies such as PVs and air source heat pumps across all individual dwellings, in compliance with the energy hierarchy set out in the FHS, would ensure that an energy reduction in excess of 75% from the 2013 Approved Document Part L Building Regulation standards would be achieved. Subject to a condition securing the proposals be delivered in accordance with the standards set out in the submitted Energy Statement, the residential element of the proposals would accord with the abovementioned policy.
- 7.17.3. With regards to the non-residential uses on the site, policy DM19 requires that all new non-residential developments will be required to achieve BREEAM ‘Good’ standard or equivalent as a minimum. All new non-residential developments over 1,000 sq m gross floor area are required to achieve the BREEAM “Very Good” standard or equivalent as a minimum. A condition can be imposed requiring the non-residential uses on the site to accord with these standards.
- 7.17.4. Subject to the conditions referred to above, the proposals would be in accordance with Policy DM19 of the Local Plan.

7.18. **Brickearth**

- 7.18.1. Policy DM7 of the Kent Minerals and Waste Local Plan sets out that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding in a number of circumstances set out in the policy. One of these circumstances is that extraction of the mineral would not be viable or practicable.
- 7.18.2. Paragraph 225 of the NPPF states that *“Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.”*
- 7.18.3. Parts of the site coincide with a mineral reserve of brickearth which is the mineral used to manufacture bricks and tiles. Whilst the application has not been supported by a Minerals Assessment, KCC Minerals and Waste advise that it can be reasonably concluded that the overall size of the affected deposit would not be sufficient for any viable prior extraction of the safeguarded minerals.

7.18.4. As result of the above, criterion 2 of policy DM7 of the Kent Minerals and Waste Local Plan, i.e. that the extraction of the mineral would not be viable or practicable is applicable. Therefore the scheme complies with this policy and the NPPF in this regard.

7.19. Community Infrastructure and Contributions

7.19.1. 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.

7.19.2. 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

7.19.3. 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).

7.19.4. The following financial contributions have been sought by KCC Strategic Development and Place, KCC Highways/KCC PROW, the NHS and Swale Borough Council to mitigate the impact of the development upon services.

KCC Contribution Requests		Towards
Primary Education	£5,412.74 per house £1,353.18 per flat	Towards the expansion of Primary Schools in the Faversham Planning Group
Secondary Education	£5,329.27 per house £1,332.32 per flat	Towards the expansion of secondary schools in the Canterbury and Faversham Selective Planning Group and the Faversham Non-Selective Planning Group
Special Educational Needs and Disabilities (SEND)	£559.83 per house £139.96 per flat	Towards the provision of additional SEND places and / or additional SEND facilities that serve the needs of the development

Integrated children's services	£74.05 per dwelling	Towards additional equipment and resources for the Integrated Children's Services in the Borough of Swale including outreach provision
Libraries	£62.63 per dwelling and extra care unit	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Faversham Library
Adult Social Care	£180.88 per dwelling and extra care unit	Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within the Borough
Community learning	£34.21 per dwelling and extra care unit	Towards additional equipment and resources for adult education centres serving the development, including outreach provision.
Waste	£194.13 per dwelling and extra care unit	Towards Faversham HWRC to increase capacity and Sittingbourne WTS.
PRoW	£24,000 total	PRoW ZF18 upgrades towards Brogdale Rd
Highways	£50,000 total	Sustainable travel and transport improvements, including works in connection with a crossing over the A2 to the north of the Abbey School.
NHS Contribution Requests		
NHS contribution	£157,072.70 total for 100 dwellings and £157,228.48 for 80 dwellings and 60 extra care units equating to	Towards refurbishment, reconfiguration and or extension to general practice and other healthcare facilities within a 3 mile

	£1,570.73 per dwelling and £526.17 per extra care unit.	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.
Swale Borough Council Contribution Requests		
Swale Bin provision	For houses (per house) 1 x 180ltr green bin for refuse £55.40 1 x 240ltr blue bin for recycling £55.40 1 x 23ltr food bin £12.90 1 x 5ltr food caddy £6.50 For Flats (every 10 flats (each extra care unit represents a flat for the purposes of this contribution)): 2 x 1100ltr refuse - £1,075; 2 x 1100ltr recycling - £1,075; 1 x 140ltr food - £49 1 x 5ltr food caddy per flat– £6.50	Towards refuse provision.
SAMMs	£337.49 per dwelling and extra care unit	North Kent Strategic Access Management and Monitoring Strategy.
Formal sport provision	£729.57 per dwelling	Toward enhancing capacity/quality of the existing facilities at King George's Playing Field and Faversham Recreation Ground in Faversham.

BNG monitoring fee	£7,868.71 total	Toward monitoring the significant BNG.
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- 7.19.5. 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.
- 7.19.6. 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 2017, and the NPPF.
- 7.19.7. It is noted that several comments received from interested parties raise concerns about the strain on existing health and education facilities 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.

7.20. **Other matters**

- 7.20.1. The concerns raised by interested parties about the cumulative impacts of developments in and around Faversham are noted and it is recognised that the character of an 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 assessment of visual impact. For the reasons given, no objections are raised on these grounds.
- 7.20.2. Comments received refer to the introduction of a takeaway (the drive through) near to an existing school (the Abbey School). Paragraph 97 of the NPPF advises that applications for hot food takeaway/fast food outlets should be refused within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre. At this stage the commercial end users of the site are unknown, but given the proposals applied for, the development could see the introduction of a drive through use. The site is not in a

designated town centre such that, in the event of a fast food outlet being introduced, the proposals could give rise to a degree of conflict with paragraph 97 due to the proximity of the Abbey School. However, upon review of appeals and guidance prepared by neighbouring authorities (such as Medway) on this issue, 400m from schools is often cited as the walking distance within which takeaways will be refused. Using existing pedestrian routes from the southern edge of the Abbey School site through the wider Perry Court estate, the Abbey School is circa 600m from the closest part of the site where the commercial uses are proposed. Whilst Swale does not currently have any guidance on fast food uses and the distance they should be from schools, having considered appeals and neighbouring guidance, it is not considered that any drive through on the site would be within such a short walking distance that it would be likely to lead to the congregation of school children during school time. It is also noted that at this stage, the operator and nature of any takeaway drive through use is unknown. In view of the above and given the other benefits of the proposals as set out in the balance section below, it is not considered that the potential introduction of a fast food use in this location would warrant refusal of the application.

7.21. Planning Balance – Benefits and Harm

- 7.21.1. 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.
- 7.21.2. In this case conflict with policies in the development plan have been identified as set out above. This primarily relates to conflict with elements of policies ST1, ST4, DM2 and MU7 of the Local Plan by virtue of the impact the development would have on the supply of employment land (B1/E(g)) within the Borough. There is also the potential for conflict with paragraph 97 of the NPPF, albeit it is not recommended that the application is refused for this reason as discussed in the other matters section above.
- 7.21.3. 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.”

- 7.21.4. 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

- 7.21.5. The primary benefit of the proposal is the provision of residential dwellings as either 100 dwellings or, in the event of extra care being provided on the site, 80 dwellings and 60 extra care units at a time when the Council does not have a five year housing land supply. The provision of this amount of housing to add to the Council's supply at a time when the Council has a shortfall would be a significant benefit in the event of either option being pursued. Furthermore, the provision of 35% of the housing units as affordable dwellings (excluding any extra care units provided as older persons accommodation) would also be a benefit. This would align with the aims of paragraphs 61 and 66 of the NPPF which seek to boost the supply of housing, and provide affordable housing, respectively.
- 7.21.6. The ELR 2023 and submitted Marketing Appraisal add support for the development of the site for purposes other than the employment floorspace referred to in Policy MU7. Irrespective of whether or not paragraph 127(b) of the NPPF is engaged, the development would make an efficient use of an existing site where the use for which it is allocated has not come forward, helping to make a valuable contribution in satisfying an unmet need for housing and affordable housing.
- 7.21.7. There would be an economic benefit during the construction phase, whilst the provision of up to 4,800sqm of commercial floorspace represents a benefit of significant weight given it would provide jobs and reinforce the pre-existing mixed use development already present on site. The provision of alternative employment and main town centre uses on the Perry Court site is also broadly supported by Policy MU7(6), whilst the introduction of small-scale office and light industrial workshop floorspace would provide for the local walk to work market, as specifically recommended in the ELR 2023. This is also supported in broad terms by policy FAV12 of the FNP, which is supportive of more flexible live/work patterns. The residential community residing at the site would also result in spending on nearby services and facilities which can be attributed moderate weight in favour of the scheme based on the scale of the development.

- 7.21.8. The development would provide open space which could be available for the wider community and would also provide in excess of 20% Biodiversity Net Gain (albeit a minimum of 20% is required in accordance with the Faversham Neighbourhood Plan policy), both of which represent a benefit of the scheme.

Harms

- 7.21.9. The harms are those that have been set out at 7.21.2. In preventing the allocated quantum of employment floorspace from coming forward, the proposals would be in partial conflict with the allocation Policy MU7 (and partially DM2(4)(b), as well as ST1 and ST4). There is an evidenced need for employment land within the Borough (as set out in the ELR 2023) and this proposal, aside from the circa 4,800sqm of commercial uses, would potentially utilise much of the space previously allocated for purposes other than employment.

- 7.21.10. However, in this specific case, the Marketing Summary and Appraisal submitted by the applicant clearly indicates that the quantum of employment floorspace allocated at the site has not been attractive to industrial operators for a number of years, whilst the ELR 2023 also acknowledges that the quantum of office space as allocated on the site is very unlikely to be delivered now or at any point over the Plan period. In the absence of any evidence to demonstrate that the allocated quantum of employment space is likely to come forward, the proposals would instead make a significantly valuable contribution in addressing the unmet housing need on an allocated site alongside a smaller quantum of commercial floorspace that reflects the nature of interest received. For these reasons, and despite the impact the proposals would have on the quantum of allocated employment space within the Policy MU7 allocation, the proposals are considered, on balance, to represent an acceptable development.

NPPF Balance

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

7.22. Conclusion

- 7.22.1. The proposal is contrary to the development plan. However, in this case, it is considered that the benefits provided by the scheme would outweigh the harm arising from conflict with the development plan. It is therefore recommended that planning permission is granted subject to conditions and the planning obligations discussed in the report subject to any amendments deemed necessary by the Head of Planning.

- 7.22.2. 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 (both Local Plan and FNP), and all other material considerations

including representations made including the views of statutory and non-statutory consultees and members of the public.

7.23. **Conditions**

RESERVED MATTERS

1. Details relating to the appearance, landscaping, layout, and scale for each phase of the development hereby approved, as well as the access within the site (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any development in that phase is commenced.

The development shall be carried out as approved.

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

TIME LIMIT – RESERVED MATTERS

2. Application for approval of reserved matters referred to in Condition (1) above must be made to the Local Planning Authority no later than the expiration of:
 - Three years for any phase comprising residential development
 - Five years for any phase comprising non-residential development

beginning with the date of the grant of outline planning permission.

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

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

PLANS

4. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Drawing no. 11120-HL-004 Rev D – Site access layout
- Drawing no. HLM087-005 Rev B – Development Framework Plan

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

QUANTUM OF DEVELOPMENT

5. The quantum of development on the site shall be limited to no more than:
- 100 dwellings or, in the event that any extra care units are approved as part of any forthcoming reserved matters application, 80 dwelling units (Use Class C3) and 60 extra care units (Use Class C3). In the event that more than 80 dwellings are approved under the terms of reserved matters applications, no proposals shall be submitted involving extra care units;
 - 4,800sqm of non-residential floorspace, comprising:
 - No more than 4,800sqm office, research and light industrial uses (Use Class E(g)(i, ii and iii))
 - No more than 500sqm of restaurant/drive-through uses (Use Class E(b)/Sui Generis)
 - No more than 850sqm of creche, day nursery or day centre uses (not including a residential use) (Use Class E(f))
 - No more than of 2,000sqm professional/financial services (E(c)(i, ii and iii); and,
 - No more than 16 Electric Vehicle (EV) charging bays (Sui Generis) as a standalone use not specifically associated with any of the uses described above.

Reason: In the interests of proper planning and given that the impacts of the development have been assessed on the basis of this quantum of development.

PHASING

6. No development shall commence until a site-wide phasing plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented broadly in accordance with the provisions of the approved phasing plan.

Reason: In the interests of the proper development of the area.

DESIGN PRINCIPLES

7. The details submitted pursuant to condition (1) (the reserved matters) shall be accompanied by a Design Compliance Statement which demonstrates how the proposals broadly accord with the design principles contained within the submitted Design and Access Statement.

Reason: To secure the delivery of a high quality development.

ENERGY STRATEGY AND SUSTAINABILITY

8. No development in connection with the construction of residential dwellings on the site shall commence above slab level until a fully detailed Energy and Sustainability Scheme for residential development on the site has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall demonstrate how the proposed residential buildings will achieve energy/carbon savings in line with those predicated in the submitted Energy Statement prepared by Brookbanks (document ref 11120 ES Rv1).

Thereafter, no residential building shall be occupied until the provisions approved for that building have been implemented in full accordance with the approved details. Once implemented, they shall thereafter be retained as such.

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

9. All non-residential buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the buildings the relevant certification confirming that the required standard has been achieved shall be submitted to and approved in writing by the Local Planning Authority.

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

10. No residential unit shall be occupied until details of measures to achieve a water consumption rate of no more than 110 litres per person per day, the rate for that unit(s) have been implemented in accordance with details submitted to and approved in writing by the Local Planning Authority. The measures shall be retained thereafter.

Reason: In the interests of water conservation and sustainability.

LEVELS

11. The details submitted pursuant to condition (1) (the reserved matters) shall include plans and sections, indicating as appropriate, the levels, gradients, and method of construction.

SECURED BY DESIGN

12. The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secured by design'.

Reason: In the interest of security, crime prevention and community safety.

SURFACE WATER DRAINAGE

13. Any details submitted pursuant to condition (1) for layout shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout. The proposals shall demonstrate a 'SuDS approach' with source control features prior to discharge of surface water to piped drainage systems and 'site control' measures (unless these are demonstrated to be inappropriate).

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts pursuant to Paragraph 182 of the National Planning Policy Framework and the National standards for sustainable drainage systems (SuDS) June 2025.

14. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for that phase and a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall demonstrate that the National Standards for SuDS has been considered at all phases of design so 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 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.

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

Reason: Required prior to commencement of development 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, including to the neighbouring strategic road network, whilst also ensuring 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.

15. No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. Infiltration shall only 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.

16. No surface water shall be permitted to run off from the development hereby permitted on to the Strategic Road Network or into any drainage system connected to the Strategic Road Network and no drainage connections from any part of development hereby permitted may be made to any Strategic Road Network drainage systems.

Reason: In the interest of the safe and efficient operation of the Strategic Road Network, and to protect the integrity of the Trunk Road drainage asset in accordance with DfT Circular 01/2022.

17. No building on a 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 in that phase has been submitted to and approved in writing by the Local Planning Authority. The Verification Report shall demonstrate that the surface water drainage system constructed is consistent with that which was approved under condition 14. The Verification Report shall be prepared by a suitably competent person and 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.

PILING

18. 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.

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 National Planning Policy Framework and policy ST 1 of the Swale Local Plan (2017).

FOUL DRAINAGE

19. No development shall commence within a phase until a detailed foul drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority.

The development within that phase shall subsequently be carried out in accordance with the approved details prior to the occupation of any dwelling within that phase.

Reason: To ensure that the development is served by appropriate foul drainage infrastructure and existing infrastructure is safeguarded.

CONTAMINATION

20. No development shall commence in any phase 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:

- a. A site investigation scheme, based on the Preliminary Risk Assessment prepared by Brookbanks (doc ref: 11120 PRA01 Rv2) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- b. The results of the site investigation and the detailed risk assessment referred to in (a) 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.
- c. 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 (b) 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: Required prior to commencement of development 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 and policy ST 1 of the Swale Local Plan (2017).

21. Prior to a phase being occupied/brought into use, a verification report for that phase 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 National Planning Policy Framework and policy ST 1 of the Swale Local Plan (2017).

22. If, during development, contamination not previously identified is found to be present at the site then no further development within that phase (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.

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 National Planning Policy Framework and policy ST 1 of the Swale Local Plan (2017).

ECOLOGICAL MITIGATION

23. No development shall be undertaken (including any site and/or vegetation clearance) in any phase until a Construction Environmental Management Plan (CEMP) for that phase 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 include consideration of the following:

- Review and if necessary update of the Ecological Appraisal; FPCR; February 2025
- Retained tree and hedgerow protection measures in accordance with BS 5837:2012;
- Measures to avoid impacts to individual reptiles;
- Measures to avoid impacts to nesting birds;
- Measures to avoid impacts to nesting badgers;
- Measures to avoid indirect impacts to foraging and commuting bats with adherence to a sensitive lighting scheme; and
- Measures to avoid impacts to individual hedgehogs.

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

Reason: Required prior to the commencement of development to ensure the safeguarding in the interest of nature conservation.

BIODIVERSITY ENHANCEMENT

24. Prior to the submission of the first reserved matters application, an Ecological Enhancement Plan must be submitted to and approved in writing by the Local Planning Authority.

The plan must demonstrate that integrated enhancement features will be incorporated into all of the buildings and enhancement features included within the open space. It must also demonstrate how a minimum of 20% Biodiversity Net Gain will be achieved on the site, in accordance with the FPCR Biodiversity Gain Report for Perry Court Farm, dated March 2025, along with a timetable for the implementation of these enhancement features and the delivery of the Biodiversity Net Gain. The plan must be implemented as approved.

The approved measures will be retained thereafter.

Reason: To enhance biodiversity value on site.

HABITAT AND MANAGEMENT MONITORING PLAN

25. No development shall commence on the development hereby approved 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 and including:

- 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 to be submitted to the Local Planning Authority.

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

Reason: Required prior to commencement of development to enhance biodiversity in accordance with the National Planning Policy Framework.

LIGHTING

26. Prior to the installation of any external lighting in a phase, a detailed scheme of lighting for that phase shall be submitted to and approved in writing by the Local Planning Authority.

The lighting schemes 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. It shall demonstrate that any external lighting installed would not adversely impact biodiversity or residential amenity.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved plan for that phase and shall be maintained as such thereafter.

Reason: In the interests of nature conservation and residential amenity.

RETENTION OF TREES

27. No development hereby approved in any phase shall commence until a detailed Arboricultural Report for that phase has been submitted to and approved in writing by the Local Planning Authority. Each Arboricultural Report shall comprise:

- a tree survey;
- arboricultural method statement;
- arboricultural impact assessment; and,
- tree protection plan in accordance with the BS5837:2012

The information submitted shall contain a schedule and plan(s) showing the position of every tree and hedgerow in that phase and on land adjacent to the phase (including street trees) that could influence or be affected by the development, indicating which trees and hedgerows are to be removed and which trees are to be protected.

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

Reason: Required prior to commencement of development in the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

PLAY AREA

28. Prior to first occupation of any residential unit on the development hereby approved, a detailed specification for the equipped play area to be provided on

the site (minimum LEAP) shall have been submitted to and approved in writing by the Local Planning Authority, together with a timetable for its delivery.

The play area shall be delivered in accordance with the approved details and timetable and shall be maintained as such thereafter.

Reason: To ensure the proper management and maintenance of open space within the site and to adequately integrate the development into the environment.

ARCHAEOLOGY

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

A) No development shall take place in any phase until the applicant or their agents or successors in title, has secured the implementation of archaeological investigation and recording for that phase in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.

B) The archaeological investigation and recording shall be carried out in accordance with the agreed specification and timetable.

C) 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. 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.

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

Reason: Required before commencement of development to avoid any irreversible detrimental impact on any archaeological interest and in the interests of the preservation of archaeological remains.

CONSTRUCTION MANAGEMENT PLAN

30. Prior to the commencement of the development in any phase, a Construction Management Plan (CMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The document shall comprise:

1. A Construction Method Statement 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'; and,
2. A Construction Traffic Management Plan comprising details of the:
 - (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

Subsequently, the development shall only be undertaken in full compliance with the approved Construction Management plan.

Reason: Required prior to commencement of development to protect neighbouring residential amenity and control the construction process in the interests of highway safety, neighbouring living conditions and air quality.

31. No construction work in connection with the development shall take place on any Sunday or Public Holidays, nor on any other day except between the following times: - Monday to Friday 0730 - 1800 hours and Saturdays 0800 - 1300 hours unless in association with an emergency.

Reason: To protect neighbouring residential amenity.

ODOUR CONTROL

32. Prior to the first operation of any premises used in connection with hot food production, 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: In the interests of protecting residential amenity.

COMMERCIAL NOISE AND REFUSE STRATEGY

33. Prior to the first use of any of any non-residential building or use hereby approved, details of the proposed:

- management of refuse in order to prevent litter;
- trading hours;
- delivery hours and servicing;
- external plant to be used at the premises; and,
- any noise mitigation required to limit noise break-out from the uses and activities being carried out on site or the plant being utilised

shall have been submitted to and approved in writing by the Local Planning Authority. The development shall only be used in accordance with those approved details at all times thereafter.

Reason: In the interests of protecting neighbouring residential amenity.

NOISE MITIGATION – FUTURE OCCUPIERS

34. Prior to the first occupation of any dwelling on the development hereby approved, the noise mitigation measures as set out in the submitted Noise Assessment by Brookbanks (reference 11120 NA01 Rv1) specifically referenced in paragraph 5.2 shall have been installed.

Once installed, they shall be permanently retained as such thereafter.

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

PARKING

35. The details submitted pursuant to condition (1) (the reserved matters) shall include details of areas for the parking of cycles and the parking and

manoeuvring of vehicles in the development in accordance with the Council's adopted Swale Parking Standards SPD (2020). The parking areas shall be provided in accordance with such details as approved prior to the occupation of each dwelling and commercial unit to which they relate and shall be retained as such thereafter.

Reason: To ensure satisfactory provision and retention of car and cycle parking.

HIGHWAY INFRASTRUCTURE

36. No development shall take place above slab level in any phase 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 for that phase has been submitted to and approved in writing by the Local Planning Authority.

The works shall thereafter be laid out and constructed in accordance with the approved details.

Reason: To ensure the provision of satisfactory highways infrastructure.

HIGHWAY WORKS

37. Prior to the first occupation of any residential unit on the development hereby approved, the following works between that residential unit and the highway shall be completed:

- (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: To ensure the provision of appropriate highway works.

ACCESS

38. Prior to any residential or commercial occupation/use of the site, the access as shown on the submitted plan drawing no. 11120- HL-004 Rev D shall have been completed. It shall thereafter be maintained for such purposes.

Reason: In the interests of highways safety.

USE CLASS CONTROL

39. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any Order revoking or re-enacting those Orders), any non-residential uses on the site shall only be used for those purposes as set out in condition (5) and no change of use shall ever occur that would result in the quantum as specified being exceeded. In respect of residential development, any extra care units approved shall only be used for the provision of extra care and for no other use falling within Use Class C3.

Reason: In order to secure the proper development of the area and to ensure that the impact of the uses have been appropriately considered taking into account their nature and location.

LANDSCAPING ADJACENT TO M2

40. Prior to any planting being undertaken on land comprising the noise mitigation bund and to the south between the bund and the M2 boundary, a Landscape Plan and Planting Schedule for that area, which shall include details of a timetable for delivery and future maintenance, shall be submitted to and approved in writing by the Local Planning Authority. Planting shall be undertaken and maintained in perpetuity in accordance with the agreed plan and schedule.

Reason: In the interest of the safe and efficient operation of the Trunk Road and to protect the Trunk Road soft estate.

LANDSCAPING IMPLEMENTATION

41. All hard and soft landscape works shall be carried out in accordance with the approved details pursuant to condition (1) and as approved under condition (40). The works shall be carried out prior to the occupation of any part of the development within the relevant phase, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 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, unless the Local Planning Authority gives any written consent to any variation.

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

HOUSING MIX

42. Any application for residential development submitted pursuant to condition (1) shall include a Housing Mix Statement that shall demonstrate how it meets the housing needs of the area having regard to the most up-to-date housing needs evidence available or justifying any variations from the identified need.

Reason: To ensure the provision of a mix of house sizes and types to meet a range of community needs.

GEOTECHNICAL SURVEY

43. Prior to the commencement of any excavation works and landscaping works in a phase, geotechnical submissions (CD622 Managing Geotechnical Risk Process) for that phase shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To mitigate any adverse impact from the development on the M2 in accordance with DfT Circular 01/2022.

PARKING AND DROP OFF PLAN

44. As part of any reserved matters submission comprising a non-residential use, a Parking and Drop-off Management Plan shall be submitted. This shall include details demonstrating how the proposals have been designed to prevent on-street parking or queuing associated with pick-up/drop-off activity.

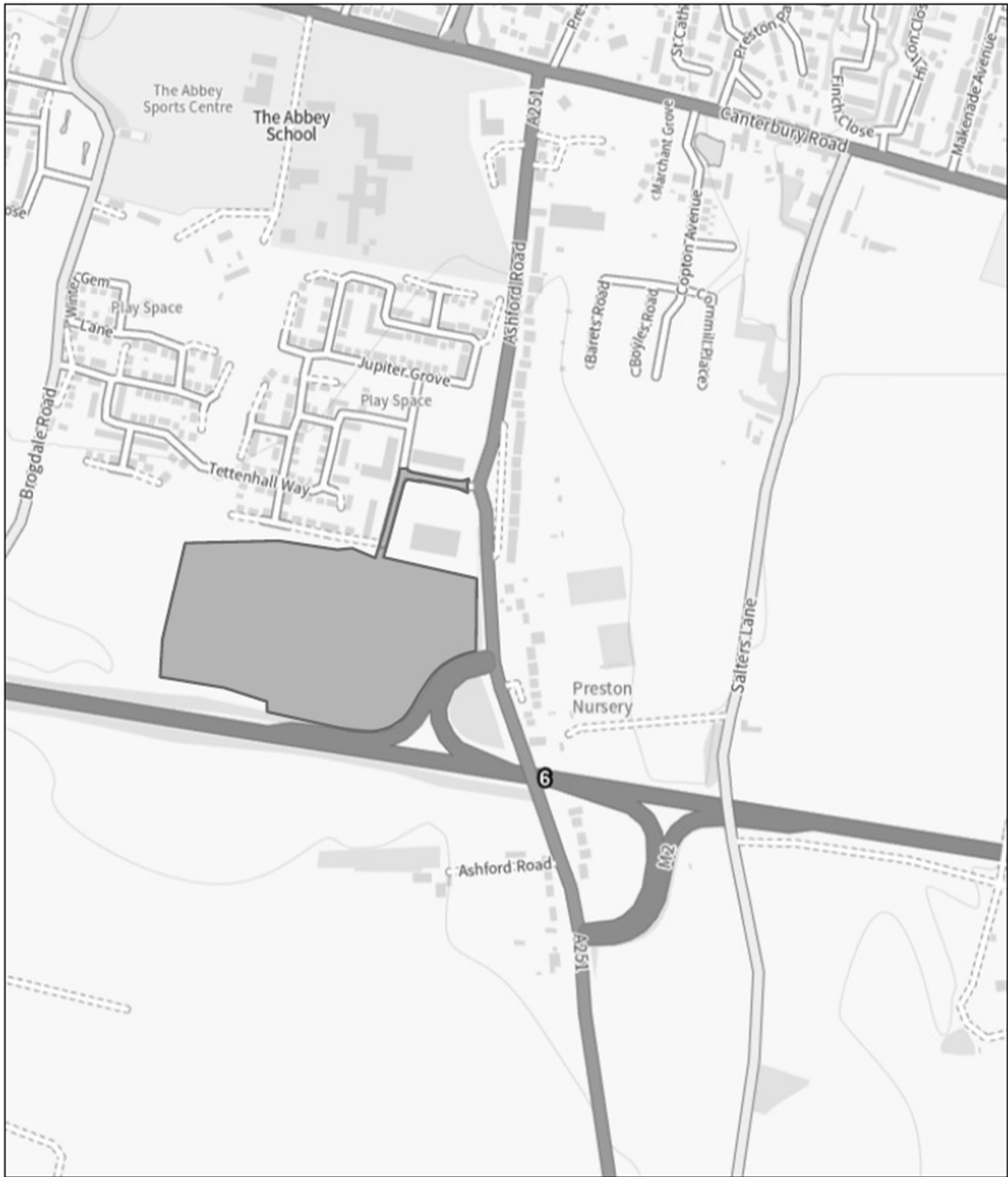
Reason: In the interests of highways safety.

TRAVEL PLAN

45. Prior to the first occupation of any phase comprising residential C3 units on the development hereby approved, a Travel Plan for that phase (including methods to reduce dependency on the private car) shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement as necessary.

The approved Travel Plan for each phase shall then be implemented and adhered to throughout the lifetime of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: In the interests of sustainable development and to reduce dependency on the private car.



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2.2 REFERENCE NO - 25/502451/FULL		
PROPOSAL - Retention of existing 8 plot gypsy traveller site, each with 2 mobile homes and 2 touring caravans and associated day rooms, new access, driveway, hard standing, package treatment plants, boundary fencing and landscaping (previously granted at appeal reference APP/V3355/W/20/3254539) (retrospective).		
SITE LOCATION - New Acres, Spade Lane, Hartlip, Kent ME9 7TT		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate conditions, 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 as may be necessary and appropriate.		
APPLICATION TYPE – Full Major		
REASON FOR REFERRAL TO COMMITTEE - The recommendation of Officers is contrary to the objections received from Hartlip Parish Council and they have requested that, in that circumstance, the application is determined by the Council's Planning Committee. The application has also been called-in to Planning Committee by Cllr R. Palmer.		
Case Officer – Christian De Grussa		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Hartlip	APPLICANT Mr Frank Mongen AGENT Perfect Pitch Planning Ltd
DATE REGISTERED 25 July 2025		TARGET DATE 08 April 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=SXSH6STYLDL00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 In terms of its overall setting, the application site is located within a flat area of land bound by the A2, Spade Lane, South Bush Lane and Meresborough Lane. Spade Lane contains a few dispersed houses on its eastern side and South Bush Lane has sporadic housing on both sides. To the south is Meresborough Lane which also has sporadic housing to each side. More significant development exists adjacent to the A2 including a car business and a storage facility. Notwithstanding the presence of the development on the A2, the other roads are rural in nature, being generally single-track and surrounded by open land.

- 1.2 The site extends for some considerable depth towards South Bush Lane (approximately 289m). The site measures 1.6 hectares in area.
- 1.2. The site has been used for the siting of caravans, with this use being lawful for a three-year period up to 8th June 2025 as a result of a planning permission granted following an appeal against the refusal of planning application 19/503694/FULL as detailed below. That permission enabled the occupation of the site by persons who met the definition of Gypsy and traveller that is set out at Annex 1: Glossary of Planning Policy for Traveller Sites. That was enforced by condition 1 of the applicable permission. Condition 3 of that permission limited the number of caravans at the site to 16 and the number of plots to 8.
- 1.3. Under the terms of the permission, a pre-existing access from Spade Lane was required to be replaced. This was detailed within approval of details application 22/503798/SUB. That approved access appears to have been implemented.
- 1.4. An earlier permission, allowed at appeal under the terms of application 16/506942/FULL authorised a comparable use between 15 December 2017 and three years after that date.
- 1.5. The site is enclosed by and contains means of enclosure that range from timber fences, brick walls/columns, and gates.

2. PLANNING HISTORY

- 2.1. SW/13/1485 - Change of use of the land to a residential gypsy caravan site comprising two pitches, including the laying of hardstanding, new access, associated access track and amenity block. Refused for the following reasons:

- Unsustainably located within the open countryside
- Harm to the visual amenities of the surrounding area
- Harmful impact on residential amenities as a result of noise and activity.
- Unjustified loss of best and most versatile agricultural land

An appeal against the refusal was dismissed at appeal for the following reasons:

- The proposal would not promote the use of sustainable modes of transport.
- Harm to the character and appearance of the surrounding landscape
- Harmful loss of best and most versatile agricultural land
- In combination, the proposal would not represent a sustainable form of development.

- 2.2. 16/506942/FULL - Proposed private traveller site comprising 8 pitches, each with a mobile home, touring caravan and utility room together with access road. Refused for the following:

- Harm to the character and appearance of the surrounding landscape.
- Unacceptable loss of best and most versatile agricultural land.

- Unsustainably located within the open countryside causing a reliance on journeys by unsustainable modes of transport.
- Detrimental to highway safety due to the inability to provide adequate visibility splays at the access.

The above application was subsequently allowed at appeal but only for a time limited period of three years so that it could be reassessed against an updated supply of sites for the Gypsy, Traveller and Travelling Showpeople population across Swale Borough. At that time, the Inspector found harm to arise on the grounds of:

- The harm to the character and appearance of the area was unacceptable and greater than was identified in the earlier appeal decision which addressed a smaller and more compact development.
- The loss of agricultural land.

2.3. 19/503694/FULL - Change of use of land to an 8 pitch gypsy traveller site, with associated day rooms, new access, drive way, hard standing, package treatment plants, boundary fencing and landscaping (part retrospective). Refused for the following:

- Harm to the visual amenities of the surrounding area and the character and appearance of the countryside
- Harmful loss of best and most versatile agricultural land
- Recreational disturbance to the Swale Special Protection Area

The above application was subsequently allowed at appeal on 8th June 2022 but only for a time limited period of three years so that the residents can have opportunity to find an alternative site and so that opportunity exists for further sites to come forward. Key points within the appeal decision are considered to be as follows:

- *“The site is highly visible from the surrounding area, including from the public footpath which runs across the open land to the north. Within the predominantly open and rural landscape, the existing site appears prominent and discordant.*
- Any landscaping proposed to soften the appearance of the site would have to “be so significant to be effective that it would, in itself, appear incongruous within the area.”
- Around 70% of the land in the Swale Borough is BMV agricultural land and other land is constrained and so it would be difficult to locate on land that is not within this definition. However, in the absence of evidence of a search of such sites, a policy conflict was identified and this was given moderate weight.
- The third reason for the refusal of the application, related to the Swale Protection Area, was addressed prior to the appeal hearing.
- At that time, a 3.5 year supply of Gypsy and traveller sites existed but the ‘windfall’ approach that is contained within Policy DM8 was providing sites in excess of the GTAA identified need. However, the inability to demonstrate a 5 year supply of sites was considered to weigh in favour of the proposal.
- Regard was had to the personal circumstances of the applicants and occupiers of the site, which were given significant weight.

- Moderate harm was attributed to the deliberate unauthorised nature of the development.
- The harm identified was considered to outweigh the benefits and, as such, permanent permission should not be granted. However, it was found that temporary permission should be granted as this *“would be an acceptable time period and would enable the residents and the local situation to gain an opportunity for alternative sites.”*

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the use of the site for the purposes of providing of 8 Gypsy and traveller pitches, each with space for 2 mobile homes, 2 touring caravans, and associated amenity/utility blocks. The description refers to the retention of the existing access, driveway and hard standing. Package treatment plants, boundary fencing and landscaping are also features of the development.
- 3.2. This application follows the lapsing of the temporary permission granted under the terms of the abovementioned 2019 application on the 8th of June 2025.

4. REPRESENTATIONS

- 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. Full details of representations are available online.
- 4.2. During the first round 8 letters of representation objecting to the application were received. Excluding duplicates, 9 letters of representation objecting to the application were received in relation to the second consultation. Concerns/ comments were raised in relation to the following matters:

First Round Comments	Report reference
Detrimental to highway safety and impact on the free flow of traffic, contrary to Policy DM6 and ST1.	Section 7.7
Exacerbation of inadequacy of local infrastructure including highways, education and health provisions.	Sections 7.7. At eight pitches, the development is not of a scale that would derive education or health contributions.
Harmful visual impact to the surrounding area	Section 7.3
Lack of consultation and insufficient details	Sections 4.1 and 4.2 address consultation. Sufficient details are considered to have been submitted.
Overdevelopment of the plot, with double the number of caravans.	Sections 7.2.34 and throughout.
Conditions on former permission ignored including a period of time where a much higher number of caravans was present.	Planning practice guidance states that development should not be refused if any unacceptable matters can be made acceptable through conditions. The likelihood of breach is not a factor.

Overlooking and lack of privacy has necessitated the erection of boundary fencing. Noise, lighting and disturbance are also harmful impacts of the development. The development therefore conflicts with policies E1, DM14 and DM19.	Section 7.4
Unacceptable loss of agricultural land	Section 7.2.30 to 7.2.33
The site has been occupied by persons that do not meet the definition of Gypsy or Traveller.	Section 7.2.20
Unsustainably located in countryside away from all facilities required for day-to-day living.	Section 7.2.4
Absence of utilities and unacceptable living conditions, contrary to policies H4 and DM19.	It is known that securing an electricity connection is subject to planning permission being granted. Other provisions would be able to be made for the accommodation to be adequate for the intended occupiers.
Accusations made of anti-social, unneighbourly and other unacceptable or unlawful behaviour.	Officers are not in a position to comment on these matters and will make a recommendation based on the consideration of planning merits.
Removal of trees	No tree removal is proposed.
The personal circumstances of the applicant's should not outweigh the identified harms.	Sections 7.2.19 and 7.11.9
The effect of the development on the Special Protection Area should be mitigated through a SAMMs payment.	Section 7.6
Biodiversity Net Gain should be sought.	See paragraph 7.6.18
Conflict with the Settlement Strategy and policies ST3, CP4, DM19 and DM25 of the Local Plan.	Policy DM25 addressed Important Local Countryside Gaps, which the site is not within. Policy DM19 addresses sustainable design and construction and therefore does not relate to landscape impacts or locational sustainability as suggested by the objector.
Precedent of supporting unauthorised development.	All applications should be considered on their own merits and it is noted that the planning system allows for breaches to be regularised.
Cumulative Impacts	Other Gypsy and Traveller pitches are not considered to be determinative in the assessment of this case.
Permanent use has never been intended.	The history of the site demonstrates that permanent occupation has never been accepted before.

Second Round - Additional Comments	Report reference
In terms of the definition of sustainability, the development fails to meet the economic or social objectives, conflicts with the environmental objection and does not meet the needs of future generations.	Considered throughout, with an assessment of the overall benefits concluded in the planning balance. In summary, no economic or environmental benefits are identified but the provision of Gypsy and traveller pitches can be considered to accord with the social objective and be a benefit.
It is questioned whether relevant permits have been obtained from the Environment Agency	This is a matter for the Environment Agency.
The accommodation at the site has been advertised for rent.	Section 7.2.20
The attendance at local schools by children residing at the site should not be construed as evidence of community integration.	Section 7.2.8
Evidence exists that demonstrates that the residents have used other addresses.	The recommendation made is on the basis of the use of the site rather than as a personal permission.
The development dominates the nearest settlement.	Section 7.2.9
It is unclear if the personal circumstances of the applicant's remain the same as set out before.	The recommendation made is on the basis of the use of the site rather than as a personal permission.
Increased flood risk.	Section 7.8
Electricity generators at the site are causing noise disturbance.	Section 7.4 and comment above about supply of electricity.
Other sites have been occupied for comparable uses without planning permission.	This application is to be considered on its own planning merits.
The Council should not be 'worn down' into granting planning permission.	The recommendation has been made on the basis of the evidence before Officers.
The use of the site (including the burning of materials) conflicts with the element of policy that requires for healthy lifestyles to be enabled through the provision of open space and sports facilities.	Environmental protection is addressed as far as falls within the scope of planning. However, this is not and should not be in the context of policies that relate to open space and sports facility provision.
The applicant stating that the site could enlarge should be taken as an indication of the applicant's intentions.	The application shall be considered on its merits as submitted. The comment of the applicant was made in response to the policy requirement that is set out within Policy DM6.
In addition to policies cited above, the development conflicts with policies DM10, DM24 and DM31	All applicable policies have been considered.

The welfare of all children should be considered, including those resident at the site and those resident in the area. In particular, it has been stated that children off-site were affected by an unofficial electricity supply to the site.	The living conditions of existing residents is considered at Section 7.4
The decision of the previous Inspector to only grant temporary permission should carry weight, especially as circumstances have not materially changed.	That decision is considered throughout.
Previous conditions and limitations have not been complied with or enforced.	Planning practice guidance states that development should not be refused if any unacceptable matters can be made acceptable through conditions. The likelihood of breach is not a factor.
Harm to Green Belt.	There is no Green Belt in the Swale Borough.
Irreversible harm has already been caused that is contrary to the landscape protection objectives of the local plan.	Section 7.3

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

First Round Comments	Report reference
None received.	N/A
Second Round - Additional Comments	Report reference
Circumstances have not materially changed since permanent planning permission was previously not granted at appeal.	A full assessment of current circumstances is provided.
The former temporary permission should not be made permanent.	Noted.
The planning application and enforcement history should be reason to find the development unacceptable, as it demonstrates inadequate site management and compliance with conditions.	A full assessment of current circumstances is provided, a former decision can be informative but does not have to be binding.
Accommodation at the site has been advertised for rent.	The recommendation is based on the evidence of need that exists. Occupation can be enforced by condition.
Future expansion and intensification of the site should be considered, including the adverse visual impacts and impacts on living conditions. Landscaping would	Section 7.3. The application has to be considered as submitted.

not address the visual impacts and cannot be relied upon.	
The access arrangements to the site are not acceptable if the use of the site intensifies.	Section 7.7
Enforcement and monitoring of the site has proven difficult and should be more robust.	This view is noted.
The location of the site is not sustainable.	Section 7.2.4

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. There have been two rounds of consultation for most consultees.
- 5.2. **KCC Highways** – No objections, subject to conditions.
- 5.3. **KCC Flood and Water Management** – No objection subject to condition.
- 5.4. **KCC Minerals and Waste** – No objections.
- 5.5. **Mid-Kent Environmental Protection** – No objection.
- 5.6. **Environment Agency (EA)** – No objection subject to conditions

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
 ST5 The Sittingbourne Area Strategy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP7 Conserving and enhancing the natural environment – providing for green infrastructure
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM10 Gypsy and Traveller Sites
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM24 Conserving and enhancing valued landscapes
 DM28 Biodiversity and geological conservation
 DM31 Agricultural land
 DM34 Scheduled Monuments and archaeological sites

Supplementary Planning Guidance/Documents -

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

Parking Standard Supplementary Planning Document, 2020.

Gypsy and Traveller and Travelling Showperson Accommodation Assessment

Housing Economic Land Availability Assessment (HELAA) 2025

National Planning Policy Framework (the NPPF)**National Planning Practice Guidance (NPPG)****MHCLG Planning policy for traveller sites (PPTS)****Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.****7. ASSESSMENT**

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

- Principle
- Landscape and Visual Effects and Character and Appearance
- Living Conditions
- Archaeology
- Ecology
- Transport and Highways
- Sustainable Design and Construction
- Flood Risk, Drainage and Surface Water
- 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.

Settlement Strategy

7.2.3. Policy ST3, supported and referred to by Policies ST1 and DM10, states that “*at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and 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.*”

7.2.4. The site is within the countryside and, setting aside the assessment of whether the development would accord with the NPPF until the planning balance section below, it

is clear that the development does not “*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.*” There is, therefore, a conflict with Policy ST3 and, in turn, ST1(4) which requires development to accord with the Local Plan settlement strategy. It is noted that a consequence of the development being in this location is that the occupiers are distant from shops, services and other facilities and, as such, there would be a dependency on private modes of transport. This has not, however, been a previous successful reason for the refusal of the application. In this regard it is noted that the Inspector for the 2017 appeal, following the refusal of the 2016 application, set out at paragraph 25 “*that the site location, so far as it relates to the need to travel by private car, does not weigh for or against the development.*”

Policy DM10

7.2.5. Policy DM10 states that the Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:

1. Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:
 - a. there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or
 - b. where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or
 - c. the proposal is for an extension to, or stationing of, additional caravans at an existing site.
2. Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);
3. Can achieve an integrated co-existence between all communities;
4. Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;
5. Can, where appropriate, accommodate living and working in the same location, either through a mixed-use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;
6. Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;
7. Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;
8. Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;
9. Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;

10. Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;
11. Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and
12. Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.

- 7.2.6. Points 2, 6, 8, 11, are considered further below within this report and, considering the application site's location outside of a designated flood zone or Area of Outstanding Natural Beauty (now National Landscape) or any other designated landscape areas, there would be no conflict with points 7 or 10.
- 7.2.7. With respect to criteria 1, as will be established from the commentary that is provided below in respect of the need for Gypsy and traveller accommodation, the Council is not able to demonstrate an adequate supply. Policy DM10(1) sets out with policy ST3 (the Council's Settlement Strategy) *"by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application."* In this respect, having regard to the below commentary in relation to the need and supply for sites of all types of residential accommodation it is considered that it would be highly unlikely that there would be any potential or existing sites available at a settlement tier above *"locations in the open countryside."* Consequently, it is not considered that the development conflicts with that element of Policy DM10.
- 7.2.8. The 2019 delegated report identified "a pattern of behaviour which is unlikely to achieve an integrated co-existence between all communities". Consequently, the development was considered to conflict with policy DM10(3) at that time. The applicant has set out that children living at the site attend local schools and that the current occupiers have become integrated by virtue of the amount of time they have been present at the site. Whilst the case of the applicant is noted, there is no evidence available that corroborates the content of the submitted statement, and it is noted that counter claims have been made within the objections received. Therefore, in the absence of evidence to support the case of the applicant, it is considered that the application should be determined on the basis that it has not been demonstrated that the development accords with policy DM10(3) of the Local Plan 2017 and the NPPF. This is considered to be a sound stance to take, particularly in the context that the site is distant from most other residences and detached from any of the identified settlements which gives the impression of detachment even if some integration does occur.
- 7.2.9. In respect of DM10(4), the scale of the development inevitable means that it has a noticeable impact on the local area and, as a group of 8 pitches, the content of the site covers a much greater area than the sporadic housing of the area. However, the test of the policy is whether the development dominates local settlements and, in this respect, it is not considered that the site is dominating of the local settlements of, Hartlip, Newington or Rainham or any intervening village. The site is sufficiently distant from all such settlements to not have a dominating effect. No objection has been previously raised to the development of the site on this ground, by the Council or the Planning Inspectors that have determined appeals, and it is not considered that there is now reason to reach a different conclusion on this matter. At paragraph 26 of

the 2017 appeal decision, the Inspector had regard to the local community and found that it would not be dominated by the development.

- 7.2.10. In respect of DM10(5), the desire to enable “working” at a site has to be balanced with the need to protect the amenities of an area. In this case, there would be space for vehicles associated with some industries to be parked without obstructing the main highways. However, it would not be desirable in the interests of living conditions and the character of the area for the site to be used for extensive on-site work or a base for commercial work. Consequently, conditions are suggested to control this matter. It is noted that it was previously established, within the delegated report for 19/503694/FULL, that the scheme could provide for scope for living and working to both occur from the site. There is no reason to reach a different conclusion in this respect and, as such, the development is considered to accord with that element of policy DM10.
- 7.2.11. In terms of open space and amenity areas to enable healthy living, it is considered that each pitch would be of sufficient size to enable adequate outdoor space to be provided. This is the equivalent of gardens rather than formal open space and, from this basis whilst the policy terminology and the reference of an objector to the provision of public open space and sport facilities is noted, it is not considered that an objection should be raised as adequate outdoor space would be provided for residents of the site.
- 7.2.12. With respect to criteria 12, no transit or visitor pitches are proposed. The policy only requires this to be addressed “where appropriate” with no indication of what that should mean. In this instance, noting the objections raised by interested parties on the grounds that the movement of caravans has blocked the surrounding highways, it is not considered that this would be a welcome location for visitor or transit pitches, where the turnover at a site would be more frequent, to be provided. In terms of future expansion, the applicant has advised that this would be possible and, as a matter of fact, this is true as there are no physical barriers to the site being extended or intensified. However, this is not to say that such expansion or intensification would be found acceptable and it is essential that the application is determined on the basis of the application that has been submitted rather than some alternative approach that might be taken in the future. In this context and subject to the proviso about future expansion not necessarily being found acceptable even if it is possible, no objection is raised on the grounds of criteria 12 of policy DM10.

Planning Policy for Traveller Sites (PPTS)

- 7.2.13. Policy H of The PPTS states that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- a) the existing level of local provision and need for sites;
 - b) the availability (or lack) of alternative accommodation for the applicants;
 - c) other personal circumstances of the applicant
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;

e) that they should determine applications for sites from any travellers and not just those with local connections.

- 7.2.14. Each of these criteria are considered elsewhere or can be taken to indicate that regard need not be had to certain factors. For example, there is no requirement for the applicant to have a local connection.
- 7.2.15. The PPTS goes on to state that *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”*
- 7.2.16. It is noted that the development conflicts with the first part of the abovementioned policy as the site is in the open countryside, away from existing settlements and outside areas allocated in the development plan. For reasons that are set out elsewhere, it is not considered that the development dominates the nearest settled community. Moreover, given the number of pitches and occupiers, it is not considered that the use of the site would cause undue pressure on local infrastructure. In this regard, whilst the content of objections raised is noted, if considered in the context of other developments where it would be very unlikely for an application for 8 dwellings to be refused due to the impact on infrastructure, it is not considered that it would be reasonable to cite any impacts on infrastructure as a reason for objection to an application for 8 pitches.
- 7.2.17. Other matters raised within Policy H of the PPTS are not considered to be applicable to this development or are addressed elsewhere.

The Occupiers of the Site.

- 7.2.18. The development is proposed to be occupied by members of the Gypsy and travelling community, the identity of which was previously confirmed at appeal. A material consideration is whether potential occupiers of the site would meet the definition of as set out in the PPTS. The PPTS definition of gypsy/traveller is as follows:
- ‘persons of the nomadic habitat of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependents’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such’.*
- 7.2.19. The applicant’s planning statement provides details of the occupiers of the site and their lifestyle which is consistent with the information submitted previously at appeal and, having reviewed this, the inspector was satisfied that the occupiers would meet the above definition. In any case, and notwithstanding the requirement of policy, it is acknowledged that there is a need to supply Gypsy and traveller pitches which goes beyond the personal circumstances of the applicant. A condition limiting the use of the site to the current occupiers, therefore, could only be deemed to be necessary where the personal circumstances of the applicant are of such weight that they are grounds

to support an otherwise unacceptable development. From that basis, the details provided are noted, but the need to personalise the permission will be considered in the planning balance section that is to be undertaken further below.

- 7.2.20. It is noted that there is an allegation within the representations that the site has been occupied by persons other than those that fall within the abovementioned definition. This has been previously investigated by the Council's Planning Investigations Team and it is understood that the occupation of the site has reverted to be only by persons that can comply with the condition that was previously imposed. As set out elsewhere, the need that exists is not specific to individuals and therefore, even if the persons meeting the definition were to leave, there is scope to conclude that the site would be needed to meet the wider need that exists. A condition relating to the occupation of the site would address this matter and meet all the tests, including the test of enforceability. Consequently, no objection is raised on the grounds of criteria 2 of Policy DM10.

Need for and provision of sites

- 7.2.21. The PPTS states that Local Planning Authorities should identify and update annually a supply of specific strategic deliverable sites sufficient to provide 5 years' worth of sites against their locally identified need.
- 7.2.22. The Swale Borough Council Gypsy, Traveller and Travelling Showperson Accommodation Assessment 2023 (the GTAA) is the most recent study on the accommodation needs of these communities. The GTAA analysis takes into account the needs arising from existing households, households on unauthorised sites, newly forming households, in-migrant households and vacancies on existing public and private pitches. The GTAA concludes there is an overall need for 114 additional Gypsy and Traveller pitches across the Borough over the period 2022/23 to 2037/38. This is need over the whole plan period (not the 5 year supply of traveller sites).
- 7.2.23. The Council's Housing Economic Land Availability Assessment 2025 (HELAA) states that monitoring between 1 April 2022 (base date of GTAA evidence) and 31 December 2025 has identified 23 pitches have been consented. This means for the purposes of meeting the immediate 5 year unmet need there is a requirement for 57 additional pitches. Therefore, Swale Borough Council does not have a supply of specific deliverable sites sufficient to provide 5 years' worth of sites. The lack of a five-year supply engages the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework.
- 7.2.24. Due to the temporary permission, the application site was counted towards the existing provision within the Borough and, therefore, to refuse this application would be to effectively reduce the overall provision whilst, in turn, increase the need for further pitches to be identified. Though not determinative or preventing a refusal of permission if warranted by policy, it is relevant that this would exacerbate the shortfall identified in the GTAA as outlined above. Whilst not binding, paragraph 6.31 of the GTAA recommends that a number of unauthorised sites should be re-appraised to try and meet the Borough's needs. In this regard, the site would not have been included in the 35 pitches that fell into that category at the time the GTAA was published; but would do now. Therefore, whilst the previous refusals are acknowledged, it is considered

appropriate to re-appraise the site as per the GTAA. However, it is also acknowledged that the Council's HELAA identifies that the site is not suitable.

- 7.2.25. In this respect, it is noted that at the time of the previous appeal decision, the Inspector based their decision on the Council having a supply of 3.5 years, with it being indicated that the Council's policy based on a "windfall" approach was being successful in terms of providing more sites than required by the GTAA. The temporary permission was granted to enable the applicant and the Council to identify an alternative site with it presumably being the case that the supply and policy would enable such an alternative site to come forward.
- 7.2.26. Since that time, the Council's GTAA has identified a need for 80 pitches up to the period ending 2026/27 which has not been addressed. This was corroborated at an appeal in May 2025 (APP/V2255/W/24/3357886) in relation to Land at Eden Top, Sheppey Way, Bobbing where the Inspector identified that *"The GTAA analysis takes into account the needs arising from existing households, households on unauthorised sites, newly forming households, in-migrant households and vacancies on existing public and private pitches. The report concludes there is an overall need for 114 additional Gypsy and Traveller pitches across the Borough over the period 2022/23 to 2037/38, with a shortfall of 80 in the five year period 2022/23 to 2026/27 and 34 pitches in the longer term."*
- 7.2.27. That Inspector went on to identify that *"The current definition in the 2024 PPTS has been broadened to include all other persons with a cultural tradition of nomadism or of living in a caravan. The identified need of 114 pitches is probably an under-estimate for this reason alone."* Consequently, with the Council identifying within that appeal that it could demonstrate a 1.3 year supply of pitches, the Inspector found that *"the evidence indicates a very significant shortfall in pitches in the Borough. The lack of a five year supply engages the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework, unless the application of policies protecting the North Kent Marshes Special Protection Areas and Ramsar sites (the SPA) provide a strong reason for refusing the development proposed."*
- 7.2.28. Similarly, whilst appeal APP/V2255/W/24/3354226 (June 2025) was dismissed on the grounds of coastal erosion matters, the Inspector stated that *"When I factor in the lack of five-year supply, the current unmet need for pitches, the absence of an alternative site, and the failure of policy that has led to this situation, the provision of one pitch adds significant weight in favour of the proposed development."*
- 7.2.29. The number of pitches in the current application is greater than that example and, as such, the benefit should be acknowledged to be afforded to be greater. The weight to afford can still be significant.

Loss of Agricultural Land

- 7.2.30. 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. As set out above, there is an overriding need and no basis to expect that this can be met within the built-up area boundaries, particularly in light of there being a shortfall of housing land supply and objectives built into local planning policy to

support employment development and avoid the unwarranted loss of employment land. This element of the policy is therefore complied with, albeit this addresses all agricultural land and, as such, implies that development could occur on agricultural land that is not BMV as that land is subject to the following policy.

- 7.2.31. That policy goes on to state that 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.
- 7.2.32. The development of the application site has resulted in the loss of Best and Most Versatile (BMV) agricultural land, however, it was previously agreed by the inspector that, as around 70% of farmed land within the Swale Borough is BMV and the majority of non-BMV land is within the Kent Downs Area of Outstanding Natural Beauty (AONB) and the Isle of Sheppey “it would be very difficult to locate non-BMV land for the use proposed”.
- 7.2.33. As such, despite the development continuing conflict with policy DM31, as per the inspector's appeal decision, only moderate weight is given to the loss of BMV agricultural land in this case.

Other Matters

- 7.2.34. It is noted that the proposed capacity of the site that is set out within the description of the development would double the number of caravans relative to what was approved at the site on a temporary basis. The implications of this additional site capacity will be considered below. Whilst it is conventional for most sites of this type to have one mobile home, one touring caravan and a day room, there is no policy or legislation to insist upon this. Indeed, at appeal APP/V2255/W/23/3333589 (following refused application 23/504136/FULL) in respect of land at The Retreat, Elverland Lane, Ospringe, Faversham ME13 0SP, the Inspector limited the capacity of the site to two static and two touring caravans, albeit that was also a personal permission. In this instance, noting that some family units are larger than others and the applicant has detailed who would occupy the caravans (which could be the case whether it is these named individuals or others that occupy the site in the future) it is considered that there is no basis to not consider an application that would enable more caravans to be present than might normally be expected. In this regard, whilst previous breaches of the site capacity condition are noted, it is not considered that this should be reason to not consider the application on the basis of the terms that are detailed within the application.

7.3. Landscape and Visual Effects and Character and Appearance

- 7.3.1. 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. The site is not within a designated landscape and, as such, it is relevant that Policy DM24 states that landscapes will be protected and planning permission will be granted where adverse landscape impacts are minimised and mitigated or, where significant adverse impacts remain, only support applications where the social and/or economic benefits significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.3.2. 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.
- 7.3.3. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. Moreover, it requires that the intrinsic character and beauty of the countryside is recognised and, amongst other requirements, planning decisions should ensure that developments function well and are visually attractive as a result of good layout and appropriate and effective landscaping.
- 7.3.4. The site is within the Hartlip Downs Landscape Character Area as identified within the Council's Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011. The condition of that LCA is assessed as being good and the sensitivity to development is moderate. The overall approach recommended within that document is to conserve and reinforce with a suggestion being to "*conserve the distinctive and open landscape character of the chalk valleys, with their slopes and ridges, together with the character of narrow enclosed lanes, by the retention and management of the landscape structure of chalk grassland, woodland and hedgerows. Additionally, look for opportunities to reinforce landscape structure (including the removal of conifer trees), especially in localised denuded and open areas.*" Whilst reference is made to the setting of the National Landscape and its protection and due regard is had to the need to further the purposes of the conservation and enhancement of the natural beauty of the landscape, in this case it is considered that the scale of development and the distance from the National Landscape means that the development would not conflict with the purpose and, by enabling development outside the National Landscape, it would reduce any pressure that exists to undertake development within the National Landscape or its setting.
- 7.3.5. It was previously found by the inspector that the development, owing to its visibility from the surrounding area (including from the public footpath which runs across the open land towards the north) would consequently "appear prominent and discordant" along with being "significantly out of place" and "unacceptably urbanising". The Inspector identified that there are some hedgerows within the area but that these allow for open views across the land.
- 7.3.6. Compared to the previous temporary permission, there would be 16 additional caravans comprising of 8 additional statics and 8 additional touring caravans. This would cause the visual impact of the use of the site to be materially greater and even more unacceptable than was found to be the case by the Council and the Inspector

previously. Consequently, the findings of the Inspector not only remain applicable, but the impact would also be increased and more harm would be derived.

- 7.3.7. Relative to the time of that previous decision, it appears that there is some additional to the north of the site and, in combination with other landscaping in the area, it is considered that the site is less prominent from the north than it appears to have been before. The site remains prominent in views from the highways to the south and east, with clear views being intermittently achievable from the highway to the west.
- 7.3.8. The submitted plans show potential for soft landscaping to be incorporated along the exterior of the site which would represent an improvement when compared to the previous appeal and what has been achieved at the site, despite the approval of a Site Development Scheme showing landscaping at all boundaries. It is considered that this would help to soften the visual appearance of the content of the site and partially mitigate its visual impact.
- 7.3.9. In this regard it is noted that the previous Inspector found that intensive landscaping at the site could also appear incongruous within the area and contrary to the advice in the PPTS at paragraph 26. This is noted. However, since that time it is noted that the adjacent fields to the north have been used for tree planting on the basis of what appears to be an agricultural business and, as such, the context of the site has changed, albeit there is no guarantee that the adjacent land would continue to be used in that way and, as this appears to be a crop rather than long-term planting it is likely that there would be periodical changes to this landscaping. Moreover, whilst the Inspector found that planting could appear incongruous, it is noted that there are belts of hedges and trees at the boundaries of fields within the vicinity of the site such that there would be scope to partially reduce the visual impact of the development, albeit not to the extent that it would be entirely screened, which was resisted by the Inspector.
- 7.3.10. Overall, it is considered that a balanced landscaping approach could be taken which would soften and partially mitigate the visual impact of the development, without that landscaping becoming visually incongruous. This would not entirely screen the site and its contents but would be able to have a softening and partially mitigating impact. This could reduce the landscaping impact below the threshold of significant and result in Policy DM24 being complied with.
- 7.3.11. Even allowing for landscaping, visual harm would continue to exist and would likely be increased as a result of the presence of additional caravans relative to that which temporarily allowed and found unacceptable before. The development would, therefore, continue to conflict with policies ST1, ST3, CP4, DM10(4), and DM14 of the Local Plan 2017

7.4. **Living Conditions**

- 7.4.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.4.2. No unacceptable impacts upon the amenity of residents were previously identified by the local authority or inspector when assessing 19/503694/FULL. Even noting that

there would be additional caravans at the site as a result of this application, it remains the case that the development is acceptable in these respects, not causing an unacceptable loss of light, privacy or outlook. Potential disturbance brought about by the use of the site can be controlled through conditions.

- 7.4.3. For this reason, even noting the increased capacity of the site compared to the developments that were considered previously, the development is considered to be in accordance with policies DM10(6) and DM14 of the Local Plan 2017 and the NPPF.

7.5. **Archaeology**

- 7.5.1. 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.
- 7.5.2. 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.
- 7.5.3. The site falls within an Area of Archaeological Potential, however, no unacceptable impacts upon buried heritage assets were considered to occur under 19/503694/FULL. Even allowing for the additional elements compared to the previously considered development, it would continue to accord with policy DM34 of the Swale Borough Local Plan 2017 and the NPPF.

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, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.6.2. 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.

Habitat Sites

- 7.6.3. 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.’

- 7.6.4. The Local Plan requires new development to ensure there are no adverse effects upon the integrity of a SAC, SPA or Ramsar site, alone or in combination with other plans/projects.
- 7.6.5. Considering that the application site is located within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, upon the coastal Swale Special Protection Areas (SPAs)/Ramsar sites stemming from recreational disturbance on the over-wintering bird interest.
- 7.6.6. Natural England have previously advised the local planning authority that an appropriate tariff of £337.49 per dwelling (excluding any legal and monitoring officer’s costs) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries.
- 7.6.7. These SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014.
- 7.6.8. A decision from the Court of Justice of the European Union (People Over Wind v Coillte Teoranta, ref. C-323/17) detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full ‘appropriate assessment’ is needed under the Habitats Directive. Given the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out.
- 7.6.9. An Appropriate Assessment is carried out below and is adopted by the Council as the Competent Authority, which concludes that the development will not adversely affect the integrity of the Thames Estuary & Marshes SPA and Ramsar Site and Swale SPA and Ramsar Site.

Appropriate Assessment under Conservation of Habitats and Species Regulations 2017.

- 7.6.10. The project being assessed will result in a net increase of four residential dwellings in 6km of the North Kent SPAs and Ramsar Sites. In line with Policy CP7 ‘Conserving and enhancing the natural environment – providing for green infrastructure’ and Policy DM28 ‘Biodiversity and geological conservation’ 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.

- 7.6.11. 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
- 7.6.12. 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.
- 7.6.13. 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. It's noted that a per dwelling tariff of £337.49 is required in order to mitigate the increased recreational pressure upon the Swale SPA though, for the purposes of this application, a 'dwelling' is considered to be synonymous with a residential unit (i.e. a pitch) and the necessary financial contribution has been calculated on that basis.
- 7.6.14. 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 have subsequently agreed that the mitigation measures to ensure additional impacts from recreational disturbance to the SPAs and Ramsar Sites are ecologically sound. On that basis, the Applicant does not need to provide their own evidence base on these aspects.
- 7.6.15. The SAMMS tariff of £337.49 per dwelling has been paid to ensure that the impacts upon the SPA arising from the development will not be significant or long term. It is therefore considered that any adverse effect on the integrity of the SPA have been satisfactorily addressed through this aforementioned mitigation measure. Consequently, this appropriate assessment ascertains 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.
- 7.6.16. Having made this appropriate assessment of the implications of the project for the site(s) in view of that site's conservation objectives, the authority may now agree to

the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

On-Site Biodiversity

- 7.6.17. No unacceptable impacts upon protected habitats or their species were previously identified by the local planning authority or inspector under 19/503694/FULL and, although three years has since lapsed, there is no reason to conclude that ecological arrangements have varied substantially (given the manner in which the site has been used) to reach a difference conclusion.
- 7.6.18. Biodiversity Net Gain is addressed post decision, but it is considered that at least one of the exemptions would apply, as existing habitats would not be affected and the application is retrospective.

7.7. Transport and Highways

- 7.7.1. 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.
- 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. No unacceptable impacts upon either highway or pedestrian safety were previously identified by the local planning authority or the planning inspector when assessing 19/503694/FULL subject to the imposition of a condition which required details of the proposed access to the site to be submitted and approved. That access has subsequently been provided with it appearing to have been installed between August 2022 and June 2023. Whilst the number of caravans intended to be at the site has increased relative to the previously considered development, it remains the case that the proposed development is acceptable in these respects, not posing an undue threat to highway safety and being able to be served by adequate access and parking arrangements.
- 7.7.4. It is noted that no objection has been raised to the application by the Highway Authority subject to conditions and, in line with their comments, it is considered appropriate to add a condition requiring the retention of the access and visibility splays from that access. However, noting that there is adequate space for vehicles to be kept at the site and there is a limited likelihood of vehicles being kept in demarcated bays, it is considered that the condition relating to the parking spaces shown on the submitted

plans is unnecessary and impractical. The application is considered to be equally acceptable without such a condition imposed.

- 7.7.5. As such, whilst it is noted that the number of caravans at the site would increase, there would remain 8 pitches and as the access would be the same as previously found acceptable, it would continue to be in accordance with policies DM14 and DM10(11) of the Local Plan 2017 and the NPPF.

7.8. Flood Risk, Drainage and Surface Water

- 7.8.1. 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.
- 7.8.2. The previous submission of this application (19/503694/FULL) indicated that sealed cesspits were to be utilised for foul drainage. However, the current application form now states that package treatment plants are being used. Given this uncertainty the Environment Agency have requested the submission of a foul water drainage scheme.
- 7.8.3. KCC Drainage have also confirmed the development would be of a low flood risk (from fluvial and pluvial sources) though, to ensure the site is served by adequate surface water drainage, request for any new hardstanding to be supported by appropriate details of drainage provision.
- 7.8.4. Subject to the above being secured by conditions, the proposed development is considered to be in accordance with policy DM21 of the Swale Borough Local Plan 2017 and the NPPF.

7.9. Sustainability / Energy

- 7.9.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.9.2. In this case, given the moveable nature of the items to be kept at the site, it is not considered that achieving any gains in this regard would be practical. Therefore, whilst not according with the requirement, neither is an objection raised.

7.10. Other matters

- 7.10.1. The Public Sector Equality Duty (PSED) requires consideration to be had as to how policies or decisions would affect people who are protected under the Equality Act which, in this instance, would be likely to include the occupiers of the site on account of their race. As the recommendation reached upon below is to approve the application, a decision to that effect would align with the Duty.

7.11. Planning Balance – Benefits and Harm

- 7.11.1. 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.

7.11.2. In this case conflict with policies in the development plan have been identified as set out above. This amounts to conflict with the settlement strategy and policies ST1 and ST3, conflict with policy DM31 as a result of the loss of Best and Most Versatile agricultural land and visual harm that conflicts with policies ST1, ST3, CP4, DM10(4) and DM14.

7.11.3. Paragraph 28 of the PPTS clarifies that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. 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.”

7.11.4. In this case, the Council is not able to demonstrate an adequate supply of Gypsy and Traveller accommodation and, more broadly, the Council is not able to demonstrate a sufficient supply of housing and the local plan review that was required to take place has not occurred. For each of these reasons, the approach set out at ii) above is applicable such that the assessment turns on whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. and the NPPF.

Benefits

7.11.5. As above, the primary benefit from approving the development is that it would contribute towards meeting a shortfall of Gypsy and Traveller sites that has been found to be significant in recent assessments and appeals. The Council is unable to demonstrate a 5 year supply of sites as per the most recently updated GTAA from December 2023 which identified a shortfall of 114 pitches over the period 2022/23 to 2037/38 with no alternative sites identified. More recently, the Council's Housing Economic Land Availability Assessment 2025 (HELAA) states that, whilst 23 pitches have been consented, for the purposes of meeting the immediate 5 year unmet need there is a requirement for 57 additional pitches. Therefore, Swale Borough Council does not have a supply of specific deliverable sites sufficient to provide 5 years' worth of sites.

- 7.11.6. The grounds stipulated for a temporary three-year permission under 19/503694/FULL was to enable its reassessment against an updated supply of pitches as part of a revised GTAA, however, the shortfall within the Swale Borough has only increased since that decision. The development therefore makes a valuable contribution to the supply of gypsy and traveller pitches in the borough at a time when the council are unable to demonstrate a five year supply. This weighs significantly in favour of the development.
- 7.11.7. It is not considered that any economic or environmental benefits would arise from the development. In this regard, any landscaping gains would be to partially mitigate the effect of development and, as such, is considered a necessity rather than a benefit.

Harm

- 7.11.8. The harms are, as set out above, most notably a harmful visual impact that would not be able to be fully mitigated by landscaping. This is contrary to paragraphs 131, 135, and 187 of the NPPF and paragraph 26 of the PPTS. The harm arising in this respect can be afforded significant weight.
- 7.11.9. Furthermore, the continued loss of best and most versatile agricultural land would be contrary to paragraph 187 of the NPPF. The conflict with the Council's settlement strategy is not directly in conflict with the NPPF as there are no comparable policies within the NPPF. However, by being contrary to the plan-led approach, it is considered that there is conflict arising with the overarching principle of the NPPF. The harms in these respects are often afforded little or moderate weight by Planning Inspectors.

NPPF Balance

- 7.11.10. Overall, even affording significant weight to the visual harm caused by the development and the conflict with the NPPF arising from this and moderate weight to the other harms, it is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the significant benefit arising from the boost to the supply of Gypsy and Traveller sites. In view of the benefits arising from the provision of the gypsy and traveller accommodation proposed and the conclusions reached, there is no need in this instance to rely on the personal circumstances of the occupants on site. A condition requiring any future occupants to comply with the definition set out in Annex 1 of the PPTS would ensure that the site would continue to make a valuable contribution to the supply of gypsy and traveller sites in the borough in the long term.

7.12. Conclusion

- 7.12.1. Whilst the development is contrary to the development plan when it is taken as a whole, the development is supported by the NPPF. As set out above, the application should be determined in accordance with the development plan unless material considerations indicate otherwise and, in this case, it is considered that the NPPF indicates that planning permission should be granted.
- 7.12.2. 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.

7.13. Recommendation

7.13.1. Grant planning permission subject to conditions:

7.14. Conditions

1. The development hereby approved shall be carried out in accordance with the submitted drawings/documents received on 13/06/2025:

- 2025-PPP046v1-Location – Location Plan
- Plan 3 – Proposed Utility Block
- 2025-PPP-046v1-Block – Block Plan

Reason: To secure the proper development of the area.

2. No drainage systems for the infiltration of surface water to the ground may be installed other than with the prior written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. Any approved surface water infiltration installations shall be provided only in accordance with the approved details.

Reason: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution caused by mobilised contaminants.

3. The site shall not be occupied by any persons other than gypsies and travellers, meaning persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: The location of the site would not be suitable for unrestricted residential accommodation.

4. There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which no more than 2 caravans shall be static caravans or mobile homes.

Reason: In the interests of the visual amenity of the locality.

5. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

Reason: In the interests of neighbouring residential amenity and the general amenity of the rural locality.

6. No commercial activities shall take place on the land, including the storage of materials.

Reason: In the interests of neighbouring residential amenity and the general amenity of the rural locality.

7. The use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- i. within six months of the date of this decision a scheme detailing the provision of foul water disposal facilities, a hard and soft landscaping scheme and a timetable of all works (including the provision of foul water disposal facilities and the undertaking of hard and soft landscaping works) shall have been submitted for the written approval of the local planning authority. The hard and soft landscaping details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials. In addition, if any additional or new hard landscaping is proposed, this shall be accompanied with details of measures to provide surface water drainage enhancements at the site.
- ii. if within six months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

Subsequently, the approved foul water disposal facilities shall be provided in accordance with the approved timetable and all hard and soft landscaping works (including any approved surface water drainage enhancements) shall be carried out and completed in accordance with the approved timetable.

Reason: In the interests of visual amenity and ensuring the adequate provision of foul water disposal provisions.

8. Any trees or plants included in the approved scheme of landscaping which within a period of 5 years from the completion of the planting scheme die, are

removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

9. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and approved in writing by the local planning authority.

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

10. The access to the site shall be retained in accordance with the access arrangements previously submitted to and approved by the Local Planning Authority under the terms of application 22/503798/SUB. This shall include the retention of the visibility splays (2.4m x 45m) which shall be kept clear of any obstructions above a height of 0.8m above ground level.

Reason: In the interests of highway safety.



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PLANNING COMMITTEE – 2nd April 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 – Land North of Nelson Avenue, Minster-On-Sea, Sheerness, Kent ME12 3SF**

PINS Decision: APPEAL IS NOT DETERMINED

Committee or Officer Decision: DELEGATED REFUSAL

Observations

During the processing of the appeal and the preparation of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, it was identified that there was a section of the site that was not within the control of the applicant. The owner could not be identified and the appropriate procedure relating to publicising the application had not been undertaken by the applicant/appellant. It was considered that a landowner could have been prejudiced by the correct procedure having not been followed and, as such, the Inspector concluded that the application, and in turn the appeal should be considered to have not been validly made. The Inspector, therefore, declined to determine the appeal.

- **Item 5.2 – Land East to Courtenay House, London Road, Dunkirk, Kent ME13 9LF**

PINS Decision: APPEAL DISMISSED / ENFORCEMENT NOTICE UPHELD

Committee or Officer Decision: ENFORCEMENT NOTICE

Observations

An enforcement notice was issued in July 2023 relating to the use of a caravan at the site for residential purposes. The notice was appealed on various grounds.

In respect of the ground (b) appeal which relates to the suggestion that the alleged breach of planning control had not taken place as a matter of fact, the Inspector found that it had. In relation to the ground (c) appeal which addresses whether the development represented a breach of planning control, the Inspector found that the caravan was not being used for purposes that were ancillary or incidental to the use of the remainder of the site and, therefore, its use for residential purposes did represent a material change of use. That falls within the definition of development and did not benefit from planning permission, thereby representing a breach of planning control. The ground (d) appeal (on the grounds that the development was immune from enforcement action) failed due to it not being demonstrated by the appellant that the breach had occurred for more than 10 years.

Turning to the ground (a) appeal (which is the appeal on the grounds that planning permission should be granted, the Inspector considered the Council's settlement

strategy, the effect on the character and appearance of the area, the effect on the Swale SPA and the personal circumstances.

In relation to the settlement strategy, the site was found to be located such that users would be dependent on private transport and that there was insufficient services available for the site to be considered a sustainable location. In relation to the effect on character and appearance, the Inspector found that a low level of harm would be caused to the rural character of the area through the intensified use of the site, but no other harms were found. The SAMMs payment was not paid and so the effect on the SPA was not mitigated.

Each of these harms were weighed against the personal circumstances of the appellant, which were given moderate weight, although the Inspector stated that the case of the appellant had not been supported by appropriate detailed information. Other factors in favour of the proposal were the need for housing in the context of the Council's 5 year housing land supply position and the social benefits of providing accommodation to suit the applicant. Consideration was given to the Human Rights Act and the Public Sector Equality Duty. However, the Inspector found that the harm outweighed the benefits and, therefore, the ground (a) appeal was dismissed and planning permission was refused.

In terms of the ground (f) appeal (the steps required to address the notice) a variation to enable the land to be used for residential purposes (in conjunction with the host site) was enacted as the earlier drafting would have precluded this. The timescale for compliance, which was the subject of the ground (g) appeal, failed and so the appellant still has 6 months to comply.

- **Item 5.3 – Orchard View, Eastling Road, Eastling, Kent ME13 0AN**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision: DELEGATED REFUSAL

Observations

The appeal related to a refused planning application for the siting of shepherd's huts at the site, to be used for holiday let purposes.

The Inspector found that the proposal would unacceptably harm the character and appearance of the countryside and would fail to conserve and enhance the natural beauty of the National Landscape. The development was therefore found to conflict with policies ST1, ST3, CP4, DM3, DM14, DM24, and DM31.

However, the proposal was not found to conflict with Policy DM31 insofar as it relates to the avoidance of the loss of agricultural land. In this regard the Inspector stated that *"While the land at the site is defined as BMV and could be returned to agricultural use, it is not currently used for agricultural purposes and there is no substantive evidence that a return to agricultural use would be likely. Given the current non-agricultural use of the land, there has already been a loss of BMV at the site. In this respect, the proposal would not result in the loss of agricultural land."*

The small scale benefits to the rural economy, the support for local business and the support within the NPPF for tourism and leisure development, were found to be

significantly and demonstrably outweighed the harm. Therefore, the appeal was dismissed.

- **Item 5.4 – Land known as Pigeon Farm Sheppey Way Bobbing Sittingbourne Kent ME9 8PD**

PINS Decision: APPEAL DISMISSED / ENFORCEMENT NOTICE UPHELD

Committee or Officer Decision: ENFORCEMENT NOTICE

Observations

An enforcement notice was served in relation to two stables and an area of hardstanding that was built without permission. A ground (a) appeal was submitted to seek planning permission. The Inspector said the main issue was the effect of the development on the character and appearance of the surrounding countryside. The Inspector found that *“the stables and hardstanding represent encroachment into this mainly undeveloped rural landscape, due to the detached setting. Despite the type of material used on the outer surfaces, the development has a visually incongruous effect on the rural due to the size, scale and location of the two stables and hardstanding. They appear as large buildings given the design and are out-of-keeping with the pleasant rural character of the surrounding area and conditions alone would not reduce their visual impact. Accordingly, the development conflicts with the main aims and objectives of policies ST3, DM3, DM14 and CP4 of the Local Plan (2017) and design guidance for this kind of development in found in Supplementary Planning Guidance.”*

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PLANNING COMMITTEE – 2nd April 2026**PART 5**

Report of the Head of Planning

PART 5

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



Planning Inspectorate

Appeal Decision

Site visit made on 23 October 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2026

Appeal Ref: APP/V2255/W/25/3365951

Land North of Nelson Avenue, Minster-On-Sea, Sheerness, Kent ME12 3SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr Michael Piper against the decision of Swale Borough Council.
- The application Ref is 24/503886/OUT.
- The development proposed is erection of 31 residential dwellings.

Decision

1. The appeal is not determined, for the reasons set out below.

Preliminary Matters

2. Section 79(1) of the Town and Country Planning Act 1990 (the Act) allows the Secretary of State to deal with an appeal as if it had been made to him in the first instance and s79(6) confirms that if during the determination of an appeal in respect of an application for planning permission, the Secretary of State forms the opinion that planning permission for the development could not have been granted by the local planning authority, he may decline to determine the appeal. Section 65 of the Act sets out requirements with respect to giving notice of applications for planning permission and s65(5) is clear that a local planning authority shall not entertain an application for planning permission unless any requirements imposed by this section have been satisfied. This is reiterated in the Planning Practice Guidance (PPG) which confirms that an application is not valid and therefore cannot be determined by the local planning authority unless the relevant certificate has been completed. The PPG also provides guidance on which ownership certificate should be signed. Similar provisions apply to appeals.
3. Article 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Regulations) confirms that an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates. It also sets out that 'where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so', the submission of the application should be advertised by the applicant 'by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated'.
4. Both certificates A and B were signed on the application form. This would not be fatal to the application as the ownership position was understandable from the

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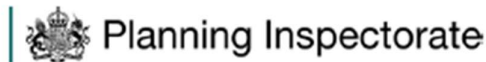
forms. In any event, the matter was clarified on the appeal form, where Certificate B only was completed.

5. However, in the consideration of the planning obligation submitted with the appeal, it became apparent that there was an area of unregistered land within the site. This consequently leads to the realisation that the ownership certificates submitted were not accurate, as not all of the landowners had been notified of the application. Nor had the requisite steps, as set out in Articles 13 and 36 of the Regulations been taken for when details of the landowner is not known.
6. There is a discretion to allow an appeal to proceed notwithstanding a failure to comply with the statutory requirements. This discretion should only be exercised following full regard to all the circumstances¹. While the appellant refers to legal experts advising that subsequent discovery of a different landowner does not invalidate the application, I have not been referred to any examples.
7. In this case, the failure to take the specified steps for notification has the potential to cause prejudice to any unknown landowner. Additional consultation to address this matter could give rise to further issues which may be relevant to the other interested parties in this case. I could not be certain that there would not be prejudice to those interested parties were further representations to be made.
8. I have no reason to believe the appellant was acting in anything other than good faith during the application and appeal process when carrying out notification and signing the associated certificates. I acknowledge there has been a previous application and appeal of which the site formed part, and that a substantial amount of time and expense has been spent on the appeal, particularly by the appellant. I observed at my site visit that the unregistered land was not fenced off or otherwise identifiable as being different to the remainder of the appeal site. While it sits adjacent to the Nelson Road properties, and many of those occupiers have commented on the proposal, I cannot assume that those residents would be owners of the unregistered land. Nor do the comments of the Lower Medway Internal Drainage Board provide any comfort with respect to ownership.
9. I have found that the planning application the subject of this appeal was not validly made as the necessary steps where all landowners are not known were not taken and the correct ownership certificate was not signed. There would be the potential for prejudice to any owner of the unregistered land were the appeal to progress without this matter being further addressed. There would also be potential for prejudice to interested parties were measures taken to address this issue during the appeal process. I therefore decline to determine the appeal.

Jennifer Wallace

INSPECTOR

¹ Maximus Networks Ltd v SSHCLG & Others [2018] EWHC 1933 (Admin)



Appeal Decision

Site visit made on 21 January 2026

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2026

Appeal Ref: APP/V2255/C/23/3327688

Land East to Courtenay House, London Road, Dunkirk, Kent ME13 9LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Ms Ingrid Eissfeldt against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 11 July 2023.
- The breach of planning control as alleged in the notice is Without planning permission the material change of use from residential garden to Land for the stationing of a mobile home for residential purposes.
- The requirements of the notice are: 1. Cease the residential use of the Land. 2. Cease the use of the Land for the stationing of mobile homes or caravans for residential use. 3. Remove from the Land the mobile home shown in its approximate position marked "A" on the attached plan. 4. Remove from the Land all materials, rubbish, waste and domestic paraphernalia associated with compliance with steps 1-3 above.
- The period for compliance with the requirements is six calendar months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f), and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is varied by the deletion of the text '1. Cease the residential use of the Land. 2. Cease the use of the Land for the stationing of mobile homes or caravans for residential use' at paragraph 5 of the enforcement notice and the substitution of the text '1. Cease the use of the Land for the stationing of a mobile home for residential purposes'. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matter

2. The arguments presented in support of the appeal under grounds (b) and (c) refer to the length of time that a mobile home is claimed to have been on the land and occupied. These arguments would be better suited to an appeal under ground (d), and as such, there is a 'hidden' appeal under ground (d) to be considered. Similarly, the case presented in respect of the appeal under ground (f) would be better suited to an appeal under ground (g) and I shall therefore also consider an appeal under that ground. There is no need to seek further comments from the Council on account of my findings on these grounds.

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The appeal under ground (b)

3. To succeed under this ground the appellant needs to show that the alleged breach of planning control has not taken place, as a matter of fact.
4. A certificate of lawful use or development (LDC) was issued in respect of the site for 'use of land as a residential garden' by another Inspector in 2022¹. A mobile home has been stationed on the land, which is being lived in by the appellant. The material change of use of the site from residential garden to land for the stationing of a mobile home for residential purposes (the MCU) has therefore taken place, as a matter of fact.
5. The appeal under ground (b) must therefore fail.

The appeal under ground (c)

6. To succeed under this ground the appellant needs to show that the MCU does not constitute a breach of planning control. The onus is on the appellant to make out their case to the standard of the balance of probabilities. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
7. Section 57 of the Act states that planning permission is required for the carrying out of any development of land. Section 55 provides the relevant meaning of development, which includes the making of any material change in the use of any buildings or other land.
8. There is no dispute that the site has a lawful use as residential garden, as confirmed by the LDC. The appeal decision relating to that LDC states: *'At the date of my site visit (29 April 2022), it comprised an area laid to lawn with planted areas, access drive with parking and contained a structure that appears to be a caravan and a storage container'*. It does not make any mention of the use of the caravan. In any case, the LDC only relates to how the land was being used on the date of the application, 22 November 2019.
9. The previous appeal decision does not, in any way, suggest that the other Inspector was aware that a mobile home was being lived in when the LDC was issued. Moreover, the LDC does not confirm the lawfulness of the siting of any mobile home on the land for residential purposes.
10. In some instances it may be possible that a mobile home could be stationed within a residential garden for purposes ancillary or incidental to the use of that land as a residential garden without bringing about a material change of use. However, the same is not necessarily true for a mobile home used for residential purposes, as in this case.
11. In this particular case, the appellant is said to live within the mobile home as her year-round residence. The mobile home has sleeping, cooking, toilet and washing facilities which enable it to be lived in independently. It is not therefore in use for purposes ancillary or incidental to the lawful use of the land as a residential garden.
12. Furthermore, the use of the mobile home for residential purposes has different characteristics compared to the use of a mobile home for purposes ancillary or

¹ Appeal Ref: APP/V2255/X/20/3259288

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incidental to the lawful residential garden use of the land. For example, the mobile home has services connections, is likely to be associated with more comings and goings compared to a mobile home used for ancillary or incidental purposes, and there is likely to be more need for local services when someone is living on the land, rather than using the site as a residential garden.

13. I have not been provided with any information which suggests the stationing of the mobile home on the land for residential purposes has not brought about a material change of use from the previous use of the land as residential garden. I therefore find that a material change of use comprising development requiring planning permission has taken place, and I have not been referred to any planning permission which the development may benefit from. On this basis, the appellant has not provided sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the MCU was not in breach of planning control.
14. The appeal under ground (c) therefore fails.

The appeal under ground (d)

15. To succeed under this ground the appellant needs to show, on the balance of probabilities, that at the date when the notice was issued, no enforcement action could be taken in respect of the MCU.
16. At the time the notice was issued section 171B(1)-(2) of the Act provided that where there has been a breach of planning control consisting in operational development or the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. The notice does not allege any unauthorised operational development or the material change of use of any building, and as such, subsections (1) and (2) of section 171B of the Act do not apply.
17. Section 171B(3) states that in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. Therefore, the appellant needs to provide sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the MCU took place on or before 11 July 2013 and that a mobile home has remained stationed on the land for residential purposes for at least ten years prior to 11 July 2023.
18. As explained above, the previous appeal decision does not support claims that a mobile home was stationed on the land for residential purposes when the other Inspector visited the site on 29 April 2022. I have also been referred to the Grounds of Appeal of the previous appellants, who owned the site prior to the appellant in this appeal. Within an extensive timeline provided by the previous appellants it was claimed that they purchased a caravan on 11 June 2018, which was placed on the land and not lived in, and that a Council inspection carried out on 1 March 2019 confirmed this. I note the Council's aerial photograph dated 2015 also appears to show no mobile homes present on the land at that time.
19. There is extremely limited evidence to support the appellant's claims that a mobile home has been stationed on the land for more than ten years, or that any such caravan has been in use for residential purposes continuously for more than ten years. The appellant has not provided sufficiently precise and unambiguous evidence to show it is more likely than not that the MCU took place on or before

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11 July 2013 and that a mobile home has remained stationed on the land for residential purposes for at least ten years prior to 11 July 2023.

20. The appeal under ground (d) therefore fails.

The appeal under ground (a) and the deemed application for planning permission

21. The main issues are:

- whether the site is a suitable location for the development in principle, with particular regard to the Council's settlement strategy;
- the effect of the development on the character and appearance of the area;
- the effect of the development on the Swale Special Protection Area (SPA); and
- the appellant's need for the development, with particular regard to their personal circumstances.

Location

22. The site is located on the edge of the rural village of Dunkirk, outside any built-up area boundary defined by The Swale Borough Local Plan (2017) (LP). Paragraph 4.3.21 of the LP explains that Dunkirk is a 'smaller to medium sized settlement', and that these settlements display less sustainable characteristics on account of their remoteness from a town and/or generally poor access to public transport or local facilities.
23. Policy ST 1 of the LP explains how sustainable development will be delivered in the Borough, including by being in accordance with the settlement strategy, by offering the potential to reduce levels of out-commuting, and by delivering a wide choice of high-quality homes, amongst other things.
24. Policy ST 3 of the LP sets out the Council's settlement strategy, which provides a hierarchy of locations which will be the focus for new development. It states that in locations outside of built-up area boundaries, development will not be permitted, except where the development is supported by national policy and capable of contributing to protecting and enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, amongst other things. Policy CP 3 of the LP sets out how the Council will deliver a wide choice of high-quality homes, requiring development proposals to be steered to locations in accordance with Policy ST 3, amongst other things.
25. There is no dispute that there are limited local facilities and that any person living at the site would be largely reliant on journeys made by private motor vehicle, although mention has been made of an infrequent bus service.
26. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which I will address below. However, considering the small size of Dunkirk, the location of the site outside the village boundary, and given the lack of evidence of local services accessible from the site without relying on a private motor vehicle, there is little support in the Framework for development in such an unsustainable location.

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27. I note claims that local services in Dunkirk are adequate for the appellant's needs, but no evidence to support this has been provided. I am also mindful that it is claimed the appellant is unable to use public transport, but the evidence does not show this means it is inevitable that they will rely on a private motor vehicle to access essential services wherever they live. The same goes for any people visiting the appellant at the site.
28. The site is not therefore a suitable location for the development in principle, with particular regard to the Council's settlement strategy. For the reasons explained above, the development conflicts with Policies ST 1, ST 3, and CP 3 of the LP.

Character and appearance

29. The site comprises an open strip of land with associated drive and turning area, located between a large Victorian building (Courtenay House) converted into flats and a modestly sized detached dwelling, on the outskirts of Dunkirk. The immediate surroundings are characterised by sporadic ribbon development, mainly to the north of Canterbury Road, surrounded by countryside. As such, it is very much in a rural and sparsely developed area, despite the obvious recent small-scale housing development of Old School Field nearby. The area is designated as part of the Kent Level Area of High Landscape Value (AHLV).
30. The mobile home currently on the site is a modestly sized shepherd's hut, with fixed timber stair leading to its entrance and connected services beneath. It is stationed at the far end of the site, set back a significant distance from its access leading to Canterbury Road, behind various fencing/screening.
31. The previous appeal decision mentions a mobile home and a shipping container being present on the land, which the other Inspector considered to be associated with the use of the land as a residential garden. In this context, the mobile home itself is not an uncharacteristic or conspicuous feature of the area, considering its size and location within a lawful residential garden, close to neighbouring dwellings.
32. However, the use of the mobile home for residential purposes, even by only one person, rather than for purposes incidental or ancillary to the residential garden, introduces more intensive activity to the site. Increased comings and goings are likely associated with the residential use of the mobile home, and are spread across most of the site on account of it being set further back from the road than neighbouring residential properties. The effect is residential activity, more intensive than that associated with a garden alone, sprawling into the countryside to the detriment of its intrinsic beauty and tranquillity. This results in a low level of harm to the rural character and appearance of the area, where residential development is mainly contained close to Canterbury Road.
33. The low level of harm caused to the character and appearance of the area is contrary to Policy DM 14 of the LP, which requires development to reflect the positive characteristics of the site and locality, and to be well sited, amongst other things. I do not, however, find any harm is caused to the AHLV on account of the modest scale of the development as seen and experienced within the wider landscape. I therefore find no conflict with Policies ST 7, DM 24 and DM 26 of the LP which require the conservation and enhancement of valued landscapes and the character of rural lanes, amongst other things.

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The SPA

34. The site is within 6 kilometres of the SPA and the Council has claimed that on this basis a payment of £314.05 towards a Strategic Access Management and Monitoring Strategy (SAMMS) would be required. I have no further details in this regard, except that it is anticipated this would mitigate the effects of the development on recreational disturbance to the SPA. The appellant has indicated a willingness to make this payment, but there is no legal agreement before me to secure any contribution towards a SAMMS.
35. The SPA is a European Site, as defined by The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). As such, I would need to carry out an appropriate assessment in accordance with the Habitats Regulations if I was minded to grant planning permission. As I have found the development conflicts with the development plan in respect of the first and second main issues, there is no need for me to carry out an appropriate assessment unless other considerations indicate planning permission should be granted. I shall return to this in my final planning balance.

Personal circumstances

36. The appellant has a severe allergy which is said to prevent her from living in 'a normal urban house' and from using public transport. Minimal details have been provided about her Multiple Chemical Sensitivity, except that it is claimed to be essential that she lives in a rural location and that she relies on a car to avoid contact with other people. There is no suggestion that the appellant would be made homeless if planning permission is refused and the notice is upheld, or that she would have any difficulty finding suitable alternative accommodation.
37. As my decision has the potential to affect a person with a disability, which is a protected characteristic under the Equality Act 2010 (EA), I must have regard to the Public Sector Equality Duty (PSED). The aims of the PSED are to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the EA; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
38. Under the Human Rights Act 1998 (HRA), Article 8 affords the right to respect for private and family life, home and correspondence. Article 1 of the First Protocol states that every person is entitled to the peaceful enjoyment of their possessions and no one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. These are qualified rights, and interference may be justified where it is in the public interest.
39. The mobile home is capable of providing an adaptable living space for the appellant in a rural area, which is claimed to be essential to avoid her severe allergy worsening. However, it is unclear why the site is any better suited to the appellant living there compared to any lawful residential properties in other rural locations, and what other options, if any, have been explored as an alternative to living in the mobile home at the site. There is also no evidence from a suitably qualified medical professional to explain why the development may provide suitable living arrangements for the appellant.

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40. Policy CP 3 of the LP requires development proposals to meet the housing requirements of disabled persons, but it remains unclear how the MCU achieves this. It has not therefore been shown that the development is justified to meet the appellant's needs, and for the above reasons I afford only modest weight to the benefits of the development to the appellant on account of their personal circumstances, which have not been supported by appropriately detailed information.

Other considerations and planning balance

41. The Council cannot demonstrate a five-year supply of deliverable housing sites. Where this is the case, paragraph 11(d)(ii) of the Framework explains that the development plan policies which are most important for determining the application should be deemed out-of-date and planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, 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.
42. I have found that the MCU is in conflict with the Council's settlement strategy and causes a low level of harm to the character and appearance of the area, contrary to Policies ST1, ST3, CP 3, and DM 14 of the LP. It is in a countryside location and I have not been provided with evidence of services close to the site, although I note larger settlements are within a short driving distance. On the evidence, the site is not a sustainable location for the MCU, and the development does not contribute towards the effective use of land or securing well-designed places. I therefore assign significant cumulative weight to the above-mentioned conflict.
43. The weight given to such conflict would only be marginally reduced if the development was subject to a condition restricting occupation of the mobile home to the appellant on account of their personal circumstances. This is because although the appellant is unable to use public transport or live in an urban area, it does not follow that local services are always inaccessible from lawful rural living accommodation without relying on private motor vehicles. Moreover, it has not been shown that the appellant has explored alternative options to meet their needs, or why the site may be an appropriate rural location to meet their needs.
44. On the other side of the balance, the MCU provides adapted living accommodation for the specific needs of the appellant, who is unable to use public transport, unable to live in an urban area, and reliant on private motor vehicle use to access services. The Framework supports housing to meet the needs of different people and acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. There are social benefits associated with the MCU in that the appellant can live in adapted accommodation claimed to meet her needs, in a Borough where there is an acknowledged undersupply of housing. However, no evidence has been provided to show the development may be justified as the most appropriate means of meeting the appellant's needs. I therefore assign only modest cumulative weight to the benefits weighing in favour of the MCU.
45. It is claimed that biodiversity improvements have been made to the site. While the site has a tidy appearance, there is nothing before me to show that the MCU has

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led to any quantifiable improvements to the condition of the site or any habitats and biodiversity. These claims do not therefore weigh in favour of the MCU.

46. Dismissing the appeal on ground (a) and refusing the deemed application for planning permission would interfere with the rights of the appellant under Article 8 and Article 1 of the First Protocol of the HRA. As qualified rights, that interference may be justified in the public interest, where proportionate. There is public interest inherent in the legitimate and well-established planning policy aims of directing development to sustainable locations and protecting the character and appearance of the area. With this in mind, dismissing the ground (a) appeal and refusing the deemed application for planning permission would be proportionate and necessary and would not unacceptably violate the rights of the appellant under Article 8 or Article 1 of the First Protocol. The protection of the public interest cannot be achieved by means that are less interfering with their rights.
47. I have also had due regard to the PSED, but the harm caused by the MCU outweighs its benefits in terms of eliminating discrimination against persons with a disability, advancing equality of opportunity for those persons and fostering good relations between them and others.
48. Bringing things together, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole, and attaching planning conditions to a grant of planning permission would not change this. Planning permission should not therefore be granted, and there is no need for me to carry out an appropriate assessment in respect of the third main issue.

Conclusion on ground (a) and the deemed application for planning permission

49. The MCU conflicts with the development plan taken as a whole, and other considerations, including the personal circumstances of the appellant and the Framework do not indicate planning permission should be granted. Dismissal of the appeal on ground (a) and the refusal of the deemed application for planning permission is therefore necessary and proportionate.
50. The appeal under ground (a) fails and the deemed application for planning permission should be refused.

The appeal under ground (f)

51. To succeed under this ground of appeal, the appellant needs to show that the steps required to be taken, or the activities required to cease, exceed what is necessary to remedy the breach or, as the case may be, to remedy any injury to amenity which has been caused by the breach.
52. The notice requires the residential use of the land to cease, the use of the land for the stationing of mobile homes or caravans for residential use to cease, and the removal of the mobile home and all associated items from the land. The purpose of the notice is therefore to remedy the breach, rather than any injury to amenity, and it is necessary for me to consider whether this could be achieved with any less cost and disruption.
53. To remedy the breach, the notice does not need to require any more than the cessation of the use of the land for the stationing of a mobile home for residential purposes and the removal of the mobile home together with its services from the

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land. Considering the lawful use of the site as a residential garden confirmed by the LDC, the first and second requirements, as originally drafted, could be open to misinterpretation. I shall therefore vary the first and second steps required to be taken to ensure they only require the cessation of the unauthorised use of the land, to provide clarity.

54. The appeal under ground (f) therefore succeeds insofar as I shall vary the notice as set out above.

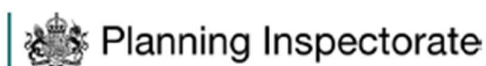
The appeal under ground (g)

55. To succeed under this ground of appeal the appellant needs to show that six calendar months falls short of what should reasonably be allowed for the notice to be complied with.
56. The appellant has requested that the notice should not need to be complied with until after the Council has determined a planning application previously submitted, and after any associated appeal has been determined if that application is refused. The Council claims that application is invalid. I have not been provided with the full details of that application, but I have found that planning permission should be refused in respect of the breach stated in the notice. In reaching that decision I gave due weight to the appellant's personal circumstances and noted that there is no suggestion that compliance with the notice would make the appellant homeless. There is no indication that the appellant's personal circumstances mean a longer compliance period would be reasonable.
57. With the above in mind, six months from the date of this decision is a reasonable period for the notice to be complied with, even if the appellant's planning application is valid, ends up being refused, and an appeal is lodged against such decision.
58. The appeal under ground (g) therefore fails.
- Overall conclusion**
59. For the reasons given above, I conclude that the appeal should not succeed, except to the extent outlined above in respect of ground (f). I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

L Douglas

INSPECTOR

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Appeal Decision

Site visit made on 2 February 2026

by John Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2026

Appeal Ref: 6001551

Orchard View, Eastling Road, Eastling, Kent ME13 0AN

- 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 Mr Andrew Higenbottom against the decision of Swale Borough Council.
 - The application Ref is 25/501789/FULL.
 - The development proposed is the change of use of land for the siting of two shepherds huts, for use as holiday let accommodation.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including whether the proposal would conserve and enhance the natural beauty of the Kent Downs National Landscape (NL); and
 - the provision of Grade II (best and most versatile) agricultural land.

Reasons

Character and appearance

3. The appeal site is part of a larger parcel of land to one side of Eastling Road. The site is within the Kent Downs NL. Paragraph 189 of the National Planning Policy Framework (the Framework) requires that great weight should be given to conserving and enhancing landscape and scenic beauty in the NL. I am also mindful of the statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of NLs.
4. The area consists of a primarily farmed rural landscape, which is recognised in the Kent Downs Area of Outstanding Natural Beauty Management Plan 2021-2026 for maintaining the natural beauty of the Kent Downs. The pastoral scenery is noted for being a particularly valued part of the landscape. Development on this side of Eastling Road is sporadic, and the area is typically defined by the open agricultural fields that surround the appeal site, reflecting the overall character of the NL. The verdant character of the site makes a positive contribution to the character and appearance of the area.
5. On the opposite side of Eastling Road, development typically fronts the road with the dwellings forming a built-up context to the area. The consolidated

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development fronting Eastling Road defines the edge of the settlement of Eastling. The site is outside of the settlement boundary and is therefore in the countryside for the purposes of the development plan.

6. The proposal is for the provision of tourist accommodation at the site. Policy DM3 of the Bearing Fruits 2031 – The Swale Borough Local Plan 2017 (LP) supports the sustainable growth and expansion of business and enterprise in the rural area, subject to development meeting the criteria listed. Criterion 1 b. states that all proposals must firstly consider the appropriate re-use of existing buildings or the development of other previously developed land. The supporting text to the policy states that there is a preference for new development proposals to use existing buildings, or where a new building is justified, on previously developed land as a first consideration.
7. The proposal for two shepherds' huts is a type of development that could not readily be incorporated into an existing building. Nonetheless, there is no substantive evidence before me that demonstrates that consideration has been given to the re-use of existing buildings or the development of previously developed land for the use proposed. Consequently, the proposal conflicts with criterion 1 b. of Policy DM3.
8. Although unattached to the land, the plans indicate that the shepherds' huts would be set in from the site boundaries, which are formed by trees and hedges. The shepherds' huts would be visible from the public footpath and from Eastling Road on the approach from Newnham Lane. The huts and associated parking area would urbanise the site and would harmfully erode the prevailing rural character of the area on this side of Eastling Road.
9. The small scale of the huts and the additional planting proposed as part of the landscaping plan would, over time, reduce the visual intrusion of the development on the surrounding area. However, this could take a considerable period of time to establish and would not provide substantial screening of the development, particularly if the vegetation is not in leaf. Furthermore, the long-term retention and maintenance of the landscaping cannot be effectively controlled. Consequently, it cannot be relied upon to obscure development that would otherwise be unacceptable.
10. I conclude that the proposal would unacceptably harm the character and appearance of the countryside and would fail to conserve and enhance the natural beauty of the NL. The development therefore conflicts with Policies ST1, ST3, CP4, DM3, DM14, DM24, and DM31 of the LP, which collectively aim to focus proposed development within defined settlements and require development to conserve and enhance valued landscapes and achieve good design through reflecting the area's rural characteristics.

Agricultural land

11. The appeal site is part of a larger parcel of land, which includes paddocks associated with the dwelling at Orchard View. In addition to the paddocks, the wider site includes a manège, stables building and field shelters. There is no substantive evidence before me that indicates that the current use of the land is not lawful. Beyond the site to the rear and side boundaries are open fields in agricultural production. The parties agree that the land at the site and in the area consists of best and most versatile agricultural land (BMV).

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12. Policy DM31 of the LP 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 and that development on BMV will not be permitted unless it meets certain criteria. While the land at the site is defined as BMV and could be returned to agricultural use, it is not currently used for agricultural purposes and there is no substantive evidence that a return to agricultural use would be likely. Given the current non-agricultural use of the land, there has already been a loss of BMV at the site. In this respect, the proposal would not result in the loss of agricultural land.
13. I conclude that the proposal would not result in the loss of the best and most versatile agricultural land. The development therefore accords with Policy DM31 of the LP, which seeks to protect the best and most versatile agricultural land.

Planning Balance

14. While the proposal would also not result in the loss of BMV, it would harm the character and appearance of the area and would fail to conserve and enhance the natural beauty of the NL. In accordance with the Framework, this attracts significant weight against the proposal.
15. The development would boost the rural economy through the provision of accommodation for visitors and the associated economic benefits to local businesses. The Framework supports the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside. However, given the small scale of the proposal, the adverse impacts of the development would significantly and demonstrably outweigh the limited benefits.

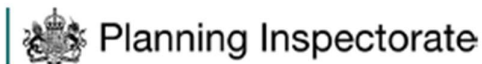
Conclusion

16. The proposal conflicts with the development plan. The material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

John Pearce

INSPECTOR

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Appeal Decision

Site visit made on 14 March 2026

by A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 19th March 2026

Appeal Ref: APP/V2255/C/23/3327038

Land known as Pigeon Farm Sheppey Way Bobbing Sittingbourne Kent ME9 8PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the "Act").
- The appeal is made by Bill Smith against an enforcement notice issued by the Swale Borough Council.
- The enforcement notice was issued on 11 July 2023.
- The breach of planning control as alleged is the erection of two wooden clad stables and construction of hard standing.
- The requirements of the enforcement notice are to: (1) Dismantle the two wooden clad stables shown in their approximate locations marked 'X' and 'Y' on the plan attached to the notice and break up their concrete bases (2) Break up and remove the hardstanding immediately adjacent to each of the stables (marked X and Y and shown in their approximate locations on the plan attached to the notice), and (3) remove from the land all resultant materials, debris, rubble and rubbish associated with compliance of steps (1) & (2) above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Act.

Decision

1. The appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Ground (a)

2. The main issue¹ is the effect of the development on the character and appearance of the surrounding countryside. The area is characterised by open fields and sporadic built development. There are established landscape features such as trees and hedgerows, and the topography is generally flat. The stables and hardstanding are detached although stable Y is located close to an access. Nonetheless, they are noticeable in public viewpoints. Although stables can be found in rural settings, the submitted evidence does not adequately substantiate the claim that stables of this kind and scale are required in connection with a horsiculture activity.
3. To me, the stables and hardstanding represent encroachment into this mainly undeveloped rural landscape, due to the detached setting. Despite the type of material used on the outer surfaces, the development has a visually incongruous effect on the rural due to the size, scale and location of the two stables and hardstanding. They appear as large buildings given the design and are out-of-keeping with the pleasant rural character of the surrounding area and conditions alone would not reduce their visual impact. Accordingly, the development conflicts with the main aims and objectives of policies ST3, DM3, DM14 and CP4 of the Local Plan (2017) and design guidance for this kind of development in found in Supplementary Planning Guidance.

A U Ghafoor

INSPECTOR

¹ In its statement, the Council refers to amenity and highway matters. From the reasons for issuing the enforcement notice and my assessment of the site and surroundings, I consider this is the main issue.

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