

2.2 REFERENCE NO. 24/504410/OUT		
PROPOSAL Outline application (access and layout sought) for overflow community parking, erection of 16no. dwellings, with associated parking and gardens, and formation of new access and egress points onto Forge Lane.		
SITE LOCATION Land East Of Holywell Primary School, Forge Lane, Upchurch (ME9 7AD)		
RECOMMENDATION Officers respond to the appeal (on the grounds of non-determination) on the basis that no objection is raised to the proposal, subject to the imposition of conditions and a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 being acceptable.		
APPLICATION TYPE Large Major Dwelling (Outline)		
REASON FOR REFERRAL TO COMMITTEE Cllr. Richard Palmer requested the application be called-in on the grounds that the proposal is inappropriate for a non-rural service centre and its potential detrimental impacts on the highway to the front of the neighbouring school. An appeal for non-determination has been submitted and, therefore, the application is being presented to the Planning Committee to establish what its decision would have been if it still had the powers to determine the application.		
Case Officer Demetri Prevatt		
WARD Hartlip, Newington and Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Cantium Land And Development Ltd. AGENT Mrs. J. Scott Finns
DATE REGISTERED 24.10.2024		TARGET DATE 22.07.2025
BACKGROUND PAPERS AND INFORMATION: <u>Documents</u> Acoustic Memo (ref. 5113_AC_1.1) -- Prepared by Lustre Consulting (28.01.2025) Agricultural Quality of Land Report (ref. 2404/1) -- Prepared by Land Research Associated (12.09.2024) Baseline Habitat Assessment - Site A (ref. 1458_R05_BNG Baseline Assessment) - - Prepared by Native Ecology (01.08.2024) Baseline Habitat Assessment - Site B (ref. 1458_R04_BNG Baseline Assessment) - - Prepared by Native Ecology (06.08.2024) Baseline Habitat Assessment - Site C (ref. 1458_R05_BNG Baseline Assessment) - - Prepared by Native Ecology (01.08.2024) Baseline Habitat Assessment - Site D (ref. 1458_R01_BNG Baseline Assessment) - - Prepared by Native Ecology (06.08.2024) Baseline Habitat Condition Assessment (ref. 1458_R01_Habitat Condition Assessment) -- Prepared by Native Ecology (18.04.2024) Biodiversity Net Gain Assessment: Feasibility Stage (ref. 1458_R02_BNG Feasibility Report) -- Prepared by Native Ecology (18.04.2024)		

Biodiversity Net Gain Assessment: Design Stage (ref. 1458_R03_REV A_BNG Design Stage) -- Prepared by Native Ecology (01.10.2025)
 Covering Letter (ref. JS/MEC) -- Prepared by Finn's (15.10.2024)
 Covering Letter (ref. JS/MEC) -- Prepared by Finn's (28.04.2025)
 Design and Access Statement Rev. P11 (ref. 22.110-ONA-XX-XX-RP-A-0001) -- Prepared by On Architecture (07.10.2024)
 Draft Unilateral Undertaking -- Prepared by Ayshland Limited (03.12.2025)
 Drainage Strategy -- Prepared by RMB Consultants Ltd. (December 2024)
 Drainage Strategy (Houses) -- Prepared by RMB Consultants (08.08.2025)
 Drainage Strategy (Road) -- Prepared by RMB Consultants (08.08.2025)
 Financial Viability Assessment (ref. 269153) -- Prepared by Strutt & Parker (18.09.2024)
 Landscape and Visual Impact Assessment (ref. DPLC/442/LVIA) -- Prepared by DPLC (11.12.2024)
 Offsite Condition Assessment Sheets A
 Offsite Condition Assessment Sheets B
 Offsite Condition Assessment Sheets C
 Offsite Condition Assessment Sheets D
 Planning Statement (ref. 3427/00) -- Prepared by Finn's (October 2025)
 Preliminary Ecological Appraisal -- Prepared by Calumma Ecological Services (08.09.2022)
 Reptile Survey -- Prepared by Calumma Ecological Services (11.10.2022)
 Reptile Receptor Site -- Prepared by Calumma Ecological Services (19.11.2025)
 Road Safety Audit Stage 1 (ref. RSA/RMB/24/02) -- Prepared by Laurence Shaw Associates (April 2024)
 Sequential Test -- Prepared by RMB Consultants Ltd. (April 2025)
 Statement of Community Involvement (ref. 3427/00) -- Prepared by Finn's (October 2024)
 Statutory Biodiversity Metric Calculation
 Statutory Biodiversity Metric Calculation (Site A)
 Statutory Biodiversity Metric Calculation (Site B)
 Statutory Biodiversity Metric Calculation (Site C)
 Statutory Biodiversity Metric Calculation (Site D)
 Supporting Letter on BNG and Ecology (ref. JS/MEC) -- Prepared by Finn's (07.10.2025)
 Supporting Letter on BNG -- Prepared by Calumma Ecological Services (29.08.2025)
 Supporting Letter on First Homes -- Prepared by Stuart & Parker (13.12.2024)
 Transport Statement -- Prepared by RMB Consultants Ltd. (December 2024)
 Updated Ecological Appraisal (ref. 2224/27/4) -- Prepared by Calumma Ecological Services (15.04.2024)

Drawings

1 -- Existing Site Levels Plan
 50.000 Rev. A -- Site Location Plan
 100.000 Rev. L -- Proposed Site Plan (Coloured)
 100.000 Rev. L -- Proposed Site Plan
 400.000 Rev. D -- Illustrative Proposed Street Scene Elevation
 500.000 Rev. D -- Proposed Density Parameter Plan
 500.001 Rev. D -- Proposed Building Height Parameter Plan

500.002 Rev. F -- Proposed Landscape Parameter Plan
500.003 Rev. F -- Proposed Road Hierarchy Parameter Plan
500.004 Rev. B -- Proposed Open Space Management Plan
500.005 Rev. A -- Proposed Vehicle Parking Plan
1163/201A -- Proposed Access Layout
1163/202C -- Visibility Splays
1163/203A -- Swept Path Analysis (Minibus)
1163/204C -- Swept Path Analysis (Refuse Vehicle - Entrance)
1163/205C -- Swept Path Analysis (Refuse Vehicle - Rear)
1163/207C -- Surface Water Drainage Strategy
1163/208D -- Proposed Vehicle Parking Layout
1163/209B -- Pedestrian Access Plan

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=SLP7K3TY1BC00>

A. STATUS OF APPLICATION

On 14.01.2026, the Council was notified by the Planning Inspectorate (PINS) that PINS considered an Appeal for Non-Determination sought by the Applicant to be valid as the Council has not determined the application within the statutory timeframe. The notification provided by PINS included a timetable for the Appeal process that sets a deadline of 18.02.2026 for the Council to submit an Appeal Statement in response to the Appellant's Statement of Case.

As the application was called into the Planning Committee, the application is being presented to the Committee to ascertain their view as to what the outcome would have been if the Council still had the ability to determine the application. The Committee's view will facilitate the production of the Council's Appeal Statement.

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site ("the site") is a 0.79ha irregularly shaped parcel of land located on the southern side of Forge Lane, outside the Built-Up Area Boundary of Upchurch. It is a grass field that does not appear to have any formal vehicle access points. The adjacent property to the west is the Holywell Primary School. A public footpath (ZR12) runs along the eastern boundary of the application site, with the footpath being bound by a large residential property comprised mainly of grassed open land located to its east. The lands to the north of Forge Lane are in use as orchards. Open fields are found to the south of the site including one with paddocks and stables. The Council's mapping indicates that the site and surrounding land is Grade 1 Best and Most Versatile Agricultural Land.
- 1.2. The local area falls within the Upchurch and Lower Halstow Fruit Belt Landscape Character Area with the site being located within the Upchurch Area (LW2/UH1) as

set out in the Swale Landscape Sensitivity Assessment Area. The site and local area are not located within either a Kent or Swale level Area of High Landscape Value. The local landscape is visible from various places in the local area including public highways (e.g. Forge Lane) and public footpaths (i.e. ZR10 and ZR12).

- 1.3. A substantial part of the frontage of the site (approximately a third of the site) is classified as being at high risk of surface water flooding. However, it is not located within Flood Zones 2 or 3 in relation to fluvial or tidal flooding. The site is located within: a Great Crested Newt Green Zone, a brickearth safeguarded area, the Medway Ports Authority explosive safeguarding zone, the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI) impact risk zone, 6.0km of the Medway Estuary and Marshes RAMSAR site, and 6.0km of the Medway Estuary and Marshes Special Protection Area (SPA).
- 1.4. In terms of heritage-related planning constraints, the site is neither found within a Conservation Area, and does not contain any Listed Buildings. However, the Grade I Listed Church of St. Mary the Virgin (List Entry no. 1343934) is located approximately 250 metres to the west of the site, which is within the Upchurch Conservation Area that is also to the west. Further to the east of the site are the Grade II Listed Holywell Cottages (List Entry no. 1069321) and Holywell Farmhouse (List Entry no. 1343933).

2. PLANNING HISTORY

- 2.1. None.

3. PROPOSED DEVELOPMENT

- 3.1. The proposal seeks Outline Planning Permission for the erection of sixteen dwellings (Use Class C3) with associated gardens and vehicle parking spaces, the provision of overflow community parking, and the formation of formation of vehicle access points along Forge Lane. The application seeks the approval of the matters of access and layout, meaning the matters of appearance, landscaping and scale would be reserved.
- 3.2. The main entrance to the site would be formed centrally along the host property's frontage to Forge Lane. It would mark the start of the primary access road through the development site and proceed to a junction with a secondary access road located behind hedgerows and landscaped islands to be formed behind a public footpath developed along Forge Lane. The primary access road would snake to the southwest corner of the site providing access to twelve of the proposed dwellings and their driveways / parking bays, as well as three parallel visitor parking spaces on its southern side. A footpath would also run along the southern side of the road. The primary access road would terminate at a 'T'-junction with a secondary access road onto which two dwellinghouses and their driveways would front. The footpath running through the site would turn south along the lower secondary access road to provide access to a connection point with public footpath ZR12.
- 3.3. At the northeast of the site would be a subsidiary road leading from the primary road that would provide access to two dwellinghouses and their driveways.

- 3.4. Ten of the proposed dwellings would benefit from driveways leading to car barns or garages with the remaining six dwellings benefiting from off-street parking bays.
- 3.5. The submitted drawings illustrate a second entrance to the site being formed along Forge Lane near the northwest corner of the site. It would lead to the secondary access road running parallel to Forge Lane and the eleven public/visitor parking spaces (including one dedicated to a mini-bus) to be formed to the south of that road. This would link to the main route through the site at its eastern end.
- 3.6. The layout of the sixteen residential properties illustrated on the submitted drawings indicate each dwelling being setback from the street onto which they front and all but one would benefit from a generously sized adjoining rear garden. The single dwelling without an adjoining rear garden would be provided with a private garden to the rear of the garden of an adjoining dwelling.
- 3.7. Although landscaping is a reserved matter, the application was supported by a Proposed Landscape Parameter Plan (dwg. 500.002 Rev. F) and Proposed Site Plans (dwgs. 100.000 Rev. L) that illustratively show hedgerows to the front of the development site and buffer/screening planting along the southwest facing boundaries of the site.

4. REPRESENTATIONS

- 4.1. Two rounds of public consultation have been undertaken, during which notification letters were sent to neighbouring occupiers. During each round of public consultation, a site notice was displayed at the application site and the application was advertised in the local newspaper. Full details of the representations received are available online.
- 4.2. A single individual/party responded to the public notification with neutral comments in relation to the following matter.

Comments	Report Reference / Officer Response
There is currently a lack of footpaths and drop-off/pick-up points along Forge Lane.	Section 7.11

- 4.3. Forty-three individuals/parties including the Local Governing Board of Holywell Primary School responded to the public notification in objection to the proposal. The concerns/comments raised in the objections were in relation to the following matters.

Comments	Report Reference / Officer Response
The proposal has failed to demonstrate that there is a need for additional or greenfield housing in the village.	Section 7.2
The development of the open space could result in an undue loss of biodiversity, greenspace, and wildlife.	Section 7.10

The proposal would lead to unsustainable increases in the use of the limited commercial services available in the village.	Section 7.20.
The proposal would lead to unsustainable increases in the utilisation of soft and hard infrastructure (incl. drainage, education, healthcare, public transport, waste collection and utilities) in the local area.	Section 7.13
The design, materiality, form and scale of the proposal would be out of keeping with character and appearance of the local area.	Section 7.8
The proposal would give rise to undue increases in flood risk.	Section 7.15
The layout of the proposal would accommodate further, and unacceptable, expansion of the village.	Section 7.2
The proposal would have a detrimental impact on the character, appearance and/or setting of the local Conservation Area and Listed Buildings.	Section 7.7
The layout of the proposal would accommodate the provision of an excessive number of dwellings that would constitute an overdevelopment of the host property.	Section 7.8
The proposal would be an out of keeping addition to the local pattern of development to the detriment of the rural, village and tranquil character of the local landscape.	Sections 7.2 and 7.6
The proposal would give rise to undue enclosures, overlooking and losses of light at neighbouring dwellings.	Section 7.17
The construction works necessary to implement the proposed development would give rise to undue nuisances.	Section 7.17 & Conditions
The proposal would generate nuisance levels of light and noise pollution, as well as disturbances and odours.	Section 7.17 & Conditions
The proposal would introduce opportunities for the overlooking of the adjoining primary school to the detriment of the privacy and safety of students.	Section 7.17
The proposal would be detrimental to the safeguarding of a local mineral reserve.	Section 7.19

The proposal would increase vehicle movements along Forge Lane to the detriment of highway safety and the flow of vehicle traffic.	Section 7.11
The proposal would provide an insufficient number of visitor car parking spaces to the detriment of the provision of public car parking spaces.	Section 7.11
Insufficient information has been provided to justify the need for a school drop-off point and demonstrate it would be acceptable in terms of highway safety and the flow of vehicle traffic.	Section 7.11

- 4.4. A single individual/party responded to the public notification in support of the proposal. The benefits/comments raised by the supporter were in relation to the following matters.

Comments	Report Reference / Officer Response
The proposal would enable the delivery of much needed dwellings in the area on an underutilised site.	Section 7.2

- 4.5. Upchurch Parish Council responded in objection to the proposal stating concerns in relation to the following matters:

Comments	Report Reference / Officer Response
The proposal has failed to demonstrate that there is a need for number and type of new dwellings proposed.	Section 7.2
Substandard information was provided in regard to ecology.	Section 7.10
The development of the open space could result in an undue loss of biodiversity, greenspace, and wildlife.	Section 7.10
The proposal would lead to unsustainable increases in the utilisation of soft and hard infrastructure in the local area.	Section 7.13
The proposal would be an out of keeping addition to the local pattern of development to the detriment of character, appearance and landscape of the village.	Section 7.6 and 7.7
The proposal would generate nuisance levels of light and noise pollution.	Section 7.17 & Conditions
The proposal would increase vehicle movements along Forge Lane to the	Section 7.11

detriment of highway safety and the flow of vehicle traffic.	
Insufficient information has been provided to justify the need for a school drop-off point and demonstrate it would be acceptable in terms of highway safety and the flow of vehicle traffic.	Section 7.11

5. CONSULTATIONS

- 5.1. Set out below is a summary of matters raised in representations received from consultees with the comments reflecting the final position of the consultee. There have been four rounds of consultation for most consultees.
- 5.2. **KCC Highways:** The consultee had no objections subject to the imposition of conditions.
- 5.3. **KCC Flood and Water Management:** The consultee had no objections subject to the imposition of conditions.
- 5.4. **KCC Development and Investment:** The consultee raises no objection subject to the Applicant/Developer entering into a Section 106 Legal Agreement with the Council to secure adequate financial contributions for community, education, and waste services.
- 5.5. **KCC Minerals and Waste:** The consultee had no comments or objections.
- 5.6. **KCC Ecological Advice Service:** The consultee raised no objection subject to:
- a) the Applicant/Developer enter into Section 106 Legal Agreement with the Council designed to secure a financial contribution associated with a Strategic Access Management and Monitoring Strategy (SAMMS) payment; and
 - b) conditions being imposed.
- 5.7. **KCC Public Rights of Way:** The consultee had no objections provided that informatives are used to highlight the status and protection of the PRow.
- 5.8. **SBC Affordable Housing:** The amount and tenure of the proposed affordable housing would not align with the needs of the Borough as the provision would fall short of the 40% requirement, with a mix that would be entirely intermediate housing. However, it is noted that there are wider difficulties around the provision of affordable housing at this time and the provision of six units at the site would be a positive boost to the supply of affordable homes. Discussions with the providers of affordable housing are welcomed.
- 5.9. **SBC Greenspaces:** The consultee noted that there would be insufficient space within the development to provide usable open space. However, no objection is raised subject to the Applicant/Developer entering into a Section 106 Legal Agreement to secure adequate financial contributions for the off-site provision of open (play/fitness) space and formal sport space.

- 5.10. **SBC Tree Officer:** The consultee had no objections subject to the imposition of conditions.
- 5.11. **Mid-Kent Environmental Protection:** The consultee had no objections subject to the imposition of conditions.
- 5.12. **Health and Safety Executive (HSE):** The consultee had no comments to make provided that none of the buildings would be classified by the HSE as “vulnerable” (i.e. a building with a notable amount of large glazed/frangible panels that would make the building susceptible to disproportionate damage in the event of an explosion), which none of the proposed dwellings appear to be.
- 5.13. **Environment Agency:** The consultee had no comments.
- 5.14. **Natural England:** The proposed development has the potential to have a harmful effect on terrestrial Sites of Special Scientific Interest (SSSIs) and those Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin. Therefore, further information (i.e. an Appropriate Assessment) is required to determine the proposal’s impacts on designated sites.
- 5.15. **NHS:** It was advised that contributions are not sought in relation to residential proposals for less than twenty (20) dwellings.
- 5.16. **Lower Medway Internal Drainage Board:** The consultee had no comments.
- 5.17. **Southern Water:** The consultee had no objections but asked that informatives are used.
- 5.18. **Kent Police:** The consultee recommended that Secured by Design principles be incorporated into the proposal.
- 5.19. **Swale Footpaths Group:** The consultee had no objections.
- 5.20. **UK Power Networks:** The consultee had no objections.

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
- ST5 The Sittingbourne Area Strategy
- CP1 Building a Strong, Competitive Economy
- CP2 Promoting Sustainable Transport
- 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

CP8 Conserving and Enhancing the Historic Environment
DM3 The rural economy
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
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
DM33 Development Affecting a Conservation Area

National Planning Policy/Guidance

National Planning Policy Framework 2024 (As Amended) (“the NPPF”)
National Planning Practice Guidance (NPPG)

Supplementary Planning Guidance/Documents

Air Quality Technical Guidance (2021)
KCC Developer Contributions Guide (2023)
Kent Mineral and Waste Local Plan 2024-39 (KMWLP) (2025)
Landscape Character Assessment and Biodiversity Appraisal (2011)
Swale Borough Council’s Noise and Vibration Planning Technical Guidance (2020)
Swale Landscape Character and Biodiversity Appraisal (2011)
Swale Parking Standards (2020)

7. ASSESSMENT

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

- Principle
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Trees
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy
- Planning Balance

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 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. As Swale Borough Council is unable to provide a 5-Year supply of housing, 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.
- 7.2.6. Policy ST3 sets out the settlement strategy and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the countryside unless it is supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.2.7. For the purposes of the Local Plan, the application site is unallocated and located within the countryside, outside of any built-up area boundary. It is also noted that the visual impact of the proposal would not contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside or its buildings as this report will further detail below. Consequently, the proposed development would not accord with Policy ST3 of the Local Plan.
- 7.2.8. As noted in the site description provided in Section 1 above, the application site is located near to but outside of the built-up area boundary of Upchurch. This village is identified as a Tier 5 Settlement (Other Villages with Built-Up Area Boundaries) within the Swale Settlement Strategy, which categorises such villages on the basis of them

displaying more sustainable characteristics which is usually as a result of better levels of public transport provision and/or local facilities and/or their closeness to urban or larger village populations.

- 7.2.9. Due to the site having an irregular projection at the northwest corner, the site would be able to connect to an existing footpath into the centre of the village. Although the footpath currently terminates near to the eastern edge of the school frontage, the proposal involves the extension of this footpath into the proposed development ensuring every dwellinghouse would be within walking distance of the community facilities, shops and services provided within Upchurch. One such service would be the 327 bus route that stops along Forge Lane on the way to both Chatham and Sittingbourne. The application site's proximity to the nearby bus stops, community facilities, services and shops within Upchurch allow it to be considered a relatively sustainable location for the proposed dwellings.
- 7.2.10. It is acknowledged that Swale Borough Council is unable to demonstrate a 5-Year supply of housing and the requirement for the Council to undertake an early local plan review has not been complied with. Therefore, Paragraph 11(d) of the NPPF is applicable and the presumption in favour of sustainable development applies. The benefits of the proposal, the harm that it would cause, and its compliance/non-compliance with the Local Plan and NPPF is material consideration that must be given significant weight. Once all other material planning considerations have been acknowledged, this significant material consideration will be considered fully in a balancing exercise detailed below.

7.3. **Agricultural Land**

- 7.3.1. Policy DM31 of the Local Plan 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 development on the best and most versatile (BMV) agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. The policy states that development on the BMV agricultural land (i.e. Grades 1, 2 and 3a) will not be permitted unless: i) the site is allocated for development by the Local Plan; or ii) there is no alternative site on land of a lower grade than 3a; and iii) 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.
- 7.3.2. While the Council's mapping indicates that the Agricultural Land Classification of the site is Grade 1, the application was supported by an Agricultural Quality of Land Report (ref. 2404/1) demonstrating the site should actually be classified as Grade 3B – i.e. not BMV.
- 7.3.3. In this instance, it is considered that there is an overriding need for development that cannot be met within the built-up area boundaries and, as such, that aspect of the abovementioned policy is complied with. There is no evidence that the site is used or has been used for agriculture and this appears to have been the case for a considerable period of time and, as such, the proposal would not cause a wider agricultural holding to become unviable. The small size of the site compounds this. As the Council is not in a position to question the applicant's submissions in relation

to the agricultural quality of the land, no objection is raised on this ground. Even if there was a conflict with the abovementioned policy as it happened to be identified that the land was of higher quality than set out by the applicant, it is not considered that there would be harm arising from this policy conflict that would materially change the weighting and planning balance exercise that is undertaken below.

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). Subsequent to the adoption of the Local Plan, the Council's Housing Market Assessment (HMA) was prepared in 2020 (i.e., more recently than the Local Plan) after the introduction of the standard method for calculating the objectively assessed need. As such, officers have considered the proposed and indicative housing mix against that set out in the HMA.

Tenure – HMA	1 Bed	2 Bed	3 Bed	4 Bed
Market Required	7%	33%	41%	19%
Market Proposed	0%	0%	0%	100%
Affordable Required	27%	23%	30%	20%
Affordable Proposed	33%	50%	17%	0%

7.4.3. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes. It should be remembered that this reflects the Borough wide need.

7.4.4. On a more local level, Policy CP3 indicates that housing proposals should be tailored to the issues present within the local housing market area. The pre-ambles to the policy provides background to this stating that, in the area of Newington and the ME9 post code generally, house prices are relatively high and there are reasonable levels of demand. It goes on to state that *“the aspiration could be to encourage the development of good quality family housing, for which the greatest local demand exists”*.

7.4.5. From this basis, whilst the proposal does little to address the needs of the Borough as a whole and conflicts with criteria 5 of Policy CP3 as a result, it is considered that the proposal is tailored to the local housing market in terms of providing open-market housing, with the potential (subject to reserved matters) to be of a high quality and suitable to accommodate families and, therefore accords with criteria 3 of that policy.

7.4.6. Moreover, in respect of criteria 3 of Policy CP3 which requires development to be at a density that is determined by the local context, it is considered that the envisaged type of dwellings within the development and the overall density of the development is appropriate in the context of the surrounding area.

- 7.4.7. Overall, whilst not complying with Policy CP3 in all respects, it is considered that the proposal is consistent with other parts of the policy in such a way that no objection is raised to the mix of dwellings that is proposed.

7.5. **Affordable Housing**

- 7.5.1. According to Policy DM8 of the Local Plan, major residential developments in rural locations are required to provide forty percent of the proposed dwellings as Affordable Housing (AH) with the size, tenure and type of these units delivered in accordance with the needs of the area. Policy DM8 also states that, where possible, AH provisions should support Starter Homes in appropriate circumstances and locations. In order to meet the identified need for AH of different tenures, Paragraph 7.3.8 of the supporting text for Policy DM8 states that, in the first instance, the Council will seek an indicative target of ninety percent (90%) affordable/social rent and ten percent (10%) intermediate products.
- 7.5.2. The development of sixteen dwellinghouses means that the proposal is a major residential development that would need to comply with Policy DM8 of the Local Plan. In this regard, the Applicant is proposing an AH provision that would result in six of the sixteen dwellinghouses being delivered as affordable dwellings. Two of these affordable dwellings would be delivered as First Home dwellings by the developer and four as Shared Ownership dwellings. This constitutes a provision of 37.5%.
- 7.5.3. Viability submissions of the applicant have been reviewed and discussions proceeded on the basis of financial contribution being made in lieu of an on-site provision. However, the appeal submissions make it clear that the applicant wishes the application to be considered on the basis of the above provision.
- 7.5.4. The affordable housing proposals would not be fully compliant with Policy DM8 of the Local Plan as the provision would represent a shortfall of 2.5%. However, in times where on-site provision is challenging due to the nature of the Registered Provider market, it is considered that the harm arising from the policy conflict, which effectively arises as the requirement has been rounded down rather than up, should be afforded limited weight. There would still be a benefit arising from the provision of 6 affordable units which can be construed as a benefit of the proposal even though the provision would not be policy compliant.
- 7.5.5. Paragraph 11(d) is applicable to the determination of this application with regard to a presumption in favour of sustainable development as detailed above in Paragraph 7.2.10. Once all other material planning considerations have been acknowledged, this significant material consideration will be considered fully in a balancing exercise detailed below.

7.6. **Landscape and Visual**

- 7.6.1. Section 12 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (Paragraph 131). Moreover, it requires that developments are

sympathetic to local character and history, including the surrounding built environment and landscape setting (Paragraph 135).

- 7.6.2. Policy DM24 of the Local Plan supports this strategic planning objective of achieving well-designed places as it states the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed.
- 7.6.3. The site is located within the Upchurch and Lower Halstow Fruit Belt Landscape Character Area (LCA) and the Upchurch Area (UH1) assessment area of the Swale Landscape Sensitivity Assessment (2019). The Swale Landscape and Biodiversity Appraisal SPD (2011) lists the key characteristics of this LCA as including:
- Small to medium-scale rural landscape with a strong sense of enclosure;
 - Small nucleated villages with historic centres and modern urban expansion on periphery; undulating landscape with occasional long views to north and south; and
 - Fragmented structure of mature hedgerows and shelterbelts surround orchards, pasture and arable fields.
- 7.6.4. The appraisal mentioned in the paragraph above concludes that both the condition and sensitivity of the LCA is moderate and provides guidelines with the objective of conserving and creating. It also provides the following relevant guidance:
- Conserve the remaining enclosed landscape structure and look for opportunities to create features to restore a strong landscape structure with tree, shelterbelt, hedge planting and wetland features such as watercress beds.
- 7.6.5. The Swale Landscape Sensitivity Assessment (2019) states that the landscape of the Upchurch Area (LW2/UH1) sensitivity assessment area has an undulating landform, low-moderate valued natural features and semi-natural habitats, and a moderate sense of rural character with limited modern human influences. It also notes that the elevation of Upchurch increases its sensitivity, although the settlement edge is not well integrated. In light of these landscape characteristics, the assessment concludes that moderate overall sensitivity to future change from residential development (i.e. two to three-storey housing, over 2.0ha). The assessment also notes that, as the settlement edge at Upchurch is poorly defined, there is an opportunity to create a better settlement edge for Upchurch by small scale development. However, this should remain contained by Chaffes Lane in the south and should not extend beyond one or two fields east to maintain the clear landscape gap between Upchurch and Lower Halstow.
- 7.6.6. It is noted that the application site is located north of Chaffes Lane and directly to the east of the settlement edge of Upchurch, but the proposal would extend the settlement of Upchurch eastwards by more than one field as has been suggested by the abovementioned document. Whilst there is some tree and hedge planting at the edges of the site, the site currently does not feature substantial hedgerow or shelterbelts that are characteristic of the local LCA. The attributes, location and size of the application site suggests that it has the potential to support landscape-led development commensurate with the moderate sensitivity of the Upchurch Area (UH1) sensitivity assessment area.

- 7.6.7. The Landscape and Visual Impact Assessment (ref. DPLC.442.LVIA) (herein referred to as the “LVIA”) submitted with the application has assessed the proposal from 23 locations around the site, identifying that the development would not be visible from three of those locations. From the remaining 20 vantage points, the impact would be insignificant from 7 locations, low from 9 and significant from 4. Whilst the LVIA has not been considered by an independent assessor, the assessment of Officers generally aligns with the content of the LVIA. It is noted that the significant impacts have been identified to be from Forge Lane and the northernmost part of footpath ZR12. This is considered to be sound, and it is noted that the LVIA has identified that there are currently view of the Grade I listed church that would be impacted by the proposal.
- 7.6.8. However, it is noted that for a stretch along public footpath ZR12, between receptor viewpoints 15 and 16 in the Applicant’s LVIA, footpath users are able to enjoy an impressive view across the south of the site to the orchards and coast beyond. The view from receptor point 16 is identified to be of high value and this is considered to be applicable to all of that stretch, particularly given that it strongly defines the setting and context of Upchurch as a small Kent settlement that features fruit growing and its coastline as a substantial part of its history. The proposed dwellings would obscure this view and as such, the impact is considered to be far greater than “minor and slightly adverse” and the significance is considered to be greater than “low.” Aspects of this view are considered in longer views (from receptor points 18, 19, 20 and 22) where the impact is found to be low or insignificant which is considered to be a generally acceptable conclusion given that there are wider views from those locations and the narrow shape of the site and the layout of dwellings means that the impact would be limited.
- 7.6.9. Aside from the above, the LVIA is considered to be a sound basis to consider the proposal. The applicant identifies that mitigation in the form of soft landscape would be able to reduce the impact of the development, with the LVIA concluding that *“the overall effect of the proposal upon visual amenity is considered to be Minor, slightly adverse, with effective mitigation to reduce significant adverse effects and of Low Significance.”* In earlier sections of the LVIA, it also states that “the effect of the proposal upon the small to medium scale rural landscape would be Minor and adverse, however the proposal would strengthen enclosure at the edge of the village” and “the proposal would have a limited significant effect upon a small number of nearby receptor viewpoints in close proximity to the proposal site”.
- 7.6.10. Since mature hedgerows and shelterbelts are key characteristics of the LCA that local guidance indicates should be restored, the introduction of these landscaping features along Forge Lane and adjacent to public footpath ZR12 could be considered a positive impact on the LCA. Although these features would not fully screen the impacted viewpoints from massing/roofs of the proposed dwellings, their maximum heights of two-storey would be in keeping with the landscape-led guidance provided within the Swale Landscape Sensitivity Assessment (2019).
- 7.6.11. Although the proposal would result in the loss of open land, the development site is not within a designated area of high landscape value. Furthermore, it is agreed that the level of harm that the proposal would cause would be at a generally low level other than from a few viewpoints, within a contained area and in accordance with local

guidance. Consequently, the harm to the landscape expected to be generated by the proposed development would be apparent yet sufficiently limited and mitigated to the extent that the overall impact would not be significantly adverse. This is relevant in the context of Part B of Policy DM24 which states that permission will be granted in non-designated landscapes subject to the minimisation and mitigation of adverse landscape impacts. Even if it was found that there were significant impacts remaining, Policy DM24 indicates that development should still be allowed where the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

7.7. 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 (LPA) 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. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.7.3. The NPPF states that LPAs 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.
- 7.7.4. The application site is adjacent to the Upchurch Conservation Area while the Grade I Listed Church of St. Mary the Virgin (List Entry no. 1343934) is approximately 250m to the west of the site and the Grade II Listed Holywell Cottages (List Entry no. 1069321) and Holywell Farmhouse (List Entry no. 1343933) are approximately 500m to the east.
- 7.7.5. The Church of St. Mary the Virgin is partially visible in views across the application site. Although the townscape of Upchurch does provide a setting for the Grade I Listed Building, the 250m distance between the build and site means the view is notable but not prominent. It is also noted that the views of the heritage asset and its setting are intermittent due to landscaping along the west of the site. Therefore, the proposal is expected to result in a low level of less than substantial harm to contribution the Church of St. Mary the Virgin makes to the visual amenity provided by some of the long views across the site.
- 7.7.6. It is likely that the proposed development would be visible from an east facing tower window of the Church of St. Mary the Virgin. However, the proposal would appear as a logical continuation of the roofs of neighbouring developments (i.e. dwellings and the school), thereby, avoiding causing harm to the setting of the Listed Building in this regard.

- 7.7.7. The Grade II Listed Buildings are not visible in views across the application site. Therefore, the proposal would not result any harm to the contributions that the Holywell Cottages and Holywell Farmhouse make to the visual amenity provided by some of the long views to the east across the site.
- 7.7.8. The closest parts of the Upchurch Conservation Area are distant from the site, with the closest section along Forge Lane being to the northeast of the junction with Church Farm Road and the closest section to the southwest being beyond Chaffes Lane. There would be a very low level of intervisibility between the Conservation Area and the site and, even from where there would be glimpses, it is considered that the impact would be negligible. It is noted that the development would alter the approach to the Conservation Area along Forge Lane, but the impact on the setting caused as a result of this would be partially mitigated by the proposed landscaping provisions at the frontage of the site. Consequently, it is considered that any impacts would be at the lowest of levels to the point of being negligible and, as such, it is considered that the proposal would maintain the setting of the Conservation Area.
- 7.7.9. As required by Paragraph 212 of the NPPF, considerable weight has been given to the conservation of the four heritage assets located in close proximity to the application with respect to the impact of the proposed development. This impact is expected to avoid causing any harm to the Grade II Listed Buildings (Holywell Cottages and Holywell Farmhouse) and the Upchurch Conservation Area and result in less than substantial harm, which would be at the lower end of the scale, to the Grade I Listed Building (Church of St. Mary the Virgin). The limitation and mitigation of the less than substantial harm to the heritage assets would be secured at the reserved matters stage. In particular, the Applicant will need to submit acceptable details relating to the matter of scale to show that for the proposed dwellings would cause no more than a very limited harm to the setting of the Grade I listed building.
- 7.7.10. In instances where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, Paragraph 215 of the NPPF requires this harm to be weighed against the public benefits of the proposal. With regard to the public benefits of the subject proposal, it is noted that the borough does not have a 5-year supply of housing in sustainable locations. Therefore, the proposal's intention to deliver sixteen homes in a relatively sustainable location is expected to generate public benefits that would outweigh the less than substantial harm it could cause to the local heritage assets. The heritage impact of the proposal is considered acceptable and the proposal deemed to accord with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act (1990) (As Amended) and the supporting planning policies.

7.8. **Character & Appearance**

- 7.8.1. Local Plan Policies CP4 and DM14 and the NPPF attach great importance to the design of the built environment and that design should contribute positively to making places better for people.
- 7.8.2. Whilst appearance, landscaping and scale are reserved matters, the definitive access and layout of the proposed development would have impacts on the character and appearance of the proposal.

- 7.8.3. In general, it is considered that the layout of the residential part of the development is acceptable. There would be dwellings fronting Forge Lane, some facing southwards across the fields which would provide some interest to the view from the PRow and the remainder would face the internal estate road. Whilst the houses to the east would have their backs and rear gardens facing the PRow, this is not considered to be unusual or out-of-keeping with the existing situation where views of the rear boundaries of dwellings are common.
- 7.8.4. An eleven space car park is a substantial feature of the frontage of the site could dominate the street scene along Forge Lane. However, it is noted that the layout does indicate that an appreciable amount of landscaping would be provided along the site's frontage to provide visual screening of the proposed car park. It is also acknowledged that moving some of the proposed dwellings closer to the front of the site and shifting the car park further back could have a negative impact on character and pattern of development. Similarly, providing additional open space at the front of the site and relocating the car park to a suitably sized alternative location within the site could unduly break the logical pattern of development proposed. Therefore, subject to the provision of abundant landscaping along the frontage of the site, it is considered that the development would have an acceptable layout in the context of the character and appearance of the area. The layout would, therefore, accord with the abovementioned policies.
- 7.9. **Trees**
- 7.9.1. Policy DM29 of the Local Plan and the NPPF recognise the contribution of trees to the intrinsic character and beauty of the countryside.
- 7.9.2. The details of layout submitted for approval with the application identify areas of the application site where the siting of buildings and means of access could have an impact on existing trees, both on and off site. Since the layout and access would be approved, it is necessary to consider the impact of this matters on the trees at and near the site.
- 7.9.3. The Tree Officer has examined the details submitted with the application and concluded that the site does not have any arboriculturally constraints in terms of layout and the proposed layout would provide opportunities for new tree planting. Securing acceptable details on tree planting as part of a large landscaping strategy can be dealt with at the reserved matter stage.
- 7.10. **Ecology**
- 7.10.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

7.10.2. The Swale/Medway SPA and Ramsar sites

- 7.10.3. The application site is located within 6km of The Swale/Medway Special Protection Areas (SPA) and Ramsar which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 7.10.4. As the application site is within 6km of the North Kent SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest.
- 7.10.5. Natural England has advised 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. The necessary contribution would be £5,399.84 in this case (16 x £337.49).
- 7.10.6. These strategic 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.
- 7.10.7. 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 as part of this application.
- 7.10.8. An Appropriate Assessment has been carried out as per below and has been adopted by the Council as the Competent Authority, which concludes that the proposed development will not adversely affect the integrity of the Swale/Medway SPA and Ramsar Sites subject to the necessary financial mitigation being secured via legal agreement.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

- 7.10.9. The project being assessed would result in a net increase of up to 16 dwellings within 6km of the Swale/Medway SPA 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.

7.10.10. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds on the North Kent Marshes, focusing on the European Protected Sites and Ramsar Sites and their internationally important bird interest features. Elements within the strategy are:

- Rangers to provide wardening and visitor engagement
- A North Kent Coast dog project to promote responsible dog ownership and encourage walking on lead in sensitive areas
- Codes of conduct developed in partnership with local groups and clubs to raise awareness of recreational disturbance in a variety of activities both on and off of the water
- Interpretation and signage
- New and/or enhanced infrastructure
- Enforcement and Monitoring

7.10.11. The report also considered alternative measures, such as legal covenants relating to pet ownership in new developments, and capping visitor numbers at recreational sites. Due to the complexities in enforcing legal covenants and in reducing visitor numbers to the North Kent marshes, it is difficult to have confidence that such measures would be effective in the long term.

7.10.12. The suite of strategic mitigation measures are being delivered through the Bird Wise project, a partnership of local authorities and conservation organisations in North Kent, to ensure that development, considered in-combination, does not have an adverse effect on the integrity of the European sites. A per-dwelling tariff of £337.49 is required as a contribution towards the SAMMS.

7.10.13. Natural England has worked with the north Kent Local Planning Authorities to support them in preparing the SAMMS and the underpinning evidence base. Natural England agree that the mitigation measures to ensure additional impacts from recreational disturbance to the SPAs and Ramsar Sites are ecologically sound. As such, the Applicant does not need to provide their own evidence base on these aspects. Evidence should however be submitted showing that a mitigation contribution payment has either:

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

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

- 7.10.15. The applicant has agreed to make the necessary financial payment towards SAMMS through a Section 106 Legal Agreement. Having considered the proposed mitigation and avoidance measures to be provided in-perpetuity through the secured contribution to the Bird Wise scheme, Swale Borough Council can conclude that, with mitigation, the plan or project would have no adverse effect on the integrity of the European protected site.
- 7.10.16. However, the Council is no longer the determining authority for the planning application and, as such, is no longer the competent authority in the context of the Habitat Regulations. Consequently, it is not necessary for the Council to complete an Appropriate assessment. Notwithstanding this, no objection will be raised and it is advised that the Council responds to the appeal to state that the plan or project can be agreed under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Protected Species

- 7.10.17. Section 40 of the Natural Environment and Rural Communities Act (2006) states “For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise *of functions in relation to England*” and “*A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.*” Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’
- 7.10.18. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.10.19. The application was supported by a Preliminary Ecological Appraisal (PEA) and Reptile Survey. These submissions confirmed the presence of a low population of common lizard.
- 7.10.20. Although the PEA stated that the requisite precautionary working methods proposed within the assessment would be sufficient and any reptiles encountered during works will be relocated, the necessary details on a relocation area that would confirm the feasibility and acceptability of the requisite precautionary working methods were not provided by the PEA.
- 7.10.21. Upon receipt and review of a Reptile Receptor Site relating to an identified receptor site on the land in the control of the Applicant to the southwest of the site, KCC’s Ecological Advice Service confirmed that the proposal can satisfactorily avoid adverse impacts to protected and notable species. Therefore, subject to conditions relating to Biodiversity Enhancement, Lighting, and Precautionary Mitigation Measures, the proposal’s impact on protected species would be able to be made acceptable.

Biodiversity Net Gain

- 7.10.22. 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.
- 7.10.23. As the proposal does not benefit from any exemptions to the subsection of the biodiversity gain planning condition, it was supported by biodiversity metric calculations, BNG assessments, habitat assessments, and supporting letters. These submissions indicated that the proposal would result in a loss of 4.95 habitats units (-77.51%) and gain of 0.93 hedgerow units (no baseline). The submissions also stated that the proposal would include habitat creations measures (i.e. the creation of modified grasslands and planting of trees) that would contribute 0.88 habitats units to BNG.
- 7.10.24. After reviewing all of the submissions provided by the Applicant, KCC's Ecological Advice Service confirmed that the development would require the delivery of 6.24 units of off-site habitat creation on land adjoining the application site that is under the ownership of the Applicant (See: Area outlined in blue on dwg. 50.000 Rev. A). Furthermore, the significant gains required from the proposal necessitate securing these gains for thirty (30) years and the provision of an acceptable Habitat Management and Monitoring Plan (HMMP). In light of the observations provided by KCC's Ecological Advice Service, it is considered possible for the proposal to deliver the requisite BNG through on-site and off-site creation measures.
- 7.10.25. Any Planning Permission granted for the proposal would be subject to the statutory biodiversity gain condition requiring the submission and approval of an acceptable Biodiversity Gain Plan prior to the commencement of development. As by its nature, BNG is a post decision process, any legal agreement required to secure the off-site gains necessary would need to be in place prior to the discharge of the Biodiversity Gain Plan condition. This would ensure the delivery of the on-site and off-site creation measures referenced above. Additionally, this recommendation includes a HMMP conditions provided by KCC's Ecological Advice Service that would secure the gains for thirty (30) years as recommended by the service.

7.11. Transport and Highways

- 7.11.1. Local Plan Policies CP2 and DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD.
- 7.11.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:
"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios."

7.11.3. The provision of two (2) access points into the development and their position are considered acceptable by the Highway Authority who raised no objections in these regards. Similarly, the Highway Authority considered the final details provided by the Applicant on swept-path analysis for vehicles entering, existing and navigating the development to be acceptable. They have also raised no objection with the number and format of off-street vehicle parking spaces for the dwellings. As such, the proposal is not expected to have any unduly adverse impacts on the safety and flow of traffic (i.e. pedestrian and vehicular) along Forge Lane or generate unacceptable impacts on the internal access roads proposed.

7.11.4. It is noted that an area of community car parking has been proposed to the frontage of the site. It is understood that this was proposed following discussions with the adjacent school to meet a need for drop-off and collection time parking which would ease parking within local roads. However, the Local Governing Board (LGB) of Holywell Primary School submitted a representation in which they are clearly unsupportive of the proposal. Whilst the provision of the car parking area would be secured by the draft legal agreement that has been provided by the applicant, its subsequent retention and availability is not clarified. From this basis, it is considered that there is no reason to object to provision of a parking area to serve the local community and it is recognised that a designated parking would be likely to reduce the occurrence of short stay parking within the surrounding roads at the start and end of a school day. However, it is not considered to be a benefit to afford more than a limited amount of weight as the terms of the use of the car park within the applicant's draft legal agreement are vague.

7.12. **Air Quality**

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

7.12.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree. It is supported by SBC's Air Quality Technical Guidance (2024) that explains Air Quality Technical Guidance.

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

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

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

7.12.5. Upon a review of the local site context and details submitted with the application, an Environmental Health Officer from Mid-Kent Services determined that there were no concerns regarding air quality subject to any Planning Permission granted being subject to a Construction Management Plan condition requiring the submission and approval of acceptable details on the management/mitigation of dust generated during the construction phases of development. On this basis, the proposal is considered acceptable in terms of air quality management.

7.13. Community Infrastructure

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

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

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

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

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

KCC Contribution Requests		Total
Primary Education	£5,412.74 per dwelling	£75,778.36
Secondary Education	£5,587.19 per dwelling	£78,220.66
SEND	£559.83 per dwelling	£7,837.62
Integrated children's services	£74.05 per dwelling	£1,036.70
Libraries	£62.63 per dwelling	£1,002.08
Adult Social Care	£180.88 per dwelling	£2,894.08
Community learning	£34.21 per dwelling	£547.36
Refuse	£194.13 per dwelling	£3,106.08

NHS Contribution Requests		
NHS contribution	No Request	n/a
Swale Borough Council Contribution Requests		
Swale Bin provision	£120.30 per dwelling	£1,924.80
SAMMs	£337.49 per dwelling	£5,399.84
Formal sport provision	£729.57 per dwelling	£11,673.12
Play and fitness	£548.73 per dwelling	£8,779.68

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. This space should be fully accessible all year round.
- 7.14.2. The size of the site and the proposed layout means that the proposed development would not be able to provide on-site the 0.28ha of usable communal open space required for a residential development of the type proposed. Therefore, the Applicant/Developer would need to enter into a legal agreement with Swale Borough Council designed to secure a financial contribution to provide the requisite open space (i.e. open play/fitness space, and formal sport space) off-site.

7.15. Flood Risk, Drainage and Surface Water

- 7.15.1. Policy DM21 of the Local Plan and the NPPF requires that LPAs should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in.
- 7.15.2. Although the application site is not located in Flood Zones 2/3, mapping indicates that parts of the site are at high risk of surface water flooding. This significant level of risk means that a sequential test should be completed in accordance with Paragraph 175 of the NPPF unless the proposal represents a situation in which a site-specific flood risk assessment demonstrates that no built development within the site boundary would be located on an area that would be at risk of flooding, now and in the future, from any source. In light of this requirement, the application was supported by a Drainage Strategy Incorporating a Flood Risk Assessment among other supporting drainage / flood risk management submissions.
- 7.15.3. The Lead Local Flood Authority (LLFA) (i.e. Kent County Council) completed an assessment of the details submitted with the application. Although there was some concern with the increase in impermeable area that would result from the proposed development, the suite of supporting details/information/plans on drainage / flood risk management provided by the Applicant satisfied the LLFA that the development could satisfactorily manage flood risk provided that any Planning Permission granted is subject to conditions on drainage.
- 7.15.4. The PPG on Flood Risk and Coastal Change and Section 14 of the NPPF state that the sequential test for development need not be applied in situations where a site-specific flood risk assessment clearly demonstrates 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. On this basis, the proposal is concerned acceptable in terms of flood risk management.

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 LPAs 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. Upon a review of the local site context and details submitted with the application, an Environmental Health Officer from Mid-Kent Services determined that there were no concerns regarding land contamination subject to any Planning Permission granted being subject to a condition related to unsuspected land contamination found during the implementation of the development. On this basis, the proposal is concerned acceptable in terms land contamination.

7.17. **Living Conditions**

Existing residents and Neighbouring Uses

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

7.17.2. It is noted that the only residential property that would likely be impacted by the proposed development in terms of residential amenity would be the dwelling at St. Annes Orchard to the southeast and east of the site. The details on layout submitted with the application indicate that most of the dwellings to be created would be set away from this adjoining residential property by over 30m. This siting of these dwellings would be sufficient to ensure that they would avoid having any detrimental impacts on the living conditions of neighbouring occupiers in terms of enclosure, light, outlook and privacy. While the dwelling at the proposed Plot 15 would be closer to the dwelling at St. Annes Orchard, the proposed siting of the dwelling at Plot 15 would ensure that the dwelling would avoid having any detrimental impacts on adjoining residential amenity.

7.17.3. Whilst scale is a reserved matter, the definitive layout of the proposed development and indicative parameter densities and heights illustrated on the drawings submitted with the application confirm that the proposal would result in an increase in the intensity of the use of the host property. It is noted that the density of the development would be in keeping with that expected with residential development in the Upchurch area. Therefore, the level of activity, disturbance and noise likely to be generated by the development would likely avoid giving rise to any undue impacts on the living conditions at residential properties in the area.

7.17.4. Whilst it is noted that a school exists at a neighbouring site, it is not considered that there would be any unconventional relationships arising between properties, with it

being a regular occurrence for residential properties to neighbours schools. Therefore, whilst the concerns of interested parties are noted, no objection is raised in this regard.

Future residents

- 7.17.5. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.
- 7.17.6. Whilst scale is a reserved matter, the definitive layout of the proposed development and parameter densities and heights illustrated on the drawings submitted with the application indicate that the proposal should be able to accommodate dwellings that accord with the abovementioned standards. Similarly, the layout indicates that future occupants will, for the most part, have practical, usable and high-quality external amenity spaces.
- 7.17.7. The layout of Plot 1 is exception to this as it would have an inconveniently located garden positioned to the rear of the neighbour's garden. Whilst this would not be a desirable relationship, given that the property served by that garden is small and unlikely to have a substantial need for outdoor space, it is considered that the proposed arrangement can be tolerated.
- 7.17.8. The applicant's submissions include an acoustic report which identifies a need to provide an acoustic barrier at the north west boundary to ensure that the use of the school does not cause undue disturbance within the proposed dwellings. This can be secured by a condition.
- 7.17.9. For these reasons, subject to further detail being provided and considered at reserved matters stage, the proposal is considered in respect of providing adequate living conditions for future occupiers.

7.18. Sustainability / Energy

- 7.18.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.18.2. In order to deliver development that is adaptable and environmentally sustainable in a changing climate, the Council requires proposals to ensure that they meet a minimum water efficiency standard of 110 litres per person per day and are compliant with Build Regulations requiring reduced greenhouse gas emissions (Local Plan - Policy DM19). Therefore, this recommendation includes a Water Use condition designed to ensure achievement of the water efficiency standard and an External Energy Generation condition that would ensure that the generation measures to be used to achieve compliance with the aforementioned Building Regulations are acceptable in planning terms.

7.19. Minerals

- 7.19.1. The Local Plan defines “mineral safeguarding area” as an area designated by Minerals Planning Authorities (i.e. Kent Country Council) that covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development. In this regard, the application site is located within a mineral safeguarding area for brickearth designated by Kent County Council’s Minerals and Waste Local Plan. Kent County Council’s Minerals and Waste team were consulted on this safeguarding designation and confirmed that there are no land-won minerals constraints on the application site that would warrant an objection. Therefore, the proposed development is not expected to result in an unnecessary minerals sterilisation.

7.20. Planning Balance – Benefits and Harm

- 7.20.1. 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.
- 7.20.2. In this case conflict with policies in the development plan have been identified as set out above.
- 7.20.3. 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.”

- 7.20.4. In this case, the application of policies that protect areas or assets of particular importance do not provide a reason for refusing the development. Therefore, 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. For the avoidance of doubt, whilst there would be a low level of harm to the setting of a listed building, albeit the heritage balance exercise undertaken above, has indicated

that this should not be a reason for refusal and, therefore, this weighs neutrally in this case.

Benefits

- 7.20.5. The benefits arising in this case amount to the provision of 16 dwellings at a time when the Council cannot demonstrate a 5 year housing land supply. The benefit should be afforded significant weight. Moreover, 6 affordable housing units would be provided which, whilst not being policy compliant, can still attract positive weight, albeit the shortcomings of the affordable housing offer also weigh against the proposal as set out below. The provision of a community car parking area can be afforded some weight as a benefit and it is considered that there would be economic benefits arising from the construction process and the subsequent occupation of the dwellings (where occupants would use and strengthen the viability of local services). These aspects of the proposal can also be afforded weight as a benefit.

Harm

- 7.20.6. The harm arising from the proposal is considered to be that which is caused by the proposal representing development in the countryside. There would be a visual impact on the local landscape that, whilst being able to be mitigated to an extent, would still detract from the countryside setting. The affordable housing provision does not accord with local plan policy and therefore, whilst the provision of 6 units can weigh in favour of the proposal, the absence of a contribution to 'top-up' the affordable provision to be policy compliant and the mix of affordable housing and, in these respects, there is a small degree of policy conflict harm and the benefit set out above is moderated.

7.21. Conclusion

- 7.21.1. Overall, in most respects, the development is acceptable or tolerable. The harm arising from the proposal does not outweigh the benefits and, therefore, the NPPF indicates that planning permission should be granted. The NPPF is a material consideration of importance in this case and therefore, whilst the proposal conflicts with the development plan, it is considered that this factor is outweighed by other material considerations and planning permission should, therefore, be granted. It is recommended that the Council responds to the appeal accordingly.

- 7.21.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.21.3. Conditions Suggested by the Local Planning Authority

The following list of conditions is an indicative list of conditions that may be subject to change as part of the appeal process, with conditions potentially being added, removed or amended.

1. Reserved Matters

Within three (3) years of the date of this permission details of the following reserved matters shall be submitted to the Local Planning Authority for approval and the development shall be begun not later than two (2) years from the date of the final approval of all of the reserved matters:

- (1) Appearance;
- (2) Landscaping; and
- (3) Scale.

No development shall commence until the above matters have been approved.

Reason: These matters were not submitted for consideration as part of the Outline Planning Permission application and to comply with the provisions of the Town and Country Planning Act 1990 (As Amended) and the Planning and Compulsory Purchase Act 2004 (As Amended).

2. Drawings

Unless otherwise previously agreed by the Local Planning Authority in writing, the development hereby permitted shall be carried out entirely in accordance with the approved drawings submitted with the application as listed below:

- 100.000 Rev. L -- Proposed Site Plan (Coloured);
- 100.000 Rev. L -- Proposed Site Plan;
- 1163/201A -- Proposed Access Layout;
- 1163/208D -- Proposed Vehicle Parking Layout; and
- 1163/209B -- Pedestrian Access Plan.

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

3. Housing Mix

The mix dwellings (in terms of the number of bedrooms per dwelling) shown within the reserved matters submission shall reflect the “Schedule of Accommodation” stated on the proposed site plan (100.000 Rev. L) unless an alternative mix of dwellings has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a sustainable mix of dwellings is provided by the approved development.

4. Construction Management Plan

Prior to the commencement of any construction or excavation works, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include the following:

- A. Routing of construction and delivery vehicles to / from site;

- B. Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths;
- C. Timing of deliveries, avoiding network and school peaks where possible;
- D. Provision of wheel washing facilities;
- E. Measures to prevent the discharge of surface water onto the highway; and
- F. Temporary traffic management / signage.

All construction phases of the development shall be carried out strictly in accordance with the approved details, as well as Code of Construction Practice, 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'.

Reason: To safeguard the amenity of surrounding residents and the area generally, and to prevent adverse impacts upon the transport network during the construction phase of the development. This condition is required to be pre-commencement to ensure that all phases of construction do not adversely impact the amenity of surrounding residents and the area generally, and do not adversely impact upon the transport network.

5. Habitat Management and Monitoring Plan

Prior to the commencement of the development hereby approved, a Habitat Management and Monitoring Plan (HMMP) prepared in accordance with the Biodiversity Gain Plan approved pursuant to this consent shall be submitted to and approved in writing by the Local Planning Authority (LPA). The HMMP shall include:

- a) A non-technical summary;
- b) The roles and responsibilities of the people or organisation(s) delivering the HMMP;
- c) The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- d) The management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the [first occupation of the approved dwellings / completion of development]; and
- e) A monitoring methodology to ensure the submission of monitoring reports in years 2, 5, 10, 15, 20, 25 and 30 from [first occupation of the approved dwellings / completion of development] and demonstrate how the Biodiversity Gain Plan is progressing towards achieving its objectives including evidence of arrangements and any rectifying measures needed.

The development shall be implemented in full accordance with the requirements of the approved Habitat Management and Monitoring Plan, with monitoring reports submitted to the LPA at the specified intervals.

Reason: To ensure that the approved development delivers the mandatory biodiversity net gain. As some of the works necessary to commence the approved development could be harmful to these interests, it is necessary to secure satisfactory details prior to the commencement of development.

6. Pedestrian Facilities

Prior to the commencement of the development hereby approved, detailed designs of the pedestrian access and footway indicatively shown on dwg. 1163/209B shall be submitted to and approved in writing by the Local Planning Authority. The approved pedestrian access and footway facilities shall be provided prior to first occupation of the development and, thereafter, retained and maintained for the life of the development.

Reason: To provide adequate facilities for pedestrians and increase the use of active and sustainable modes of transport.

7. Sustainable Surface Water Drainage Scheme

Prior to the commencement of the development hereby approved, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that due consideration has first been given to the possibility of utilising infiltration techniques and 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. Should the use of infiltration prove to be beyond being reasonably practical then any surface water leaving site shall not exceed greenfield rate for all rainfall events.

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; and
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

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

8. Biodiversity Enhancement

Prior to the commencement of any above ground works, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority. The enhancement and landscaping measures shall include, but not necessarily be limited to, a combination of the following: a ratio of 1:1 swift brick per dwelling with bricks installed in pairs, durable and suitably-placed bat and bird boxes, hedgehog highways, and suitable tree planting.

In regard to content, the strategy shall include the following:

- Purpose and conservation objectives for the proposed enhancement measures;
- Detailed designs to achieve stated objectives;
- Locations of proposed enhancement measures by appropriate maps and plans;
- Persons responsible for implementing the enhancement measures; and
- Details of initial aftercare and long-term maintenance where relevant.

The proposed measures/works shall be implemented in full accordance with the approved details prior to the first occupant of the dwellings hereby approved and, thereafter, retained and maintained for the life of the development.

Reason: In the interest of biodiversity and wildlife conservation (incl. protected and priority species).

9. Lighting

Prior to the commencement of any above ground works, a lighting design scheme designed to protect and enhance local biodiversity (incl. wildlife), protect amenity at neighbouring residential properties and limit light pollution shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for wildlife / nocturnal animals (incl. bats) and that are likely to cause disturbance along important routes used for foraging, as well as illustrate how and where external lighting will be installed, through the provision of appropriate external lighting layout plan(s), lighting contour plans, Isolux drawings, and technical specifications so that it can be clearly demonstrated that areas to be lit will not disturb or prevent wildlife from using their territory. Similarly, the submitted details must also demonstrate that the light from proposed illuminations will not cause a nuisance to the occupants of neighbouring properties or result in obtrusive light in accordance with the guidance provided by the Institution of Lighting Professionals' Guidance Notes for the Reduction of Obtrusive Light (2021).

All external lighting shall be installed in strict accordance with the approved details and, thereafter, retained and maintained for the life of the development.

Reason: In the interests of protecting biodiversity, wildlife (incl. protected and priority species), residential amenity and visual amenity.

10. Sustainable Construction Techniques

No development shall take place above slab level until details of the materials and measures to be used to increase water efficiency, energy efficiency and reduce carbon emissions have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall subsequently be constructed other than in full accordance with the approved details, with all details being implemented prior to the first occupation of that dwelling. The approved details shall subsequently be retained thereafter.

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

11. Access

Prior to the first occupation of any of the approved dwellings, the access points to the site shown on the drawings listed in Condition 2 shall be provided and, thereafter, retained and maintained for the life of the development.

Reason: To provide safe and satisfactory access to the site.

12. Cycle Storage

No dwelling shall be occupied until it has been provided with cycle parking facilities in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. The approved and provided facilities shall, thereafter, be retained and maintained at all times.

Reason: To provide adequate facilities for cyclists and increase the use of active and sustainable modes of transport.

13. Drainage Verification

Prior to the first occupation of any of the approved dwellings, details of a Verification Report pertaining to the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The report must be prepared by a suitably competent person and demonstrate that the drainage system constructed is consistent with that which was approved.

The Report shall contain information and evidence (incl. 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 Paragraphs 175 and 182 of the National Planning Policy Framework.

14. Highways Works

Prior to the first occupation of any of the approved dwellings, the works between the dwelling and public highway(s) listed below must be carried out to completion:

- A. Footways and/or footpaths, with the exception of the wearing course; and
- 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).

The wearing courses for the footways, footpaths and carriageways shall subsequently be provided prior to the occupation of the 15th dwelling at the site.

The area agreed shall thereafter be maintained for that purpose.

Reason: In the interest of highway accessibility and safety.

15. Noise Mitigation

Prior to the first occupation of the dwellings located adjacent to the northwestern boundary of the site, all of the mitigation measures (incl. an acoustic barrier) detailed in the Acoustic Memo (ref. 5113_AC_1.1) prepared by Lustre Consulting and dated 28.01.2025 must be fully implemented. Once implemented, these measures must be retained and maintained for the life of the development.

Reason: To ensure that the amenity of occupiers of the approved development is not adversely affected by noise from the adjoining school.

16. Parking Management Plan

Prior to the first occupation of any of the approved dwellings, a Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan must include details on the assignment, management and street signing of vehicle parking spaces to ensure that no less than four (4) spaces are provided as visitor spaces and eleven (11) spaces (incl. one (1) dedicated to a mini bus) are provided as community/public parking spaces as shown on dwg. 1163/208D.

The development shall be carried out strictly in accordance with the approved plan for the life of the development.

Reason: To provide adequate parking facilities for motorists without prejudicing strategies adopted to increase the use of sustainable modes of transport.

17. Secured by Design

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

Reason: To provide a safe and secure environment for future occupiers.

18. Vehicle Parking

No dwelling hereby approved shall be occupied until the parking shown to serve that dwelling on drawing no. 1163/208D (including garages, car ports, undercover parking and surface parking), or some other such parking provision that shall have been approved in writing by the Local Planning Authority prior to the occupation of that dwelling, has been provided and made available for use by the occupiers of that dwelling. Moreover, all visitor spaces shall be provided prior to the occupation of the dwelling that is closest to that parking space.

Reason: To ensure the provision of adequate car parking.

19. Vehicle Turning Facilities

Prior to the first occupation of any of the approved dwellings, the vehicle turning facilities shown on dwgs. 1163/204C, 1163/203A, and 1163/205C listed in Condition 2 shall be provided and, thereafter, retained and maintained for the life of the development.

Reason: To ensure the flow and safety of traffic along internal and external road networks.

20. Biodiversity Enhancement Verification

Within twelve months of the first occupation of any dwelling hereby approved, photographic evidence of the implementation of the approved biodiversity enhancement measures approved under the terms of Condition 8 shall be submitted to and approved in writing by the Local Planning Authority. The implemented measures shall be retained and maintained for the life of the development.

Reason: In the interest of biodiversity and wildlife conservation (incl. protected and priority species).

21. Ecological Mitigation Measures

All mitigation measures for hedgehogs, nesting birds and reptiles detailed in the Reptile Receptor Site prepared by Calumma Ecological Services, and dated 19.11.2025, as well as the Updated Ecological Appraisal (ref. 2224/27/4) prepared by Calumma Ecological Services, and dated 15.04.2024, shall be fully implemented during the relevant phase(s) of construction works (incl. clearance, construction, demolition and excavation).

Reason: In the interest of biodiversity and wildlife conservation (incl. protected and priority species).

22. Unsuspected Contamination

The presence of any unsuspected contamination encountered during the development must be drawn to the attention of the Local Planning Authority by the Applicant/Developer.

In the event of contamination to land and/or water being encountered, no development shall continue until a programme of investigation and/or remedial work (incl. methods of monitoring and certification of such work undertaken) has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the approved remedial works, monitoring, and certification of the works have been carried out and a full validation report has been submitted to and approved in writing by the Local Planning Authority.

In the event that no contamination is encountered, the developer shall provide a written statement (incl. photographic evidence) to the Local Planning Authority confirming that this was the case. The development shall only be occupied after written approval is

provided by the Local Planning Authority. The evidence shall include waste disposal transfer notes proving correct disposal of soil.

Reason: To safeguard public and environmental health by ensuring that any and all land contamination issues are fully and appropriately addressed.

23. Water Use

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

Reason: To ensure high standards of sustainable design and construction in new development.

