

PLANNING COMMITTEE – 5th March 2026**PART 2**

Report of the Head of Planning

PART 2Applications for which **PERMISSION** is recommended

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

1. SITE LOCATION AND DESCRIPTION

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

2. PLANNING HISTORY

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

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

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

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

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

3. PROPOSED DEVELOPMENT

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

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

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

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

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

4. REPRESENTATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. CONSULTATIONS

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

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

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

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

6. DEVELOPMENT PLAN POLICIES

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

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

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

Supplementary Planning Guidance/Documents -

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

Swale Landscape Sensitivity Assessment, 2019.

Developer Contributions Supplementary Planning Document, 2009.

Noise and Vibration – Planning Technical Guidance Document, 2020.

Parking Standard Supplementary Planning Document, 2020.

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

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

7. ASSESSMENT

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

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

7.2. **Principle**

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

7.2.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

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

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

- 7.2.4. Swale Council are currently unable to demonstrate a 5 year supply of housing such that paragraph 11 of the NPPF is engaged.
- 7.2.5. Policy ST1 of the Local Plan seeks to deliver sustainable development that accords with the settlement strategy for the Borough.
- 7.2.6. Policy ST3 of the Local Plan sets out the settlement strategy and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the countryside unless it is supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.2.7. Other than the proposed pedestrian access route between Lower Road and past Selby House/The Old Squash Courts which lie within the built-up area boundary of Teynham, the application site is located outside the built-up area boundary of the settlement and in the open countryside. As will be assessed in further detail below, the visual impact of the proposal would not contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside or its buildings. Consequently, the proposal would not accord with the settlement strategy set out in Policy ST3 and nor would it accord with criteria 4 of Policy ST1 or Criteria 1 of Policy CP3 (both of which refer to the settlement strategy).
- 7.2.8. However as detailed above, the housing on the site immediately abuts the built up area boundary of Teynham. Policy ST3 identifies Teynham as a Rural Local Service Centre, which represent the *“tertiary focus for growth in the Borough and the primary focus for the rural area”*. In this regard it is noted that Teynham is served by train and bus connections, a Primary School, shops and other such services. The site is therefore in a relatively good location with regards to services and facilities and is a reasonably suitable location for housing, notwithstanding the conflict with Policies ST1, ST3 and CP3 of the Local Plan identified above.

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

Loss of Best and Most Versatile Agricultural Land

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

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

7.3. **Size and Type of Housing**

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

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

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

7.4. **Affordable Housing**

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

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

7.5. **Landscape and Visual**

- 7.5.1. Policy DM14 of the Local Plan sets out general development criteria, requiring, amongst other elements, developments to reflect the positive characteristics and features of the site and locality, be well-sited and of a scale, design and appearance to be sympathetic and appropriate to the location. Policy CP4 of the Local Plan seeks to ensure that all development proposals are of a high quality design that is appropriate to its surroundings.
- 7.5.2. Policy DM24 of the Local Plan states the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed. For 'non-designated' landscapes such as the application site, policy seeks to minimise and mitigate adverse impacts and, where significant adverse impacts remain, requires that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.5.3. Lower Road is also a designated Rural Lane. Policy DM26 of the Local Plan states that planning permission will not be granted for development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes.

Landscape

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

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

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

Urban design

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

Summary

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

7.6. Heritage

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

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

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

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

7.7. **Archaeology**

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

7.8. **Living Conditions**

Existing residents

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

Future residents

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

7.9. **Trees**

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

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

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

7.10. **Ecology**

Habitats

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

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

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

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

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

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

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

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

Protected/Notable Species

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

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

Biodiversity Net Gain (BNG)

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

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

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

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

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

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

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

7.11.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

Access and Parking Provision

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

Pedestrian Routes

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

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

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

- 7.11.9. Previously, the pedestrian route simply followed an unmade stretch of road between Selby House and Lower Road with no separation between vehicles and future users. As part of this application, the applicant has sought to address the concerns of the Inspector by proposing a defined pedestrian link between the western edge of the site adjacent to Selby House through to Lower Road. It is noted that the Inspector raised no concerns with the pedestrian route in the primary part of the site.
- 7.11.10. The applicant is now proposing a 1.2m pedestrian lane between the housing on the site and Lower Road. Lighting is to be secured by condition along the part of the route within the part of the site to the east of Selby House. A large part of the route between Selby House and Lower Road would be marked with white lines and hatching to define the pedestrian lane, whilst the surface would be laid with tarmac. Bollards would be introduced along the pedestrian route to prevent unsafe conflict between pedestrians and vehicles using that route. Pedestrian signage is proposed on the surface of the route, whilst physical signage is also incorporated at the beginning and end of the pedestrian route past Selby House/The Old Squash Courts is also proposed, increasing awareness of the need to be careful of pedestrians utilising the route. The applicant has also submitted a Unilateral Undertaking as part of the application to demonstrate that the access route would be provided and maintained in accordance with the plans attached for use by pedestrians.
- 7.11.11. KCC Highways have reviewed the submitted details for this new and enhanced pedestrian route, commenting that it would improve pedestrian movement within the site. Tracking plans have been submitted, demonstrating that cars, together with refuse and emergency vehicles would be able to safely navigate the amended route when the pedestrian infrastructure has been implemented.
- 7.11.12. The proposed pedestrian route would provide a clear and convenient access to Lower Road from the site for active travel which is considered to overcome the concerns raised by the Inspector. It would represent a defined route for pedestrians with a made and bound surface that would be clearly visible to vehicular users manoeuvring, parking or reversing around the small car park and the route between the Old Squash Court building and Lower Road. Bollards along the route would also help to prevent unsafe conflict between vehicular users and pedestrians.
- 7.11.13. The Inspector identified in their appeal decision that there was a condition (condition 9) imposed on the neighbouring application 23/501073/FULL which requires

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

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

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

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

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

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

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

Public Right of Way

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

Overall

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

7.12. **Air Quality**

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

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

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

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

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

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

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

7.13. **Community Infrastructure**

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

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

- Necessary
- Related to the development

- Reasonably related in scale and kind

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

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

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

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

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

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

7.14. **Open Space**

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

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

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

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

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

7.15.3. Paragraph 175 of the NPPF sets out that:

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

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

7.15.4. Planning Practice Guidance further sets out that:

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

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

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

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

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

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

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

7.16. Contamination

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

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

7.17. Sustainability / Energy

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

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

7.18. Other matters

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

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

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

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

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

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

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

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

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

Benefits

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

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

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

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

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

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

Harms

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

NPPF Balance

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

7.20. Conclusion

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

7.21. **Conditions**

Time Limit

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

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

Plans

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

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

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

Archaeology

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

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

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

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

- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
- b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
- c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

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

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

Construction Management Plan

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

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

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

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

Construction Ecological Management Plan

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

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

Reason: In the interests of nature conservation.

Sustainable Drainage

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

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

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

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

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

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

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

Sustainable Drainage Verification

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

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

Infiltration

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

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

Tree Protection

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

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

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

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

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

Contamination (Pre-Works)

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

1) A preliminary risk assessment which has identified:

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

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

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

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

Reason: To ensure that any contamination is adequately addressed.

Contamination (Post Works)

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

Reason: To ensure that any contamination is adequately addressed.

Open Space and Landscaping

12. Notwithstanding the submitted details, no development above slab level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.

These details shall include, planting schedules of plants, noting species (which shall include be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

Open Space and Landscaping

13. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

Road Design and Detail

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

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

Lighting

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

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

Habitat Management and Monitoring Plan

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

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

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

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

Biodiversity Enhancement Plan

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

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

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

Reason: In the interests of nature conservation.

Materials and Details

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

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

Parking Space Provision and Retention

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

Reason: To ensure the provision of adequate car parking.

Cycle Parking Provision and Retention (General)

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

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

Provision of Vehicle Access

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

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

Pedestrian Works

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

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

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

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

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

Access to Dwellings

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

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

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

Visibility Splays

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

Reason: In the interests of highway safety.

Energy Efficiency

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

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

Air Quality Assessment

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

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

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

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

Water Consumption

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

Reason: In the interests of water conservation and sustainability.

Noise Details

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

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

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

