

MC/16/2051

Date Received: 9 May, 2016

Location: Land At Otterham Quay Lane, Rainham, Kent

Proposal: A sustainable urban extension comprising up to 300 new dwellings (of a range of sizes, types and tenures, including affordable housing), including public open and amenity space, together with associated landscaping, access, highways (including footpaths and cycleways), parking, drainage (including a foul water pumping station), utilities and service infrastructure works (all matters reserved except for points of access) - resubmission of MC/15/0761

Applicant: Persimmon Homes South East

Agent: Mr J Boyd JB Planning Associates Chells Manor Chells Lane  
Stevenage SG2 7AA

Ward Rainham North

Case Officer Thomas Ashley

Contact Number 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 16 November 2016.**

**Recommendation - Approval Subject to;**

- A. The applicant entering into a S106 agreement to secure the following:
- i) 25% Affordable Housing on site comprising: 75 dwellings (60% Affordable Rent and 40% Shared Ownership)
  - ii) Contributions towards improved Education provision comprising:
    - a. Nursery School @ £8320 per pupil place (£274,560)
    - b. Primary School @ £8320 per pupil place (£673,920)
    - c. Secondary School @ £11,960 per pupil place (£681,720)
    - d. Sixth Form @ £11,960 per pupil place (£179,400)

**Total: £1,809,600**
  - iii) Highway improvements to A2/Mierscourt Road junction improvements

iv) Contribution to improvements to off site Open Space: **£121,275** (reduced from £571,095 to account for 1.92ha of on-site provision)

v) Contribution towards improvements to Local Health Facilities: **£140,385**

vi) Contributions towards improvements to Public Realm: **£73,500**

vii) Contribution towards Birds Disturbance Mitigation: **£67,074**

viii) Contribution to Waste & Recycling: **£46,632**

ix) Contribution towards improvements to local Community Facilities: **£41,013**

B. And the impositions of the following conditions:-

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans received on 9th May 2016:

1279/00 REV; 1279/02 REV FINAL; 1279/05 REV FINAL; 29905/001/013 REV A; 29905/1001/012 REV C; 29905/1001/09 REV C; 1279/08 REV A.

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

- 2 The development for which permission is hereby granted shall not be commenced before detailed plans showing the layout, scale, appearance and landscaping of the site (referred to as "the reserved matters") have been submitted to and approved by the Local Planning Authority.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004)

- 3 Application for the approval of the reserved matters shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004)

- 4 The development hereby permitted shall be commenced before the expiration of five years from the date of this permission or before the expiry of two years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004)

- 5 The number of dwellings permitted within the site under the terms of this outline permission shall not exceed 300.

Reason: To define the planning permission and for the avoidance of doubt.

- 6 Prior to or concurrently with the submission of the first reserved matters application(s), an overarching phasing plan showing the main phases of the proposed development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with Policy S2 of the Medway Local Plan 2003.

- 7 No development shall take place within any phase of the development, until details and samples of all materials to be used externally within that phase, have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 8 Any application for the approval of reserved matters relating to the landscape shall include full details of hard and soft landscaping and a programme for implementation. Details shall include:

- i. Proposed finished levels of contours, (including slab levels); means of enclosure (should be consistent with boundary treatment proposals); car parking layouts; existing areas of retained planting; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. external furniture, play equipment; refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc); retained historic features and proposals for restoration where relevant.
- ii. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; tree pit details including species, size, root treatment and means of support; implementation programme.
- iii. All planting, seeding and turfing comprised in the approved scheme of landscaping, shall be implemented during the first planting season following occupation of the houses or completion of the development, whichever is the earlier.

- iv. Details of lighting design, location and specification including spillage and intensity
- v. Detailed design for sustainable drainage systems

Details shall be approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved timetable.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003

- 9 Any tree and/or shrub planted pursuant to condition 8 and being removed or severely damaged, dying or becoming seriously diseased within 5 years of planting shall be replaced with a tree or shrub of a similar size and species unless approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 10 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to the Local Planning Authority for approval in writing prior to the occupation of the development. The landscape management plan shall be carried out as approved.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 11 The details submitted in pursuance of Condition 2 shall show land reserved for parking or garaging in accordance with the Council's Approved Interim Parking Standards. None of the buildings shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 12 No development shall take place until details of cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority in accordance with the Local Planning Authority's adopted cycle parking standards. No building shall be occupied until such time as the cycle parking

facilities relating to it have been provided in accordance with the approved details and are available for use.

Reason: To ensure the provision and permanent retention of bicycle spaces in accordance with Policy T4 of The Medway Local Plan 2003.

13 No building shall be occupied on any part of the site until a Travel Plan related to the whole site has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan must include:

- (i) The appointment of a Travel Plan Coordinator including a commitment to funding that post for a minimum of 5 years post completion of the whole development;
- (ii) A timetable for completion and collation of base line travel surveys including traffic counts and travel questionnaires from which targets and initiatives can be based;
- (iii) Details of the proposed measures intended to encourage sustainable travel to and from the site and minimise the number of private car trips to and from the site, for example car club provision;
- (iv) Details of proposed mode share targets for the development
- (v) Details of the proposed arrangements for monitoring surveys, to establish whether mode share targets are being achieved. These arrangements must set out the dates and regularity of such surveys taking place; and
- (vi) Details of the possible travel plan remedial measures that would be implemented in the event the mode share targets are not achieved.

The Travel Plan shall thereafter be implemented in accordance with the approved details prior to the occupation of the development and maintained for 5 years post completion of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the sustainable transport objective related to the development of this site and to reduce potential impact on the surrounding area in accordance with Policy T14 of the Medway Local Plan 2003.

14 Prior to the first occupation of each individual building within a phase or sub-phase of the development hereby permitted details of the refuse storage arrangements for that building, including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. Except with the prior written approval of the Local Planning Authority, no building within a phase or sub-phase shall be occupied until the approved refuse storage arrangements for that building are in place and all approved storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 15 No development shall take place until a detailed scheme for the provision and future management and maintenance of surface water drainage for the life time of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. Those details shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

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

Reason: In order to ensure the satisfactory development of the application site.

- 16 No development shall take place until a detailed scheme of noise insulation/mitigation measures have been submitted to and approved in writing by the local planning authority. The scheme shall include details of acoustic protection sufficient to ensure internal noise levels (LAeq,T) no greater than 35dB in bedrooms or combined study/bedrooms and 40dB in living rooms with windows closed. Where the internal noise levels (LAeq,T) will exceed 35dB in bedrooms or combined study/bedrooms and 40dB in living rooms with windows open, the scheme shall incorporate appropriately acoustically screened mechanical ventilation. The scheme shall include details of acoustic protection sufficient to ensure amenity/garden noise levels of less than 55dB (LAeq,T). All works, which form part of the approved scheme, shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To ensure no detrimental effect on residential amenity of future residents.

- 17 Any application for the approval of reserved matters in relation to layout and landscaping shall include: a tree survey; a tree retention/removal plan (with root protection area, the proposed layout, level changes and alignment of utility apparatus shown); an arboricultural impact assessment, a tree protection plan; arboricultural method statements designed to protect and safeguard trees identified for retention; a schedule of works to retained trees; and an arboricultural site monitoring schedule. All of these details shall accord with the British Standards 5837:2012 'Trees in Relation to Design, Demolition and Construction - Recommendations' (or any such subsequent revision) relevant to that sub phase. The details shall follow the landscape and open space design required by condition 8. The relevant development shall be implemented in accordance with the approved details.

Reason: To ensure the wellbeing of the trees and hedges to be retained and

continuity of tree cover, and maintaining and enhancing the quality and character of the area.

18 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include: -

- i. Hours of Working, Housekeeping and Site Rules;
- ii. Community and Stakeholder Liaison;
- iii. Management of Consents, Licenses and Approvals;
- iv. Transport Management;
- v. Waste Management and Recycling;
- vi. Protection of Surface Water and Groundwater;
- vii. Noise and Vibration Control (noise levels to be agreed in writing by the Local Planning Authority prior to the submission of each CEMP);
- viii. Dust and Air Pollution;
- ix. Cultural Heritage;
- x. Identification of major construction activities, the associated environmental issues and appropriate mitigation, to include (but not be limited to) boundary treatment, screening, wheel cleaning facilities, the location of compounds, offices and storage sites and illumination;
- xi. Contingency plans to minimise accidental exposure to human and environmental receptors from unexpected hazards;
- xii. Specific control measure(s) that would reduce cumulative effects from construction;
- xiii. Risk assessment of potentially damaging construction activities in relation to biodiversity interests;
- xiv. Ecological management including Identification of biodiversity protection zones including practical measures (both physical measures and sensitive working practices) to avoid or reduce biodiversity impacts during construction;
- xv. The location and timing of sensitive works to avoid harm to biodiversity features;
- xvi. The times during construction when specialist ecologists need to be present on site to oversee works;
- xvii. Responsible persons and lines of communication;
- xviii. The role and responsibility on site of an Ecological Clerk of Work (EcoW) or similarly competent persons; and
- xix. Use of protective fences, exclusion barriers and warning signs.

The construction works for the sub-phase shall thereafter be carried out at all times in accordance with the CEMP approved for that sub-phase.

Reason: To prevent harm being caused to the amenity of the area

19 No development shall commence until details of ecological mitigation have been submitted and approved in writing by the Local Planning Authority. The details to be submitted pursuant to the requirements of this condition shall include details of:

- i. Provision of bat boxes within new buildings and/or on retained trees;
- ii. Provision of bird boxes on new buildings and/or on retained trees;
- iii. Provision of log piles;
- iv. Native species within the landscape planting specification;
- v. Landscape planting that provides food and replacement nesting opportunities for birds;
- vi. Pond that provides opportunities for wildlife in addition to any SuDS function.

The development shall not be occupied until the ecological mitigation has been provided in accordance the approved details.

Reason: To protect and enhance the natural environment in accordance with section 11 of the National Planning policy Framework.

20 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation and timetable which has been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved specification.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

21 No development shall take place until an Air Quality Assessment, which shall include modelling of the impacts of traffic generated by the development upon the High Street Rainham Air Quality Management Area, has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and minimising air pollution in accordance with policy BNE24 of the Medway Local Plan 2003 and paragraph 109 of the NPPF.

22 No development shall take place until an Air Quality Emissions Mitigation Assessment and Statement has been submitted to and approved in writing by the Local Planning Authority. The Assessment and Statement shall be prepared in accordance with the Medway Air Quality Planning Guidance, and shall specify the measures that will be implemented as part of the development to mitigate the air quality impacts identified in the Air Quality Assessment approved under condition 19. The total monetary value of the mitigation to be provided shall be demonstrated to be equivalent to, or greater than, the total damage cost values calculated as part of the Mitigation Assessment. The development shall be implemented entirely in accordance



with the measures set out in the approved Mitigation Statement. As a minimum the following air quality mitigation measures shall be provided:

1. All gas fired boilers to meet a minimum standard of <40mgNOx/kWh;
2. 1 Electric vehicle charging point per dwelling with dedicated parking or 1 charging point per 10 spaces (unallocated parking);
3. Mitigation in accordance with the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition and Construction.

Reason: In the interests of amenity and minimising air pollution in accordance with policy BNE24 of the Medway Local Plan 2003.

- 23 No development above foundation level shall take place until a detailed design for highways improvements to Otterham Quay Lane as shown on drawing 29905\_1001\_009 has been submitted to and approved in writing by the Local Planning Authority. A timetable for the provision of the improvements shall be submitted and approved in writing and thereafter the improvements shall be constructed in accordance with the approved details and timetable.

Reason: To provide an attractive and safe means of pedestrian access in accordance with Policy T3 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This application is for an urban extension comprising up to 300 new dwellings (of a range of sizes, types and tenures, including affordable housing), including public open and amenity space, together with associated landscaping, access, highways (including footpaths and cycleways), parking, drainage (including a foul water pumping station), utilities and service infrastructure works (all matters reserved except for points of access) and is a resubmission of MC/15/0761

The application has been submitted in outline form with only means of access being for consideration at this time. Details relating to appearance, landscape, layout and scale have all been reserved for future consideration. The application is accompanied by an Environmental Statement (ES), which has been prepared following the undertaking of an Environmental Impact Assessment. The ES will be referred to in more detail within the Planning Appraisal section below.

The application proposes a development of up to 300 dwellings with open space and amenity land provision on site. It is submitted that up to 75 dwellings (25%) would be affordable homes, which would comprise a tenure mix of affordable rent and shared ownership (in principle in accordance with the mix in the developer contributions guide). The size mix of market and affordable dwellings would be determined through the reserved matters applications.

The application is accompanied by a 'parameters plan' which shows the development site's sole vehicular access onto Otterham Quay Lane being positioned around 50 metres to the south of Wakeley Road's junction with Otterham Quay Lane. The parameters plan shows two development areas, i.e. northern and southern parcels, with three open space areas (northern, central and southern) being interspersed amongst the built development. It is anticipated that the public open space (POS) within the site would have a total area of 1.92 hectares and would comprise parks and gardens; children's play space, amenity green space, natural/semi-natural green space and allotments. The surface drainage scheme for this development would include the provision of two balancing ponds, with one of these being sited in the northern open space area, while the second pond would be located within the central open space area.

The ES indicates that the storey heights would be two, two and a half and three, with the heights of dwellings ranging between 10 (for two or two and a half storey units) and 12 metres (for three storey units). The net density of the development (minus open space) if developed out to its maximum capacity of 300 dwellings would be 40.65 dwellings per hectare (dph). However, the Design and Access Statement that accompanies the application states that the northern part of the site would be the location for small dwellings with small gardens, and the southern portion would have larger houses and larger gardens. The density of the northern part of the site would thus be higher density and the southern rather less

The transport assessment accompanying the application has identified the need to undertake off-site pedestrian and highway safety improvement works within the vicinity of the site. These highway works would involve the formation of traffic islands on Otterham Quay Lane to provide refuges for pedestrians crossing that street, while also serving as traffic calming measures. It is also proposed that a signalled controlled crossing would be installed to the south of Wakeley Road's junction within Otterham Quay Lane. To ease the flow of traffic through Otterham Quay Lane's junction with Moor Street (the A2) it is proposed that alterations would be undertaken to the positioning of stop lines at the traffic lights and the signals would be re-phased to alleviate queuing lengths on Otterham Quay Lane, which are predicted to increase as a consequence of the additional traffic generated by this development.

### **Site Area/Density**

Site Area:	10.75 hectares (26.55 acres)
Gross Site Density:	27.9 dph (11.3 dpa)
Net Site Density:	40 dph (16.2 dpa) [i.e. excluding the public open space]

### **Relevant Planning History**

**Case ref:** MC/15/0761 A sustainable urban extension comprising up to 300 new dwellings (of a range of sizes, types and tenures, including affordable housing), including public open and amenity space, together with associated landscaping, access, highways (including footpaths and cycleways), parking,

drainage (including a foul water pumping station), utilities and service infrastructure works (all matters reserved except for point of access)

**Decision** Refusal

**Decided** 01/09/2015

**Appeal** Public Inquiry held in abeyance

**Case ref:** MC/14/1766 Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion as to whether an Environmental Impact Assessment is necessary for an outline application of up to 300 new dwellings, together with associated garaging, parking, public open space, landscape, highway, drainage and infrastructure works  
**Decision** EIA Required  
**Decided** 15/08/2014

## **Representations**

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

The Environment Agency, Natural England, Highways England, Royal Society for the Protection of Birds, EDF Energy, Southern Gas Networks, Network Rail, Southern Water, NHS, Swale Borough Council, Hartlip Parish Council, Upchurch Parish Council, Medway Countryside Forum, Kent County Council Archaeology, Kent County Council Ecology and Rural Planning Limited have also been consulted.

78 letters have been received raising the following objections:

- Insufficient local capacity in services and facilities to accommodate additional demand generated by the development (schools, doctors, dentists, the hospital, police, waste management);
- Local highway network cannot accommodate additional traffic generated by the development, in particular concerns have been raised regarding:
  - Existing congestion on the A2;
  - Congestion and safety issues on Otterham Quay Lane;
  - Congestion on the Lower Rainham Road;
  - Congestion and safety issues on Wakely Road (in particular conflicts with parked cars and buses)
- Development would result in the loss of an area of natural and scenic beauty;
- Development would result in increased coalescence between Rainham and nearby settlements (Upchurch and Newington);
- Development would impacts upon biodiversity;
- Development would result in greater pollution, particularly air quality;

- Development would result in the loss of agricultural land;
- Site has poor access to sustainable transport;
- Pedestrian links around the site require improvement;
- Development would further exacerbate parking issues in Rainham town centre;
- The proposals provide insufficient detail regarding 'sustainable' measures;
- The proposals provide insufficient detail regarding parking provision;
- The site has poor drainage and development could give rise to increased flood risk;
- The construction of the development would impact negatively on local residents;
- Regard should be had to the cumulative impacts of other approved developments alongside the application scheme.

**Rehman Chishti MP** has objected on the basis that the proposals would result in the loss of green space of natural beauty and result in additional pressures upon the road network and other existing amenity and services.

**Upchurch Parish Council** has objected due to the additional pressure on the road network and local infrastructure.

**Swale Borough Council** has objected highlighting increased impacts upon the Newington AQMA and also settlement coalescence.

**KCC Ecology** raise no objection to the scheme but note that the site supports some biodiversity and thereby suggest that the following should be secured by conditions should the authority be minded to grant planning permission:

- Undertaking an updated reptile survey and the provision of a mitigation strategy for the site;
- Undertaking bat activity surveys prior to detailed design stage (in respect of layout and lighting) to minimise impacts upon foraging/commuting bats;
- Including planting beneficial to bats in open spaces;
- Incorporating bat roosting features into building and boundaries;
- Work to remove vegetation suitable for breeding birds must be carried out outside of breeding season;
- Incorporating bird boxes within the site;
- Other measures to enhance biodiversity be included as part of the development;

It is also noted that the development could have significant impacts upon the nearby designated sites, through increased recreational pressure and would thereby need to make contributions towards off site mitigation measures.

**KCC Archaeology** has noted that the application site is within an area of archaeological potential and has thereby requested an appropriately worded condition be attached to any permission.

**Rural Planning Limited** (acting as the Council's agricultural advisor) have referred back to their comments on MC/15/0761: objection due to the loss of the best and most versatile agricultural land, contrary to the guidance in NPPF paragraph 112.

**Network Rail** have set out their requirements for the development in respect of the safe operation of the railway and the protection of their adjoining land.

**Natural England** referred back to their comments on MC/15/0761: The site in close proximity to the internationally and nationally designated sites (the Medway Estuary and Marshes Special Protection Area (SPA), the Medway Estuary and Marshes Wetland Ramsar site and the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI)). Under the Habitats Regulations 2010 the Council must, as a competent authority, assess the likelihood of the development giving rise to significant effects upon the integrity of the designated habitats. In making this assessment regard can be had to the North Kent Environmental Group Strategic Monitoring and Mitigation Strategy, although this may require financial contributions to be paid by the applicant towards its implementation.

**The Environment Agency** has confirmed that they have no objection to the application subject conditions concerning contamination and drainage being attached to any permission.

**Highways England** has confirmed they have no objections to the development.

**Southern Water** have noted that they cannot accommodate the needs of the development without the provision of additional local infrastructure, and have thereby requested that a pre-commencement condition is attached to any permission requiring approval of foul and surface water drainage strategy and an implementation timetable.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 and are considered to conform.

## **Planning Appraisal**

### *Background*

This application comprises a resubmission of application MC/15/0761 which was

refused by the Council on 1 September 2015. The reasons for refusal were as follows:

1. The development would result in the loss of the best and most versatile agriculture land (Grades 1 and 2) contrary to the objectives of paragraph 112 of the National Planning Policy Framework, particularly that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
2. The development would result in an inappropriate form of development within a locally valued landscape and the Mierscourt/Meresborough Area of Local Landscape Importance, resulting in harm to the landscape character and function of the area contrary to the objectives of: Policies BNE25(i) and BNE34 of the Medway Local Plan 2003; the Medway Landscape Character Assessment 2011; and the National Planning Policy Framework, in particular the fifth Core Planning Principle referred to in paragraph 17.
3. The traffic generated by the development would have a detrimental impact on the capacity of the A2/Otterham Quay Lane junction, leading to increased congestion and delays at peak times. The application is therefore contrary to Policy T1 of the Medway Local Plan 2003.

On 12 January 2016 the Council received notification that the applicants had lodged an appeal against the refusal. The appeal is to be heard at a Public Inquiry although this is being held in abeyance pending the Council's consideration of this resubmission application following and in the light of the appeal decision on the adjoining Moor Street.

In making the resubmission the applicants explained that this had been prompted by the recent court judgement, appeal decision and a change in the Council's acknowledged housing land supply position.

This resubmission application is identical in all regards. However as is discussed further under the transport section of this appraisal, a revised scheme of highways mitigation is proposed by the applicants.

### *Principle*

The application site is situated on land that is outside of urban and rural settlement boundaries as defined on the proposals map to the Medway Local Plan 2003 (the Local Plan), and is thereby within the 'countryside' and is subject to Saved Policy BNE25 'Development in the Countryside'.

Policy BNE25 is considered to be broadly compliant with the NPPF landscape policies in particular reflecting paragraph 109 concern for the *"intrinsic character and beauty of the countryside"*.

Policy BNE25 states that development in the countryside will only be permitted if it is in accordance with one of seven criteria. The application proposals do not comply

with any of the BNE25 criteria, specifically:

- i. the development would not maintain or enhance the character, amenity or functioning of the countryside (this issue is discussed in more detail under the landscape and visual assessment below);
- ii. the site is not allocated for residential development;
- iii. the development is not essentially demanding of a countryside location;
- iv. the development does not comprise the re-use or adoption of an existing building;
- v. the development does not comprise the re-use or redevelopment of an existing built-up area;
- vi. the development does not comprise the rebuilding of a modest extension or annex to a dwelling;
- vii. the development does not comprise a public or institutional use for which a countryside location is justified;

The proposals conflict with Policy BNE25 and as such there is an 'in principle' objection to the application.

### Housing Supply Position

The 2014/15 Authority Monitoring Report (AMR), published in December 2015, sets out the five year housing land supply position in Medway up to 31 March 2015. The Authority currently does not have a 5 year supply but is currently reviewing the recent projections to inform a revised 5 year housing supply position. The AMR will be refreshed in December and the revised work on the housing supply position will feed into the Local Plan work. Notwithstanding this the Council will not be able to show a 5 year housing land supply. As a result, Paragraphs 6, 47 and 49 of the NPPF will apply.

Paragraph 6 of the NPPF states that *"the purpose of the planning system is to contribute to the achievement of sustainable development"*. Paragraph 7 identifies *"three dimensions to sustainable development: economic, social and environmental"*. The "social role" is *"supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations ..."* Paragraph 8 says that these three roles are *"mutually dependent"*.

Paragraph 197 says that *"[in] assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development"*.

Paragraph 47 states:

*To boost significantly the supply of housing, local planning authorities should:*

- *use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in [the NPPF], including identifying key sites which are critical to the delivery of the housing strategy over the plan period;*
- *identify and update annually a supply of specific deliverable sites sufficient to*

*provide five years worth of housing against their housing requirements with an additional buffer of 5% ... to ensure choice and competition in the market for land. ... ;"*

Paragraph 49 states:

*"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*

The Council accepts that it cannot demonstrate a 5 year housing land supply and that the shortfall is likely to be significant. This means that in the context of this application and having regard to the provisions of paragraph 49 of the NPPF, the housing supply policies in the Local Plan, which includes Policies BNE25 and BNE34 cannot be considered up-to-date. A recent Court of Appeal decision ([2016] EWCA Civ 168) states that: *"A 'relevant' policy here is simply a policy relevant to the application for planning permission before the decision maker - relevant either because it is a policy relating specifically to the provision of new housing in the local planning authority's area or because it bears upon the principle of the site in question being developed for housing."*

This does not mean that Policies BNE25 and BNE34 are irrelevant to the determination of the application, but they should be considered to be out of date with regard to the supply of housing. This should be taken into account when considering the impact of the proposed development in terms of countryside and landscape.

#### *Development Plan Status*

The current Development Plan for Medway is formed of saved policies of the Medway Local Plan 2003, which will remain in force until a new Local Plan has been adopted. Work has started on the production of a new Local Plan in 2014, with a planned adoption date of late 2018. The detailed programme for this work is outlined in the Council's Local Development Scheme published in the winter of 2015.

Consultation on Spatial Options will take place in January/February 2017. The spatial options will consider the development approach strategically across the Local Authority.

#### *Landscape*

The application site falls within an Area of Local Landscape Importance (ALLI) as defined on the proposals map and the proposals are thereby subject to Policy BNE34.

Policy BNE34 has two key policy tests concerning when development within an ALLI will be permitted. Firstly where *"it does not materially harm the landscape character and function of the area"* and secondly where *"the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape"*.



NPPF Paragraph 109 requires that the planning system should contribute and enhance the natural and local environment by “*protecting and enhancing valued landscapes*”. It is thereby considered that Policy BNE34 is broadly consistent with the NPPF. It is noted that the policy includes an in built ‘balancing’ exercise similar to the ‘presumption in favour of sustainable development’.

Whilst Policy BN34 is broadly consistency with the NPPF it should be noted that the Inspector into the recent appeal for Land North of Moor Street (PINS Reference APP/A2280/W/15/3012034) concluded that “*Policy BNE34 is clearly relevant to the supply of housing and would have to be considered not up-to-date*” (paragraph 61). The weight that can be attached to Policy BN34 in the determination of this application is thereby reduced.

### Analysis

Within the ALLI designation the application site falls within the Mierscourt/Meresborough character area. The character of this area is described in the supporting text to Policy BNE34 as an: “*area of traditional Kentish farm landscape with country lanes on the eastern periphery of the borough.*” The function of the Mierscourt/Meresborough character area is described as follows:

*“It is important as a buffer zone, helping to counteract outward pressure of urban sprawl and maintaining the separation of settlements. It is a continuation of adjacent areas in Swale Borough which are subject to a settlement separation policy in the Swale Borough Local Plan. ALLI designation is considered consistent with the Kent Structure Plan policy NK2, restricting the outward expansion of the urban area onto fresh land east of Gillingham, and with para. 6.15 of RPG9a, which specifically mentions the countryside north and east of Gillingham as being particularly important in the context of urban fringe land providing valuable countryside and recreational opportunities.”*

It is also necessary to have regard to the Medway Landscape Character Assessment, March 2011 (MLCA) which provides detailed guidance on landscape character and is a material consideration in the determination of this planning application. The MLCA identifies the application site as located within the Lower Rainham Farmland which is identified as having the following characteristics:

- *Flat, small to medium scale mixed farmland – orchards, arable, rough grazing;*
- *Neglected pockets of land and busy road gives transitional urban fringe character to area; gradual trend towards suburbanisation (e.g. boundary features) in some localised areas;*
- *Some well managed areas of orchard, shelterbelt, farm buildings, cottages and distinctive rural hedge banks;*
- *Tranquil in many parts despite enclosure by road to north and rail to south;*
- *Poor accessibility – east/west and north/south links to urban areas;*
- *Recent urban extension to north west of Otterham Quay Lane now divides this character area and diminishes coherence; area to east beyond*

*Rainham has particularly detracting urban and industrial features – including industrial estate, tip with vents and railway line; golf course to north along Swale boundary.*

The application site very clearly displays some of the typical characteristics of the Mierscourt/Meresborough ALLI and the Lower Rainham Farmland to the extent that it is small to medium scale farmland, with shelter belt planting along the boundaries, and thereby has a sense of tranquillity. It is further noted that in the relatively recent past the site accommodated orchards typical of the 'North Kent Fruit Belt'.

However it must also be acknowledged that some of the detracting influences identified within the MCLA for the Lower Rainham Farmland are relevant to the consideration of this application. Specifically the industrial area to the north of the site, the recent urban extension beyond that (Four Guns Field) and the railway line to the south of the application site. These have something of an urbanising influence.

Notwithstanding the detracting influences the site is very clearly outside of the urban area and within the countryside. Travelling along Otterham Quay Lane one clearly perceives this as defining the eastern extent of the built up area of Medway, with the countryside extending beyond it. To this end the application site contributes significantly to the functions of the ALLI in this location, specifically it *“counteract outward pressure of urban sprawl and maintaining the separation of settlements”*.

Taking the above analysis into account it is evident that developing the site for housing would result in material harm to the landscape character and function of the ALLI. Specifically the development would undermine the sites contribution toward counteracting outward pressure of urban sprawl and maintaining the separation of settlements. The applications proposals are therefore contrary to the first limb of the Policy BNE34. It is also considered that the proposals are contrary to NPPF Paragraph 109 concerning the protecting and enhancing of valued local landscapes.

However the second limb of Policy BN34 allows for development within the ALLI where the social and economic benefits of development outweigh the local priority to conserve the area's landscape. The social and economic benefits relate to the provision of housing i.e. meeting Medway's housing need and creating jobs associated with the construction period and the spending of new residents.

In considering this part of the policy it is instructive to again note that the Inspector at the recent Land North of Moor Street Appeal considered that the proposals in that instance would have accorded with the second limb of Policy BNE34 i.e. the weight attached to the social and economic benefits of additional housing was greater than the harm to the landscape in that instance.

It is considered that the level of landscape harm in respect of both schemes is similar, not least since they fall within the same ALLI character area and perform similar landscape functions. As such, and having regard to the approach taken by the Inspector it is considered that the application proposals are compliant with the second limb of Policy BNE34.

*Transport*

## Traffic Impact

The highways impact of the development is a key concern for local residents who have expressed the view that the surrounding highway network cannot effectively accommodate the traffic generated by the development.

Saved Policy T1 requires the highway impact of developments to be assessed, and states that development will only be permitted where several conditions are met, including that *"the highway network has adequate capacity to cater for traffic which will be generated by the development"*. Paragraph 32 of the NPPF similarly requires highways impacts to be assessed by way of *"a Transport Statement or Transport Assessment"*. Paragraph 32 goes on to require that *"Plans and decisions should take account of whether...improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual [after mitigation] cumulative impacts of development are severe"*.

It is considered that paragraph 32 has a different emphasis to Policy T1, in that it is focused upon 'severe impacts' rather than 'adequate capacity'. The term 'severe' is not defined in the NPPF or NPPG, and as such there is some ambiguity around how it should be tested. It should be noted that Inspectors have not always taken a capacity constraint to be a severe impact. As ever it is a matter of planning judgement with regard to be had to the particular circumstances of a development and the surrounding highway network.

In accordance with Saved Policy T1 and paragraph 32, a full Transport Assessment (TA) was submitted in support of the planning application. Given the concerns regarding the impacts of the development upon the highway network the Council appointed a transport consultant to undertake an independent assessment of the applicants transport evidence.

The Council's review of the submitted Transport Assessment confirmed that the A2 was at, or close to, capacity and as a consequence the A2/Otterham Quay Lane junction was unable to effectively accommodate the additional traffic generated by the development.

In response to this issue the applicants prepared a scheme of highway improvements to increase the capacity of the A2. These works would comprise a new separate left turn lane for the A2 westbound approach by way of some localised widening of the carriageway. This enables two relatively narrow lanes to be created rather than a single wider lane, which provides improved capacity on this approach.

The applicants suggested that the improvements at this junction would improve flows along the A2 and as a consequence would increase capacity at the junction with Otterham Quay Lane, thereby allowing the traffic generated by the proposed development to be accommodated.

A further Technical Note was submitted by the applicants assessing the impact of the development with this proposed mitigation in place. The further Technical Note has

been reviewed by the Council's independent transport consultant and the key findings of this analysis are set out below.

#### Traffic Flows

The assessment work described in the Technical Note adopts the trip rates and trip distribution recommended by the Council. There are no issues with respect to the adopted development traffic flows within the applicants Technical Note.

The Technical Note show that in the AM peak hour 86 car trips would turn south onto OQL when leaving the Site and join the A2. Of these, 62 are predicated to turn right onto the A2 westbound and towards the Mierscourt Road junction. Similar volumes are estimated to travel back to the Site in the PM peak hour.

- Modelling of A2/Mierscourt Junction

As noted above the proposed improvement works are designed to increase capacity at the A2/Mierscourt Junction and thereby improve flows along the A2, in turn increasing capacity at the A2/Otterham Quay Lane Junction. To this end a critical part of the transport assessment exercise is understanding the improvement in capacity arising at the A2/Mierscourt Junction as a consequence of the improvements.

The Council's independent transport consultant provided the applicants with tightly defined parameters for modelling the current performance of the A2/Mierscourt Junction at both 2016 and 2021.

The applicants tests demonstrate that in the 2016 Base position (prior to the addition of any development traffic), the A2 Mierscourt Road junction would be operating over-capacity with significant queues and delays.

In the absence of any mitigation, the applicants predict that the A2/Mierscourt Road junction would witness westbound queues on the A2 extend from 126 vehicles to 160 vehicles in the AM peak hour as a consequence of the additional development traffic.

Against the backdrop of these results, the applicants have then tested their proposed improvement scheme for the A2/Mierscourt junction. The tests show that whilst the proposed improvement scheme would not resolve all of the peak hour capacity issues at this location, it would provide effective mitigation of the development traffic impact such that the net operational effect would be an improvement. The tests shown that the westbound queue in the AM peak would be reduced to 27 vehicles, which is significantly lower than that predicted in the 2021 Base test (126 vehicles).

The Council's transport consultant disagreed with some of the parameters in the model for the 'proposed improvement' scheme, and so undertook independent checks and calculations of the applicants models. Drawing upon this analysis the Council's consultant advises that in terms of highway

capacity, the proposed improvement scheme would provide effective mitigation for the additional traffic resulting from the proposed development.

The increased flows along the A2 in turn enhance the operation of the Otterham Quay Lane junction, providing additional capacity for the development.

- Proposed Mitigation Scheme for the A2/Mierscourt Road Junction

With regard to the design of the mitigation scheme this has been reviewed by Medway Council highway officers and that they have concluded that, whilst they have some concerns regarding the pinch point in the footway, it is not an unreasonable proposal. However they have requested a financial contribution be paid (rather than the works be delivered) so that these can be pooled with the monies arising from the Mierscourt Road scheme to deliver an integrated and enhanced scheme of highway improvements.

- Summary of Highway Considerations

It is considered that given the capacity constraints at the A2/Mierscourt Junction and the Otterham Quay Lane/A2 Junction the proposed development does not comply with Saved Policy T1. However the weight to be afforded to this conclusion is dependent upon the consistency of the policy with the NPPF, specifically paragraph 32.

As noted above paragraph 32 is concerned with "*residual cumulative impacts of development [that] are severe*". Given that the increase in traffic at these junction would be off-set by the proposed mitigation in terms of junction operation, it is considered that the residual cumulative development impact will not be severe.

Therefore, whilst the application is contrary to Saved Policy T1, the policy is inconsistent with the NPPF in this instance and can thereby only be afforded limited weight.

The application is considered acceptable on traffic impact grounds as it complies with the NPPF specifically paragraph 32.

### Access

It is proposed that the development would be served by a single point of vehicular access, which would take the form of a simple priority junction with Otterham Quay Lane. Forward visibility can be achieved to an appropriate standard and the capacity analysis for this junction's operation demonstrates that it would operate safely without the need to provide a dedicated right turning lane. The geometry of the access has been subject to vehicle swept path analysis and is considered to be acceptable.

A shared footway/cycleway is proposed along the northern side of the access, which would connect with a new Toucan crossing on Otterham Quay Lane. An additional pedestrian/cycle access is proposed to the north, with a new pedestrian crossing island linking it to the western side of Otterham Quay Lane. These measures have been subject to a Road Safety Audit, undertaken by the Council and the results from this audit have not identified any issues that cannot be resolved as part of the detailed design process for these highway works.

Subject to the provision of a new section of footway, Toucan crossing and pedestrian crossing island, which can be secured through a Section 106 Agreement, the application is considered to accord with the provisions of Policies T2, T3 and T4 of the Local Plan.

### Parking

Given that the application is in outline and the layout, and specific housing mix is a reserved matter details have not been provided concerning parking provision. This notwithstanding the applicants have confirmed that parking would be provided in accordance with the Council's parking standards.

As is discussed in more detail under the design section below it is noted that some concerns have been raised concerning the density of the development and the implications this could have in terms of parking provision and the appearance of the site. In order to address these concerns, the applicant has submitted a page of 'illustrative' snapshots'. These show a part of the scheme worked up to a greater level of detail to illustrate 48 dwellings per hectare and parking to the Council's standards. Whilst these show parking standards are achievable in the densest parts of the site, careful consideration would need to be given to the design of these areas at the reserved matters stage.

### Sustainable transportation initiatives

Having regard to the provision of the Medway Local Transport Plan it is proposed that a residential travel plan will be developed for this site with the aims of reducing vehicular trips by promoting the use of alternative modes of travel to reduce private vehicle use and reducing the need to travel in general. In order to facilitate the fulfilment of those aims the travel plan will identify a number of objectives including:

- influencing travel perceptions and travel behaviour for resident and visitors; and
- achieving the use of public transport, walking and cycling with the purpose of reducing single occupancy vehicle trip rates.

In order to secure the implementation of the travel plan's aims and objectives the applicant intends that a travel plan co-ordinator for the development will be appointed, with this co-ordinator playing an active role in liaising with local transport providers and to make sure walking, cycling and public transport network information is available to residents.

The applicant acknowledges that the key destinations within the local area are

Rainham town centre and the railway station with the desire line to get to these for pedestrians and cyclists being Wakeley Road. In the first five year period following the development's occupation the travel plan's objective will be to reduce private vehicle usage by 5% and it is considered that target will be readily achievable given the proximity of the town centre and railway station.

### *Agricultural Land*

The application site comprises some 4.1 hectares of Grade 1 agricultural land (excellent quality) and 6.6 hectares of Grade 2 (very good quality) and as such the appeal proposals would result in the loss of the 'best and most versatile' agricultural land.

Local Plan Policy BNE48 'Agricultural Land' is not a saved policy so is not relevant to the determination of this planning application.

In the absence of a development plan policy reference should be made to national policy, specifically paragraph 112 of the NPPF which states: *"Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality."*

The Government has also reaffirmed the importance of protecting soils and the services they provide in the Natural Environment White Paper *"The Natural Choice: securing the value of nature"* (June 2011), specifically addressing the protection of best and most versatile agricultural land (paragraph 2.35) (Grades 1, 2 and 3a).

Natural England also recognises agricultural land as an important national resource in its Technical Information Note TIN049 (Agricultural Land Classification: protecting the best and most versatile agricultural land, 19 December 2012). Natural England states that *"High quality agricultural land is valued because of its important contribution to food production, and it also offers much greater potential than poorer land for growing alternative fuel/energy crops"*. Natural England observes that land protection policy *"is relevant to all planning applications, including those on smaller areas but it is for the planning authority to decide how significant agricultural land issues are..."*

The term significant is not defined; however given the size of the application site it is considered that the proposals do comprise a 'significant development of agricultural land'.

Considering whether the loss of best and most versatile agricultural land is necessary, it is noted that Medway's housing land supply requirements are considerable and as such will certainly require the loss of agricultural land. Specifically it should be noted that there is insufficient brownfield land within Medway to accommodate all, or even the majority of the Council's housing requirement over the coming years.

Considering whether there is alternative lower grade land available, it is noted that the MAFF 1:250,000 agricultural land classification map indicates that large parts of the

land adjoining the Medway urban area are likely to be best and most versatile agricultural land. It is therefore considered unlikely that meeting Medway's housing land supply requirements can be accommodated on agricultural land of Grade 3a or lower.

However Natural England advises that the MAFF 1:250,000 agricultural land classification map is indicative only and should not be used for development control decisions as the actual grade of the land may be considerably different. However in the absence of detailed surveys covering all of the land around the Medway urban area it is necessary to make assumption based upon the best available evidence, which in this instance is the MAFF mapping.

In summary, given the scale of Medway's housing requirement it is considered that the loss of agricultural land is necessary and, despite the uncertainty concerning the availability of lower grade agricultural land around Medway, it is unlikely that the development can be accommodated on lower grade land elsewhere. It is thereby considered that the application proposals do not conflict with NPPF paragraph 112.

### *Design*

The Government attaches great importance to the design of the built environment. Good design is considered a key aspect of sustainable development and is indivisible from good planning. Paragraph 58 of the NPPF requires that developments should function well and add to the overall quality of the area over the lifetime of the development as well as optimise the potential of the site to accommodate development. Paragraph 64 thereby states that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions".

In accordance with the NPPF, Saved Local Plan Policy BNE1 'General Principles for Built Development' requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment.

In accordance with the requirements paragraph 58 of the NPPF Saved Policy BNE6 requires landscaping schemes to enhance the character of the locality.

### Analysis

Given this an outline application with all matters reserved except access, there is relatively limited design information provided as part of the application. However a parameters plan has been submitted broadly demonstrating how the site could be developed. In addition a Design and Access Statement that accompanies the planning application lays down a series of sound urban design principles that could go some way towards ensuring a well-designed development.

The parameter plans show a main north/south spine road within the development which gives access to a number of development 'parcels'. A relatively large area of open space is provided at the site entrance to separate the northern and southern portions of the site, to act as a green focal point or 'village green' within the development, and to provide a degree of spaciousness at the entrance. A reasonably



wide strip of open space is proposed along the boundary of the site with Otterham Quay Lane. This will allow existing trees and hedges along the Lane to be retained. In addition a strip of open space is provided along the southern boundary of the site. Although narrow, this will allow the strong landscape feature of existing tall poplar trees to be retained.

Whilst the indicative open space layout/ landscape strategy seems appropriate it is noted that the two ponds within the scheme (which are an essential part of sustainable surface water drainage scheme) are in practical peripheral locations rather than being conceived in the first instance as attractive features at the heart of the scheme. It is suggested that further attention would need to be paid to the siting and design of these ponds at the reserved matters stage so that they complement and enhance the landscape strategy.

It is also noted that as a consequence of the difference in levels across the site, with the land rising north to south, the development on the southern part of the site will be raised above the development on the north. Importantly there will be a step up from the open space to the development. This will need to be carefully managed at the detailed design stage to ensure that the open space is usable and attractive and integrates effectively with the adjacent development.

The development's gross density is stated to be 30dph (broadly akin to existing development in the area), but with a net density (excluding the open space) as 40dph. The Design and Access Statement indicates a higher density for the northern half of the site compared with the southern zone. This approach could result in the northern part of the site having a density of 50dph or higher.

Densities of 40 to 50dph are high for a suburban location, particularly given that the development is to have a predominance of houses rather than apartments and certainly higher than the densities found in the immediate surrounding area. When regard is paid to the need to provide car parking for the proposed dwellings to the Council's standards, it is questionable whether the densities envisaged could be accommodated without this development appearing crowded and car dominated.

In order to address these concerns, the applicant has submitted a page of 'illustrative snapshots'. These show a part of the scheme worked up to a greater level of detail to illustrate 48 dwellings per hectare and parking to the Council's standards. They show that the higher density parts of the scheme will undoubtedly be 'compact' with relatively narrow streets (too narrow for on-street parking) of small terraced, semi-detached and detached houses placed close to the road and with minimal front gardens.

Such an arrangement as described above could be satisfactory, but would require careful detailed design if it is to produce a well-designed development that does not appear overcrowded. Again careful attention would need to be paid to the design at the reserved matters stage.

Furthermore it is noted that the capacity of the site is indicated as being 'up to' 300 dwellings and that the net density is also therefore indicative. It is therefore considered, given that the applicant's description of development does not seek

consent for an absolute number of dwellings, with the figure of 300 being intended to be an upper ceiling, that an objection to this proposal on design grounds could not be robustly sustained.

Accordingly under these circumstances no objection is raised to the application under the provisions of Policy BNE1 of the Local Plan and the parts of the Framework that address design, most particularly paragraphs 17 (the fourth core planning principle – securing a high quality of design), 56, 57, 58 and 61. However, for the reasons explained above, on the basis of the currently submitted information, should permission be forthcoming for the development of this site, officers remain to be persuaded that in design terms this site would be capable of accommodating as many as 300 dwellings.

#### *Amenity*

One of the twelve core planning principles of the NPPF is that planning should secure "a good standard of amenity for all existing and future occupants of land and buildings" (paragraph 17). In addition, Policy BNE2 of the Local Plan requires all development to secure the amenities of its future occupants and to protect those amenities enjoyed by nearby and adjacent properties.

Vineyard Close, a street of 16 houses, is an enclave of properties surrounded by the application site on its northern, eastern and southern sides. The proposed development will therefore unquestionably affect the outlook for the occupiers of Vineyard Close, however this effect relates to the consideration of the scheme's impact upon the area's character and appearance which is addressed earlier in this report.

Although the detailed layout for this development has been reserved for future consideration, it is considered that this site could be developed in a manner to safeguard the living conditions (privacy, receipt of light, noise disturbance etc.) for the occupiers of Vineyard Close. The likely separation distances between the existing properties on the western side of Otterham Quay Lane and the site are such that it is considered that there will similarly be no unacceptably adverse effect upon the living conditions of the occupiers of the aforementioned existing dwellings.

The construction phase for this development has the potential to cause noise and disturbance and dust generation. However, these impacts which could be mitigated by the adoption of neighbourly construction practices and these are matters which could be addressed through the implementation of a code of construction practice, something which could be controlled through the imposition of an appropriately worded planning condition.

With respect to the living conditions of existing residents it is considered that this development could proceed in a manner that would not be unacceptable. Accordingly no objection is raised to the proposed development under the provisions of policy BNE2 of the Medway Local Plan 2003.

#### *Ecology*

Under the Natural Environment and Rural Communities Act (2006), "Every public

authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.

NPPF Paragraph 109 states that "the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible."

Saved Policy BNE37 states that development that would cause a loss, directly or indirectly of important wildlife habitat of feature will not be permitted unless the development meets the following criteria:

*"(i) there is an overriding need for the development that outweighs the importance of these wildlife resources; and...*

*(iii) the development is designed to minimise the loss; and*

*(iv) appropriate compensatory measures are provided."*

Criteria (ii) relates certain types of habitat which are not relevant in this instance.

Saved Policy BNE38 is concerned with the provision of wildlife habitats in new developments that link into wider wildlife networks.

Consistent with statutory duties Saved Policy BNE39 states that *"Development will not be permitted if statutorily protected species and/or their habitats will be harmed"* and requires conditions or obligations to be attached to permissions to *"ensure that protected species and/or their habitats are safely guarded and maintained"*.

The applicant has submitted that the application site is not known to support populations of great crested newts, bats, dormice, badgers or water voles and following the completion of phase 1 habitat survey of the site its physical characteristics have been assessed as generally not providing suitable habitat for these species. However, the applicant's submitted ecological assessments do confirm that the site has potential to support bats, reptiles and there is also limited evidence of badgers moving through the site.

The applicant's protected species submissions have been considered by KCC's Ecological Service and with respect to reptiles and bats the advice received is that subject to detailed mitigation strategies for these species, i.e. the incorporation of suitable reptile and bat habitat into the open space areas, being made the subject of conditions there will be no adverse effect upon these species arising from the development.

In response to the originally submitted ecological information KCC raised a concern that the development's impact upon farmland birds had not been adequately assessed. The applicant's ecological consultant has subsequently advised that the presence for ground nesting and farmland birds had been part of the survey work commissioned by the applicant and that no ground nesting birds or farmland birds using the site for foraging purposes were observed during the survey periods. KCC have therefore advised that it considers it unnecessary for any additional bird survey work to be undertaken.

Subject to the imposition of appropriate conditions relating to the safeguarding and enhancement of habitat suitable for reptiles and bats the proposed development therefore raises no issues relating to protected species and it is therefore no conflict with the provisions of Policies BNE37 or BNE39 of the Local Plan.

### *Trees*

The application is accompanied by a arboricultural report prepared in accordance with the relevant British Standard. As is to be expected with a tract of arable farmland such as this, the trees within this site are found along the perimeters and are interspersed with hedgerows. For the most part the trees within the site are poplars with a few oaks being present. Many of the poplars have been assessed as being mature specimens, a tree species which is known to be problematic when sited in close proximity to housing because they have expansive root systems, while older specimens are prone to having a weak structure with the result they can be subject to falling limbs. Care will therefore be required in ensuring that adequate separation distances are provided between any retained poplars and the proposed dwellings.

The siting of the trees along the site's perimeters means that the applicant intends that the majority of these will be retained as part of the development, with it being recommended by the applicant's arboriculturalist that a regular programme of tree condition monitoring being instigated to address the potential issue of mature poplars being juxtaposed with new dwellings.

Given the site's established appearance it is considered important that where possible the existing trees would need to be retained and incorporated into the scheme's landscaping scheme. This is something which could be secured by planning condition and on this basis no objection is raised to the development's effect upon trees having regard to the provisions of Policy BNE43 of the Local Plan.

### *Flood Risk*

NPPF Paragraph 100 states that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary making it safe without increasing flood risk elsewhere". The site is situated within Flood Zone 1 as per the Environment Agency's Flood Mapping for the area. Zone 1 is representative of low risk areas where the risk of fluvial flooding in any one year is equal to or more than a 0.1% (1 in a 1000 years) Annual Exceedance Probability (AEP).

The application is accompanied by a flood risk assessment (FRA) and drainage strategy and the latter outlines details of the intended surface water drainage scheme for the development. It is intended that surface water will be managed by a number sustainable drainage systems (SuDs) including permeable paving in car parking areas, storage within swales and localised attenuation ponds linked to deep bored soakaways. Such measures would form a satisfactory SuDs management regime provided it is integrated within the wider landscaping, and provides a means of water quality treatment. However, it is noted that ground conditions may preclude infiltration direct to ground.

The drainage strategy indicates that a development of this scale will require a storage

capacity of 4,300 m<sup>3</sup>, based upon modelling undertaken for this scheme, with 2,320 m<sup>3</sup> and it is assumed that the remaining storage capacity (1,990 m<sup>3</sup>) will be provided by deep bored soakaways and swales. However, the Council's drainage officer is concerned that there is some inconsistency between the areas of open space (and thus permeable) and non-permeable land within the scheme that the applicant's drainage engineer has relied upon to model the site's drainage requirement. This variance potentially has implications for the way the site's drainage capacity has been calculated, with perhaps as much as of 8,800 m<sup>3</sup>, of additional storage capacity being required.

The potential need to provide more storage capacity could have implications for the design of the intended development. Given the concerns about the proposed surface drainage proposals, a revision to the strategy promoted by the applicant may be required and this is a matter which would need to be fully addressed at the reserved matters stage is designed for the site. To this end it is recommended that an appropriately worded condition is attached should planning permission be granted. *Air Quality*

Paragraph 109 of the NPPF states that the planning system should contribute to enhancing the natural and local environment by: *"preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable risk from, or being unaffected by unacceptable levels of soil, air, water or noise pollution or land instability"*.

In general compliance with paragraphs 109 of the NPPF, Local Plan Policy BNE24 states that *"Development will not be permitted when it is considered that unacceptable effects will be imposed on the health, amenity or natural environment of the surrounding area, taking into account the cumulative effects of other proposed or existing sources of air pollution in the vicinity"*.

In accordance with the Environment Act 1995 and the Air Quality Regulations 2000 and Air Quality (Amendment) Regulations 2002 three Air Quality Management Area's (AQMA) have been designated in Medway. The site is situated in close proximity to the 'High Street Rainham AQMA' which runs along the A2. The pollution within the High Street Rainham AQMA is understood to arise from traffic on the A2. In addition Swale Borough Council have designated an AQMA in Newington, again this is along the route of the A2.

The declaration of an AQMA does not mean that there will be no new development within that area. Rather, it means that greater weight must be given to the consideration of air quality impacts and their mitigation.

In April 2016 the Council published 'Air Quality Planning Guidance' which sets out the approach the Council will take to assessing air quality and requiring mitigation in support of new developments. Under this new Guidance the Council now requires an Emissions Mitigation Assessment to be undertaken for large schemes and/or schemes in close proximity to an AQMA.

Emissions Mitigation Assessments are required to specify the measures that will be implemented as part of the development to mitigate the air quality impacts identified

in the Air Quality Assessment. The Guidance requires that the total monetary value of the mitigation to be provided shall be demonstrated to be equivalent to, or greater than, the total damage cost values calculated as part of the Mitigation Assessment.

As noted in the transport section of the committee report, it is anticipated that approximately 62 additional movements in the morning peak would enter the AQMA. Whilst the development only gives rise to a marginal increase in traffic movements, falling below the established best practice threshold for developments in close proximity to an AQMA, it is recognised that any increase in traffic could potentially exacerbate the air pollution within the High Street Rainham AQMA.

Thereby, should the development be considered acceptable it is recommended that appropriately worded conditions are attached to the permission requiring the air quality impacts of the development are assessed and properly mitigated prior to the development commencing.

The air quality assessment for the development will need to be undertaken in accordance with the Guidance. This will thereby need to include an Emissions Mitigation Assessment specifying the measures that will be implemented as part of the development to mitigate the air quality impacts identified in the Air Quality Assessment. The total monetary value of the mitigation to be provided shall be demonstrated to be equivalent to, or greater than, the total damage cost values calculated as part of the Mitigation Assessment.

Subject to the provision of the Air Quality Assessment, Emissions Mitigation Assessment and the implementation of appropriate mitigation measures, it is considered that the application proposals are in compliance with Saved Local Plan Policy BNE24 and NPPF paragraph 109.

### *Noise*

The applicant's noise assessment is based upon survey work undertaken in May 2014 in accordance with recognised methodology for such surveys. The primary noise that occupiers of this development would be subject to would be from road and rail traffic, with the highest noise levels be along the site's southern and western boundaries.

The applicant's noise assessment demonstrates that in order to achieve an acceptable internal noise environment, it will be necessary for the dwellings sited with the parts of the site exposed to the highest noise levels to be fitted with mechanical ventilation to provide an alternative to opening windows as means to achieve ventilation. It is also possible that some garden areas would be subject to noise levels of 55dBLAeq, the generally accepted noise level for an appropriate residential garden environment. Mitigation for external noise exposure above the aforementioned level could be achieved by orientating gardens so that they are not sited immediately adjacent to Otterham Quay Lane.

Having regard to the guidance on the consideration of noise set out within paragraph 123 of the NPPF, it is considered that with the provision of appropriate mitigation, as

outlined in the submitted noise assessment and which could be secured by the imposition of a planning condition, that this proposal is unobjectionable in acoustic terms.

### *Land Contamination*

The application is accompanied by an environmental and geotechnical site investigation report the contents of which have been informed by a desk top study and intrusive site investigations and the chemical analysis of the soil samples that were collected.

Contaminants of concern were not detected at concentrations in excess of groundwater screening criteria within groundwater sampled during the investigation, with the exception of sulphate. The sulphate exceedance has been observed as being 'very marginal', although foundation designs would need to take account of this soil characteristic. The potential risk to water resource receptors from contaminants of concern encountered within soil and/or groundwater analysed from beneath the site is therefore considered to be low. Ground gas monitoring was also undertaken as part of the on-site investigation works and the results from this analysis indicate that limited ground gas protection measures would need to be incorporated into the development's design.

The applicant's contamination report concludes that:

- The potential risk to future site users from contaminants of concern originating from the site is considered to be low;
- With respect to the off-site occupiers of land, contaminants of concern within the site's soil and groundwaters have not been found at concentrations that present risks. Accordingly the potential risks to off-site human health receptors from contamination is rated as low.

The above conclusions are ones that the Council's Environmental Protection team concurs with.

The applicant's contamination assessment has demonstrated that the proposed development could, with the imposition of appropriate planning conditions, proceed in a manner without any unacceptable harm to human health and ground and surface water conditions arising. In this respect the proposed development is therefore considered to be accord with the provisions of Policy BNE23 of the local Plan.

### *Archaeology*

A desk top assessment of the application site's archaeological significance has been undertaken by the applicant and this assessment has identified that there are no designated archaeological (heritage) assets on the site or within its immediate vicinity. Accordingly it has been submitted that the development will not have an impact on any designated heritage assets.

In relation to the potential for as yet to be discovered assets to be found, the archaeological assessment suggests that there is some limited potential for the

presence of isolated prehistoric features and residual Medieval artefacts to be present on the southern half of the site only, given the 20th century quarrying in the northern half of the site which will have destroyed any buried remains that there might have been. The Council's archaeology advisor agrees that there is some potential for unknown buried archaeology on the site.

As the proposed development could affect currently unknown buried archaeological remains and, given the findings of the assessment accompanying this application, any permission for the development of this site would need to include a condition requiring a programme of archaeological works to be undertaken in accordance with details to be submitted to and approved by the local planning authority. With the imposition of such a condition no objection is raised in archaeological terms under the provisions of Policy BNE21 of the Local Plan.

### *Bird Mitigation*

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £223.58 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have agreed to pay this tariff and have/are in the process of submitted/submitted a unilateral undertaking. No objection is therefore raised under Paragraphs 109 and 118 of the NPPF and Policies S6 and BNE35 of the Local Plan.

### *S106 Matters*

As noted above concerns have been raised by local residents that the development would give rise to additional demand for local services, such as education and health care, which cannot be accommodated as local facilities have insufficient spare capacity.

Policy S6 of the Local Plan states conditions and/or legal agreements should be used



to make provision for additional demand for local services generated by new developments.

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (s106 agreement) may only be taken in to account if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The Approved Guide to Developers Contribution (2014) sets the Council's detailed approach towards ensuring that the demands generated by new developments is properly provided for by way of financial contributions made by the developer towards the provision of new and improved infrastructure and services. The Guide sets out comprehensive advice on how financial contributions will be calculated in respect of a broad range of different services.

In accordance with Guide to Developer Contribution the following contributions have been sought in respect of this application:

- 25% Affordable Housing: 75 dwellings (60% Affordable Rent and 40% Shared Ownership)
- Education comprising:
  - a. Nursery School @ £8320 per pupil place (£274,560)
  - b. Primary School @ £8320 per pupil place (£673,920)
  - c. Secondary School @ £11,960 per pupil place (£681,720)
  - d. Sixth Form @ £11,960 per pupil place (£179,400)**Total: £1,809,600**
- Transport (A2/Otterham Quay Lane junction improvements)  
*Principal accepted amount to be confirmed*
- Open Space: **£121,275** (reduced from £571,095 to account for 1.92ha of on-site provision)
- Local Health Facilities: **£140,385**
- Public Realm: **£73,500**
- Birds Disturbance Mitigation: **£67,074**
- Waste & Recycling: **£46,632**
- Community Facilities: **£41,013**

These requests have been calculated in accordance with the Approved Developers Contribution Guide (2014) and based on the quantum and location of the development and are thereby considered to comply with the CIL Regulation Tests.

The applicants have agreed to all of the requested obligations and therefore no objections are raised in respect of Saved Policy S6.

#### *Planning Balance*

The appraisal that has been undertaken above demonstrates that the application proposals are contrary to the Development Plan as they fail to comply with saved policies BNE25 by virtue of being in the countryside and T1 given the impacts on the highway network. However, whilst planning applications must be determined in accordance with the development plan, regard should also be had to other material considerations, including the NPPF.

Given that it is accepted that Medway does not have a five year supply of housing land, and that the shortfall is likely to be significant, NPPF paragraph 49 states that policies for the supply of housing, BNE25 and BNE34, should be treated as out of date and thereby the presumption in favour of sustainable development should be engaged.

However simply because the presumption in favour of sustainable development has been engaged, that does not mean that development plan policies relevant for the supply of housing should be ignored. Rather it is for the Council to decide how much weight should be afforded to them. Given that Medway's housing land supply shortfall is likely to be significant it is considered that only limited weight can be afforded to policies BNE25 and BNE34 and greater weight should be attached to the presumption in favour of sustainable development.

When determining planning applications the presumption in favour of sustainable development requires a balancing exercise to be undertaken, granting planning permission unless: *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole"*.

Turning first to the benefits of the development. The proposals will deliver 225 units of market housing and 75 units of affordable housing. With reference to the recently published Medway Strategic Housing Market Assessment, there is clear and demonstrable need for market housing in Medway, and an acute need for affordable housing. The application proposals must thereby be seen as a social benefit. It is also considered that the development will give rise to economic benefits, by creating employment during the construction period and subsequently the new residents increasing spending in the local economy.

However it is also clear that the development would give rise to environmental adverse impacts. The development would also result in the loss of an area of typical Kentish rural landscape which performs an important function counteracting the urban sprawl of Medway and the coalescence of Rainham with nearby villages. Whilst the quality of this landscape has been somewhat degraded by urbanising influences, the loss of this undeveloped landscape is demonstrable an adverse

impact.

In addition the development would result in the loss of the best and most versatile agricultural land. Although it is considered unlikely that lower grade agricultural land could be identified to accommodate all of Medway's housing land requirement.

Local residents have also raised concerns that the development would give rise to adverse impacts in respect of the highway network. Whilst it is acknowledged that there are capacity constraints on the highway network, it has been demonstrated that highway improvements can be provided to accommodate the additional traffic generated by the development and as such the impact is considered to be neutral. Similarly concerns regarding the capacity of local schools and the health care facilities can be mitigated by the provision of increased capacity paid for by the applicants. It is noted that no objections have been raised by service providers.

The appraisal undertaken above, having regard to the Framework as a whole, has not identified any other adverse impacts.

In conclusion, whilst there are undoubtedly adverse impacts arising from the development, given the scale of Medway's likely housing shortfall and the considerable weight the Government and the NPPF attaches to the need to "*significantly boost the supply of housing*" (NPPF, paragraph 47), it is not considered that the identified adverse impacts "*significantly and demonstrably*" outweigh the benefit.

It is thereby considered that the development is acceptable, despite the identified conflicts with the development plan.

#### *Local Finance Considerations*

There are none relevant to the determination of this application.

#### **Conclusions and Reasons for Approval**

The proposal for 300 residential units is contrary to development plan policies BNE25 and BNE34 as the site is situated outside the settlement boundary on land designated as an Area of Local Landscape Importance. However, since the Council does not have a five year supply of housing land and has a shortfall in supply that is likely to be substantial, significant weight should be given to the NPPF in the determination of this application. Having regard to the presumption in favour of sustainable development, as required by NPPF paragraph 49, it is considered that whilst the development would have adverse impacts in respect of the loss of agricultural land and a harm to a locally valued landscape, these are outweighed by the significant social benefits and associated economic benefits of delivering 225 units of market housing and 75 units of affordable housing. It is therefore recommended that planning permission is granted subject to conditions and Section 106 agreement.

The application is being referred for Committee determination due to the sensitivities of the proposal, the balance between the determining issues which should be most

appropriately determined by committee and the number of representations received expressing a view contrary to the recommendation.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>