

MC/16/2917

Date Received: 7 July, 2016

Location: 178 And Land North Of Brompton Farm Road, Strood, Rochester, ME2 3RE

Proposal: Outline application with some matters reserved (appearance, landscaping, layout, scale) for residential development comprising of up to 135 residential dwellings with associated landscaping, public open space and associated works

Applicant: Brookworth Homes Ltd

Agent: Mr Escott Robinson Escott Planning Downe House 303 High Street Orpington Kent BR6 0NN

Ward Strood North

Case Officer Majid Harouni

Contact Number 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 18 January 2017.

Recommendation - Refusal

- 1 The application site is located within the Green Belt as defined within the Medway Local Plan 2003. Policy BNE30 applies and states that there is a general presumption against inappropriate development. Moreover, the NPPF (at paragraph 89) sets out the forms of development which may be appropriate in the Green Belt. The proposal to construct a new housing estate with associated access road would not fulfil the objectives of this policy or the NPPF. Consequently, the proposals represent “inappropriate development” in the Green Belt and are a departure from development plan policy. Paragraph 87 of the NPPF sets out a general presumption against inappropriate development within the Green Belt and states that such development should not be approved, except in very special circumstances. Paragraph 87 also states that inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The information put forward by the applicant has been considered. However, these matters, neither individually nor taken together, are considered to constitute the very special circumstances necessary to allow a departure from policy being made in this instance. The proposals are therefore contrary to Policy BNE30 of the Medway Local Plan 2003 and guidance in the NPPF in principle. Notwithstanding the in-principle harm by reason of serious incursion into open land, the proposals are also harmful to the character and openness of the Green Belt at this point, contrary to Policy BNE30 of Medway Local Plan and criteria within the NPPF.

- 2 The development would result in an inappropriate form of development within a locally valued landscape and Area of Local Landscape Importance, resulting in harm to the landscape and rural character and appearance of the area contrary to the objectives of: Policies BNE25 and BNE34 of the Medway Local Plan 2003; the Medway Landscape Character Assessment 2011; National Planning Policy Framework, in particular the fifth Core Planning Principle referred to in paragraph 17 and paragraph 109 of the National Planning Policy Framework.
- 3 The development would result in permanent loss of high quality agricultural land (Best and Most Versatile). It has not been demonstrated that there is no alternative previously-developed sites or that the existence of alternative potentially developable greenfield sites of poorer agricultural quality. The proposal is contrary to policy BNE48 of Medway Local Plan 2003 and paragraph 112 of the NPPF.

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

Proposal

This application submitted is in outline form with only means of access to be considered at this stage. Details relating to appearance, layout, landscaping and scale are all reserved for future consideration. The application proposes to demolish the existing bungalow dwelling at no 178 and to construct up to 135 market and affordable residential dwellings, with 25% = 34 affordable dwellings and the remaining 101 dwellings to be private market sale.

The Design and Access Statement accompanying the application indicates that the proposed dwellings would be a mix of 2 and 2.5 storeys; 2 storey flats over undercroft parking; and proposed apartment buildings of 3 storeys. The 2 storey dwellings would be located near the existing properties on the site boundaries. The dwelling types will include apartment buildings, terraces, semi-detached and large detached houses. Associated landscaping and public open space would also be part of the scheme.

Although all matters are reserved for future consideration except for the means of access, the application is accompanied by an illustrative master plan, which shows the intended general distribution of development and amenity area across the

application site.

The details of means of access form part of this application and are submitted for approval. The accompanying Transport Assessment and revisions submitted on 21/11/16 involve 5.5m wide vehicular access directly onto Brompton Farm Road, suitable for two way traffic flow, footway into the site from Brompton Farm Road, improvement of Stonehorse Lane to facilitate a direct pedestrian route to Hertsfield Avenue just to the east of the site and creation of a priority junction with Brompton Farm Road.

Although the provided indicative plan shows provision of new public open space no figure has been provided with regard to its exact size.

Site Area/Density

Site Area: 4.37hectares (32acres)

Site Density:10.79dph (12.5 dpa)

Relevant Planning History

Case ref: MC/16/2975 Outline application with some matters reserved (appearance, landscaping, layout, scale) for residential development comprising of up to 135 residential dwellings with associated landscaping, public open space and associated works

Decision Withdrawn - Invalid

Decided 30 September, 2016

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.

20 letters of representations have been received from the local residents objecting on the following grounds:

- Impact on the road system due to additional traffic and vehicular movements. Potential congestion at the peak times
- Poor public transport service.
- Impact on the existing infrastructure (schools, local GP practice, Medway Hospital, schools
- More housing without amenities
- Impact on the outlook of the properties backing on to the application site.
- Loss of Green Belt and farm land.
- At the time of the By-Pass inquiry the outer route was chosen to safeguard the land between the By-Pass and the existing houses.
- This is grade 1 agricultural land being used as apple orchard and should be preserved for agriculture and as a Green Belt.
- The proposal would set precedents for the development of the rest of the farm land to the west.

- The proposed new road would be extremely close to a central traffic island which is a popular and well used pedestrian crossing point. This island is close to the bus stops where the school buses stop.
- This site was considered as part of the Medway Strategic Land Availability Assessment in November 2015 and was found unsuitable.

Dickens Country Protection Society has objected to the proposal and states that the site is in an area where Green Belt policies apply. The Green Belt in this area forms part of the strategic gap between Gravesend and Medway Towns and it makes significant contribution to the Green Belt. Also the land is of high quality agricultural land that should be preserved for agricultural use and it is not sustainable to remove such quality land from farming for housing development.

Network Rail advise that the applicant must ensure that their proposal, both during the construction and after completion, does not:

- Encroach onto network rail land
- Affect the safety, operation or integrity of the company's railway and its infrastructure.
- Undermine its support zone.
- Damage the company's infrastructure.
- Place additional load on cuttings
- Adversely affect any railway land and structure
- Over-sail or encroach upon the air-space of any Network Rail land
- Cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.

Natural England has referred to the potential recreational impact of the proposal on 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.

Gravesham Borough Council object to the development as being in conflict with the National Planning Policy Framework and would result in inappropriate development contrary to section 9 of the NPPF and notably paragraphs 79,80 and 87. The development does not fall within any of the exceptions set out in paragraphs 89 and 90 of the NPPF. There does not appear to be any very special circumstances such as to outweigh the harm to the Green Belt.

Environmental Agency has no objection subject to the imposition of the following conditions:

- 1) If, during the development, contamination not previously identified is found

to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

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

Medway Countryside Forum has objected to the application for the following reasons:

- Building on land designated as Green Belt and Area of Local Landscape Importance.
- The land is high grade Agricultural land of a most versatile nature.
- The application incorporates into the access road Stonehorse Lane which is a PROW.

Kent County Council Archaeological advise that the site lies in an area of archaeological potential associated with the past discoveries of remains of Romano-British materials in the fields immediately to the west. It is possible that archaeological remains may be present within the application site. There is therefore no objection subject to the relevant archaeological condition.

Kent County Council Ecology advise that this proposal is acceptable in principle. We advise that the scoping survey must include an assessment of the trees for their potential to be used by roosting bats. The ecological scoping survey, any recommended specific species surveys and details of any mitigation required must be submitted for comments prior to determination of the planning application.

Reptiles

The development site contains two suitable habitat locations for reptiles and results showed a low reptile population. We are satisfied with the conclusions of the survey which details that the site development will result in the loss of the reptile habitat in the north-west corner. We recommend that the receptor site area has to be set up on site in the southern part of the Public Open space of the development site. We are happy with the proposed mitigation strategy and advise the mitigation detailed within paragraph 5.0 of the Reptile Mitigation Strategy report must be implemented prior to any works commencing (including vegetation clearance).

It is not clear how the management of the receptor site will be implemented on a long term basis. Therefore we recommend a Site Management Plan is produced as a condition of planning permission to ensure the receptor site will be managed appropriately throughout the life time of the development (if granted).

Breeding birds

The proposed development might result in the loss of suitable breeding bird habitats, all nesting birds and their young are legally protected under the Wildlife and Countryside Act. As such all works must be carried out, outside of the bird breeding season (March – August inclusive), if that is not possible an ecologist must examine the site prior to works starting and if any breeding birds are recorded all works must cease until all the young have fledged. We recommend soughing for nesting birds within the development site.

Enhancements

One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. Some enhancement recommendations are given in the Arboricultural Assessment Report and in the Landscape and visual impact assessment, and consideration should be given to these and other enhancement measures: Hedgerows and trees should be, as much as possible, maintained and managed for the benefit of wildlife; A new hedgerow has to be planted, utilising native species, along boundaries of new garden areas to increase habitat and contribute to the Kent BAP in order to compensate the loss of part of the hedgerow following the development of the new entrance at the north of the existing location. Additional native trees have to be planted to the site boundaries, at least 2 trees should be planted for any tree removed; a small traditional orchard (more than five trees less than 20 metres apart) should be created in the Public Open Space area to compensate the loss of the active orchard which contribute to the landscape character of Kent; Regarding vegetation management any gaps in the southern vegetated boundaries should be filled with planted native woody species.

Southern Water has stated that both public foul sewer and water distribution main crossing the site. The exact position of the public water main and foul sewers must be determined on site by the applicant before layout of the development is finalised.

From our initial assessment of the existing apparatus it appears that there is limited opportunity to divert existing water apparatus, and therefore Southern Water objects to the proposed development.

Also the result of initial desktop study indicates that Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework.

Should the Local Planning Authority be minded to approve the application, Southern Water would like the following condition to be attached to any permission:

“Development shall not commence until a drainage strategy detailing the proposed means of disposal and an implementation timetable, has been submitted to and approved in writing by the local planning authority in consultation with the

sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.”

Southern Gas Network has referred to gas main near the application site, and request that there should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system and 3 m of an intermediate pressure system.

Highways England offer no objection

NHS Health Care Facilities (NHS Property Services), based upon an occupancy rate of 2.45 persons per dwelling and a per capita charge of £191.00 has requested contribution of £191 x 2.45 x 135 dwellings = 63,173.00.

To be used for improvements to a GP surgery within Rochester.

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.

Medway Landscape Character Assessment 2011 is a material planning Consideration

Planning Appraisal

Principle

Planning Policy Context

1. National Planning Policy Framework

National policy relevant to this application is provided in the National Planning Policy Framework (the Framework). While the statutory basis for determining planning proposals remains the development plan for the area, the Framework is a material consideration that must also be taken into account. As the statement of government policy on planning issues, it should be given significant weight in planning decisions.

The following headings and content of the NPPF are relevant to the consideration of the current proposals.

- 6. Delivering a wide choice of high-quality homes
- 7. Requiring good design
- 8. Promoting healthy communities
- 9. Protecting Green Belt land
- 11. Conserving and enhancing the natural environment

The Framework specifies that “the purpose of the planning system is to contribute to the achievement of sustainable development” and goes on to define what this

constitutes in paragraphs 6 & 7. The policies in paragraphs 18 – 219 set out the Government's view of how it should be achieved. A presumption in favour of sustainable development is described as a "golden thread" running through the planning process.

Paragraph 17 of the Framework sets out the Government's core planning principles. Of particular relevance are bullet points 1, 3, 5, 7 and 11, which respectively state that planning should:

- requires planning to be "genuinely plan-led";
- gives strong support for sustainable development including housing delivery and requires local planning authorities to make "every effort" to identify and meet development needs for their area, again including housing;
- "take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and the beauty of the countryside and supporting thriving rural communities within it."
- contribute to conserving and enhancing the natural environment.... Allocations of land for development should prefer land of lesser environmental value....
- The eleventh bullet point, which requires significant development to be focussed in locations which are or can be made sustainable.

The remainder of the Framework (paragraphs 18 to 219) sets out the Government's policies for planning, including for decision taking.

Section 9 of the Framework (paragraphs 79 to 92) deals with issues of development in the Green Belt.

The NPPF in Paragraph 89 states that 'a local planning authority should regard the construction of new buildings as inappropriate in Green Belt'. The NPPF sets out a limited number of exceptions, however, the construction of 135 residential dwellings scheme and associated access development does not fall into any of the exceptions. Consequently, it is a straightforward matter to conclude that the proposal constitutes inappropriate development in the Green Belt.

Paragraph 87 of the NPPF states that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 88 goes on to state 'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.

Furthermore, paragraph 83 of the NPPF requires that Local Planning Authorities with Green Belts in their area to establish boundaries in their Local Plans, which sets the framework for Green Belt and settlement policy. The 2003 Medway Local Plan defines the Green Belt boundary on its proposals map and is supported by Policy BNE30. It also states that the boundary should only be altered in '*exceptional circumstances, through the preparation or review of the Local Plan.*' Medway Council is currently preparing a new Local Plan, which is the appropriate process for a review should it be necessary.

National policy (NPPF paragraphs 88-90) allows for alterations to the Green Belt boundaries in exceptional circumstances. .

Also, of relevance to this application is Section 6 – Delivering a wide choice of high-quality homes. Paragraph 47 includes a requirement to “boost significantly the supply of housing”. While the remainder of this paragraph relates specifically to plan making, the emphasis on increasing housing supply is also relevant to decision taking.

Paragraph 49 reiterates the point that applications for housing development must be considered in light of the presumption in favour of sustainable development and states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year housing land supply.

Paragraph 49 is relevant to this application because Medway Council cannot demonstrate a five-year housing land supply. The reasoning for this is set out in more detail below.

Paragraph 112 of NPPF says that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land (BMV). 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. The application site is a grade 2 agricultural land which is regarded as BMV land.

The Planning Practice Guidance (the Guidance) sets out further advice on the interpretation of national planning policy, including that within the Framework. The Guidance is also a material consideration and weight should be given to it in determining the application.

The Guidance in reference 3-044-20141006 specifically consider the issue of housing and economic needs in the Green Belt location and says;

"The National Planning Policy Framework should be read as a whole: need alone is not the only factor to be considered when drawing up a Local Plan."

The Framework is clear that local planning authorities should, through their Local Plans, meet objectively assessed needs 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, or specific policies in the Framework indicate development should be restricted. Such policies include those relating to sites protected under the Birds and Habitats Directives, and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park or the Broads; designated heritage assets; and locations at risk of flooding or coastal erosion.

The Framework makes clear that once established, Green Belt boundaries should

only be altered in exceptional circumstances, through the preparation or review of the Local Plan.

2. Development Plan Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The Medway Local Plan is the Development Plan for the area including the application site. It was adopted in 2003 and covered the period between 1996 and 2006. A number of policies were saved following a direction from the Secretary of State in 2007. The saved policies in this plan are the starting point for consideration of the proposed development, in accordance with s. 38(6) of the Planning and Compulsory Purchase Act 2004. As set out in paragraph 215 of the Framework, the weight to be attached to the policies is dependent on their degree of consistency with the Framework.

The most relevant policies are BNE25, (Development in the Countryside), BNE30 (development in the Green Belt), BNE34 (Areas of Local Landscape Importance), BNE48 (High Quality Agricultural Land) S1 (Development Strategy), T1(Highway access).

Policy BNE25 defines the boundary between the urban area (including rural settlements) and the open countryside. It then restricts development in the countryside to certain specified types of development, none of which apply in this case, and requires in all cases that;

*“Development in the countryside will only be permitted if:
(i) it maintains, and wherever possible enhances, the character, amenity and functioning of the countryside,...”*

The reasoned justification for this policy notes that the countryside should be protected “for its own sake” (paragraph 3.4.71 of the local plan).

Policy BNE30 (Green Belt) states:

There is a general presumption against inappropriate development. Development will not be permitted unless:

- (i)... open character of the area is maintained
- (ii) It accords with the purpose of including land in the Green Belt
- (iii) New building will only be permitted for the purpose of agriculture or forestry or for essential small scale outdoor sport or recreational use....

The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. National policy (NPPF paragraph 79) attaches great importance to Green Belts and supports the approach set out in saved policy BNE30.

Furthermore, whilst national policy is considered more up to date than the Medway

Local Plan 2003, the fundamental principle of sustainable development remains consistent - the Local Plan policy directs growth to areas of brownfield land and to areas of high accessibility.

The difference in the Local Plan approach relates to the consideration of exceptional circumstances. Paragraph 3.4.94 of the Local Plan makes clear that there are 'no exceptional circumstances' for development in the Green Belt. This approach is justified as it reflects local circumstances with due consideration to the purpose of Green Belt. It is important to note that this Green Belt designation is of national importance and therefore has a wider purpose. This part of the Green Belt satisfies the following functions:

- To prevent the merging of neighbouring towns – in this case Higham (Gravesham) from Medway
- Safeguarding the countryside from encroachment. This is particularly important in relation to the policy S1 and the planning for sustainable development
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Policy BNE34 applies to Areas of Local Landscape Importance (ALLIs), as defined on the proposals map, and seeks to protect these areas. This policy states: "Within the Areas of Local Landscape Importance defined on the Proposals Map, development will only be permitted if:

- (i) it does not materially harm the landscape character and function of the area; or
- (ii) the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape.

Development within an Area of Local Landscape Importance should be sited, designed and landscaped to minimise harm to the area's landscape character and function"

The reasoned justification for this policy explains, at paragraphs 3.4.104 – 3.4.105 of the local plan, that ALLIs are "areas of landscape that enhance local amenity and environmental quality, providing an attractive setting to the urban area and surrounding villages" and in addition to their landscape importance, they fulfil a number of other important functions:

- "(i) As green lungs and buffers, helping to maintain the individual identity of urban neighbourhoods and rural communities;
- (ii) As green corridors (or links) for the community to reach the wider countryside;
- (iii) As edge or "fringe" land, needing protection from the pressures of urban sprawl; and
- (iv) As habitats for wildlife and corridors, along which wildlife from the wider countryside can reach the urban environment."

Policy BNE48 is in compliance with paragraph 112 of the NPPF and seeks to protect the best and most versatile agricultural land.

Policy T1 deal with the issues relating to the access of the development to a public highway.

Housing Supply Position and the Local Plan preparation

The 2015/16 Authority Monitoring Report (AMR), published in December 2016, sets out the five-year housing land supply position in Medway up to 31st March 2016. The Authority currently does not have a 5 year supply. However, it is important to note that the Council is undertaking significant work to establish this alongside the preparation of the Local Plan. The steps taken by the Council to identify housing land supply holds weight in this case.

Medway Council have consulted on the Issues & Options version of the Local Plan and will be consulting on the Spatial Options version this year. The spatial options will set out the methodology and sequence to identifying land for development based on robust evidence, which is well underway. The approach is consistent with the principles of sustainable development, which will seek to identify Brownfield land first before considerations of Greenfield land. It is only through the conclusion of this work that the Council can confirm whether it is justified to release land in the Green Belt to support the delivery of housing.

As a part of the Local Plan process, a Strategic Land Availability Assessment (SLAA) has been undertaken to assess land coming forward as a part of the new Local Plan. The application site is on a SLAA site (ref: 1042). The initial analysis of the site as a part of this process has been undertaken and categorised the site as unsuitable for development due to agricultural land, facilities and service accessibility and poor PTAL connectivity.

To enhance the housing land supply the Council has granted planning permissions for residential development on less sensitive sites in the countryside.

The National Planning Policy Framework should be read as a whole: need alone is not the only factor to be considered when drawing up a Local Plan. The Framework is clear that local planning authorities should, through their Local Plans, meet objectively assessed needs 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, or specific policies in the Framework indicate development should be restricted (Paragraph 14 foot note 9). Such policies include those relating to sites protected under the Birds and Habitats Directives, and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park or the Broads; designated heritage assets; and locations at risk of flooding or coastal erosion. The Framework makes clear that once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan'.

Any attempt to alter the Green Belt boundaries outside the local plan process is

considered inconsistent with the Local Development Plan and the national policy.

As to whether policies BNE25, BNE30 and BNE34 are policies for a supply of housing, the inspector in the Moor Street, Rainham, appeal decision in paragraph 61 of his report regarding policy BNE34 said:-

“PL Policy BNE34 is clearly relevant to the supply of housing and would have to be considered not to be up-to-date.”

Also, a recent Court of Appeal Judgement, Suffolk Coastal and Hopkins Homes says:-

“Whether a particular policy of the plan, properly understood, is a relevant policy “for the supply of housing”... is a question for the decision maker. Provided the decision maker acts on the correct understanding of the policy in paragraph 49 of the NPPF, and also the development Plan policy in question, these being matters for the court, it is for him to judge whether the plan policy is or is not a relevant policy for the supply of housing. That is a matter for his planning judgement...”

It is accepted that because of its role in defining the extent of the urban area and therefore the land where the principle of meeting development needs is acceptable, Policies BNE25 and BNE30 can be regarded as policies for the supply of housing for the purposes of paragraph 49 of the NPPF.

In light of the above, that Medway Council cannot demonstrate a five year housing land supply; paragraph 49 of the Framework therefore states that these policies should not be considered up-to-date insofar as they relate to housing supply.

However, as mentioned above the Framework makes clear that once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan’.

Summary and conclusions to principle

Policy BNE30 states that the general presumption is against inappropriate development. Inappropriate development is defined as that which is harmful to the characteristics of openness and permanence of the Green Belt. Paragraph 89 of the NPPF states that ‘a local planning authority should regard the construction of new buildings as inappropriate in Green Belt’. The NPPF sets out a limited number of exceptions, however, the proposed residential development and associated highway works do not fall into any of the exceptions. Consequently it is a straightforward matter to conclude that the proposal constitute an inappropriate development in the Green Belt.

Paragraph 80 of the NPPF sets out five purposes which the Green Belt serves:

- i. to check the unrestricted sprawl of large built-up areas;
- ii. to prevent neighbouring towns from merging into one another;
- iii. to assist in safeguarding the countryside from encroachment;
- iv. to preserve the setting and special character of historic towns; and
- v. to assist in urban regeneration, by encouraging the recycling of derelict and other

urban land.

It is considered that the development proposed would be contrary to purposes (iii), and (v) detailed at paragraph 80 of the NPPF. In addition, there would be substantial harm by reason of loss of openness.

Paragraph 87 of the NPPF states that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 88 goes on to state 'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.

In addition, the proposed development would have the following impact on the landscape character of this area and agricultural land:

- The proposed development would result in the loss of an open field and the imposition of a large housing estate in the countryside and ALLI.
- The existing open field would be transformed into a busy residential development. This would have a significant effect on the landscape and the rural character of the area
- Development would fail to conserve separation and local distinctiveness and distinct settlement pattern
- Development would contribute to a permanent erosion of the rural character of this part of the Green Belt, Countryside and ALLI.
- Development would cause material harm to the landscape character and function of the ALLI as set out in Policy BNE34.
- Development would have a material adverse impact on a number of viewpoints.
- Development would result in permanent loss of currently productive high-quality agricultural land.

The proposed changes to this orchard farm would also be harmful to the open character of the 'Countryside and Area of Local Landscape Importance.

Having established that the proposal constitutes inappropriate development in the Green Belt, it is necessary to consider the matter of harm. Inappropriate development is, by definition, harmful to the Green Belt, but it is also necessary to consider whether there is any other harm to the Green Belt and the purposes of including land therein.

Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

With regards to the impact on openness, the proposals would comprise a substantial amount of new buildings in an area which is currently an orchard farm and free from built development. It is considered that the amount and scale of the development proposed would result in substantial loss of the openness of the site. It is considered

that the loss of openness, which is contrary to the NPPF, should be accorded significant weight in consideration of this application.

The application site provides an open gap separation between two settlements, in this case Higham (Gravesham) from Medway. The proposal would erode this openness and sense of separation and cause harm to the Green Belt and ALLI.

Therefore, it is considered that the proposal would cause material harm to the Green Belt, landscape and fail to recognise the intrinsic character of the countryside in this sensitive location contrary to the principles set out in the Framework and at paragraphs 79, 80, 7, 17 (5th and 7th bullet points) and 109 in particular and Policies BNE25, BNE30, BNE34, BNE48 and S1 of the Medway Local Plan.

Special circumstances put forward by applicant

The Planning Statement submitted with the application contains the applicant's Very Special Circumstances case in favour of the proposed development. The applicant sets out the following in support of the proposals:

(i) The Council is currently unable to demonstrate a 5 years supply of deliverable housing land. There is no up to date Local Plan which provides any realistic prospect of the Council meeting its housing need within the next 5 years.

(ii) Having regard to paragraph 49 and 14 of the Frameworks, the policies for the supply of housing are out of date.

(iii) Whilst the application proposal, by definition, comprises inappropriate development in the Green Belt, there are very special circumstances that exist in this case by reason of the fact that the benefits that would accrue from the scheme would clearly and demonstrably outweigh the harm to the Green Belt through inappropriateness and any other harm

(iv) The proposal would constitute a sustainable development from an economic (resulting in creation of construction jobs, investment in provision of infrastructure and services), social (providing vibrant and healthy community, providing much-needed housing and environmental by providing high-quality environment and provision of new public open space) perspectives.

(v) By applying paragraph 14 of the Frameworks, the adverse impacts of the application proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Planning balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

As set out above, it is considered that policies BNE25, and BNE34 are not up to date and carry reduced but still considerable weight. Policy BNE30 carries significant

weight. It is considered that because of these policies more specific purpose and function substantial weight should be accorded to them, and in particular policy BNE30. The proposed development would be in conflict with these policies and policies BNE48 and S1 and as such would cause material and adverse harm. Having regard to the applicant's comments that there are material considerations that indicate that the application should be determined other than in accordance with the development plan the followings are relevant.

In the absence of a five-year housing land supply, the presumption in favour of sustainable development set out at paragraph 14 of the Framework is engaged. It is therefore considered whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole.

In this case, it is acknowledged that the proposals would deliver material economic and social benefits through the provision of 135 market and affordable housing. Given the position in respect of five-year housing land supply and the need for affordable housing, these benefits should be afforded significant weight.

Other benefits arising from the development to be accorded weight include social and economic benefits arising from matters such as the contribution to the local economy, new job opportunities during the construction period, contributions towards local infrastructure, (schools, recreation facilities), the ability of new residents to support local services, particularly given that the site is in a sustainable location.

However, as explained above, considerable material environmental harm would be caused to the character and function of the site by loss of this Green Belt land and the wider ALLI, including loss of rural character, erosion of the gap separating settlements undermining the wider function of the ALLI and adverse visual impact.

Also the proposed development would result in permanent loss high quality productive orchard farm land that currently contributes to the local economy, employment opportunities and environment.

Therefore, taking account of the economic, social and environmental benefits, the proposed development would nevertheless constitute unsustainable development because of the material adverse impact on the countryside, valued landscape and wider environment, contrary to policies BNE25, BNE30, BNE34, BNE48 and S1 of the Local Plan and the Framework in particular paragraphs 7, 17, 109, 79, 80, and 112.

The development would also fail to meet the second criteria in Policy BNE34, which states that permission will only be granted if the economic and social benefits are so important that they outweigh the priority to conserve the area's landscape.

In terms of the exercise required by paragraph 14 of the Framework, the adverse impacts of development on the Green Belt, character and appearance of the countryside if permission is granted would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework, taken as a whole. The proposed development would not constitute sustainable development for the purposes of paragraph 14 of the NPPF.

Therefore, the harm caused to the Green Belt, countryside and landscape character by the proposed development would be contrary to saved policies BNE25, BNE30, BNE34, BNE48 and S1 of the Development Plan for the area and no material considerations, including national policy as set out in the Framework, indicate that permission should be granted. The proposal is therefore unacceptable in principle.

Design and Layout

The application is in outline with all matters reserved saved for the access. As such the drawings in term of layout that have been submitted are illustrative in form and designed to show how a development of 135 dwellings could be accommodated on the site, public open space provided and existing public right of way safe guarded.

The indicative plan proposes an area of public open space to the south eastern part of the site which covers about 1/5 of the site and would provide amenity space, The existing hedgerow and trees along the southern, northern, eastern and western boundaries would be substantially retained and where necessary enhanced with additional trees and hedgerow planting and ecology mitigation added.

It is considered that in the light of comments received from the Network Rail and Southern Water regarding the position of a rail tunnel, a large water mains and a sewerage pipe line that run through the site and the extent of buffer area required from these, it is likely that the proposed indicative plan would need to be modified to accommodate these constraints.

The proposal shows the position of vehicular access to the site to be from the south-east corner, where no 178 currently is. The existing pedestrian PROW along the eastern boundary will be retained. Pedestrian access to the housing estate to the east would be enhanced. This would provide good connectivity for those wishing to access the development and the proposed public open space.

NPPF attaches great importance to the design issues of the built environment and considers good design to be a key aspect of sustainable development. The indicative drawing shows that the proposed development has been designed to maximise the use of existing features of the site, like trees, edges and topography to ensure creation of a pleasant housing estate.

The proposed indicative drawing shows building height in this development would be primarily two storey with some 3 storey. It is considered that the proposed development would not appear incongruous in terms of mass, scale and house design when compared with the adjoining residential housing estate.

Having regard to the slope of the land from south to north and presents of extensive hedge rows along the boundaries, the proposed development would have very limited impact on the amenities of the occupiers of the adjoining properties. However, in the light of the proximity of the dwellings proposed along the northern boundary with Hasted Road (A289), it would be necessary to design these dwelling units in order to mitigate traffic noise.

This is an outline application with all matters other than means of access reserved for later approval although an illustrative plan has been submitted to show how 135 dwelling could be laid out on site with open space. Putting aside the unacceptability of the principle of development as set out above, the illustrative plans do indicate how 135 units could be laid out on site but with some modifications as set out above. However, this does not overcome the in principle objection to the development.

Highways and Access

Access to the site would be from the site of 178 Brompton Farm Road. The proposal would also involve highway improvement to the round-about and new signage to ensure that the proposed access complies with Medway Council's required standards and safety audit.

Paragraph 29 of NPPF states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

Concern has been expressed with regard to the impact on the existing road network. Local residents are concerned that the proposal will increase the risks on the public highway. .

Trip Generation & Traffic Impact

The Transport Assessment submitted with the application uses Census data and the TRICS database to estimate that the proposed development would generate up to 83 two-way vehicle trips during each peak period. A traffic survey conducted at the Brompton Farm Road junction with Cliffe Road indicated that it carries around 1200 vehicle movements during the peak hours. The proposed development, therefore, would increase traffic at this junction by around 6%.

The Transport Assessment uses traffic modelling software to consider the impact of development traffic at the Brompton Farm Road/Cliffe Road junction, the Brompton Farm Road/Gravesend Road/Rede Court Road junction and the Brompton Farm Road double mini roundabout junction with Lower Rochester Road, Cooling Road and Hollywood Lane. This analysis indicates that the development would result in a very small reduction in capacity at these junctions, and potentially increase queues by one or two vehicles in some instances. The NPPF states that developments should only be refused on highway grounds where the residual cumulative impacts of the development are severe. The additional traffic generated by this development would not increase delays or congestion at nearby junctions to any significant degree. On this basis, it is considered that the development would not have a significant detrimental impact on highway capacity in the vicinity of the site, and no objection is raised in respect of Policy T1 of the Medway Local Plan.

Access

Three options for accessing the site were subject to discussion between the applicant

and the Council's Road Safety Team, prior to submission of the application:

Option 1: an additional arm at the mini-roundabout junction with Cliffe Road.

Option 2: a double mini-roundabout

Option 3: a priority junction with Brompton Farm Road

Option 1 was dismissed due to the requirement to obtain third party land and road safety concerns about the creation of a four-arm mini-roundabout. With option 2, the road space available for the construction of two mini-roundabouts is limited and would require them to be very close to each other. As a result, there would be insufficient space to accommodate a vehicle clear of the preceding roundabout circulatory, which would generate safety concerns. This option would also require the removal of pedestrian crossing islands, which have recently been installed to improve pedestrian facilities

In light of the above, and taking into consideration the number of peak-hour movements, a priority junction to the west of the existing mini-roundabout (option 3) was considered the most appropriate access solution. Following advice from the Council's Road Safety Engineer, the geometry of the mini-roundabout and associated pedestrian facilities are proposed to be retained as existing. The separation distance between the proposed junction and the existing roundabout is maximised and includes a right-turn lane for vehicles waiting to access the development. The access road is proposed to be 6 metres wide and vehicle tracking analysis confirms that large vehicles would be able to access the site satisfactorily. The access proposal has been subject to a Road Safety Audit.

Subject to the provision of the right-turn lane and associated amendments to Brompton Farm Road, it is considered that the simple priority junction proposed is acceptable and commensurate with the vehicle trips likely to be generated by the development. On this basis, no objection is raised in respect of Policy T2 of the Local Plan. The retention of existing crossing facilities would ensure the development has safe and convenient pedestrian links with the wider area, in compliance with Policy T3 of the Medway Local Plan.

Sustainable transport

The site access is within 70 metres of bus stops on Brompton Farm Road and Cliffe Road, which are served by buses to Strood, Chatham and Rochester at least once per hour. Local schools and a range of amenities are within a reasonable walking distance from the site, and off-carriageway cycle facilities are provided on Brompton Farm Road. On this basis, the site can be accessed by non-car modes and is considered sustainable in accordance with the National Planning Policy Framework.

Internal layout and car parking

Whilst an indicative layout is submitted, further details would form part of a future application. The expectation is that car parking would be provided in accordance with Medway Council's minimum Residential Parking Standards.

The proposal single vehicular access from Brompton Farm Road and associated

highway improvements are considered acceptable and to accord with Policy.

Section 106 matters

New development can create additional demand for local services, especially where residential development is proposed. This causes the demand on educational facilities, green infrastructure and health provision. Policy S6 of the Local Plan requires that conditions and /or legal agreements should be used to make provision for such needs.

To improve and enhance capacity and make the development acceptable in planning terms developer's contributions can be sought.

Section 123 of the Community Infrastructure Levy (CIL) Regulations 2010 came into force on 6th April 2015 and means that planning obligations cannot pool more than 5 obligations of funding towards a single infrastructure project or type of infrastructure (since April 2010).

Developer's contribution requests as stated above have been received. These may only be taken into 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 obligations proposed, comply with these tests because they are necessary acceptable and are fairly reasonably related in scale and kind to the development proposed.

Having regard to the above mentioned tests for seeking section 106 obligations the following obligations would be necessary were this development to be permitted.

Affordable Housing

In terms of affordable homes, Policy H3 of the Local Plan seeks, in the urban area, to secure 25% of the new development, over 25 residential units or 1 ha in size, as affordable homes. For a development of up to 135 dwellings, the affordable housing required would amount to up to 34 dwellings, a level which the applicant is agreeable to provide.

Children's Services (Schools)

Children's service advise that the additional demand placed upon nursery, primary and secondary schools in the area could be accommodated by extending school facilities and has made the following request:

Nursery: £94,598.40 towards

Temple Mill Primary and/or Wainscott Primary and/or Bligh Infant and Juniors

Primary: £92,664.00 towards Temple Mill Key stage 1, and/or Bligh Infant and

Juniors Key stage 2

Secondary: £193,752.00 Towards Strood Academy additional classrooms, and/or Sir Joseph Williamson Mathematical School dining facilities, and/or at a new secondary free school in the area subject to land being available.

Open Spaces

While if approved, provision of open space on site would be conditioned, this will not address all open space matters, particularly regarding formal sport provision. An update on the required contributions will be provided at the Planning Committee meeting.

NHS Health Care Facilities

NHS Property Services, based upon an occupancy rate of 2.45 persons per dwelling and a per capita charge of £191.00 has requested contribution of £191 x 2.45 x 135 dwellings = 63,173.00, to be used for improvements to a GP surgery within Rochester.

Waste and Recycling

To ensure that adequate on site waste bin provision is provided and to enhance the capacity of existing waste recycling provision in the area a contribution of £155.44 per dwelling = £20984.40 is sought.

Great Lines Heritage Park

Has requested developer's contribution of £124.94 per dwelling = £16868.25

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites. Natural England has advised that an appropriate tariff of £223.58 per dwelling should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries.

£223.58 per dwelling X (135 dwellings) £30183.3

Conclusion and Reasons for Refusal

The proposals would comprise a substantial amount of new building on a rural site which is entirely free from built development. The development proposed does not fall within any of the exceptions set out in Policies BNE30 and BNE25 or the NPPF and as a consequence, the proposal constitutes inappropriate development in the Green Belt, and the Countryside which is harmful by definition. The loss of openness, which is contrary to the NPPF, should be afforded significant weight in consideration of this application.

Having established the nature and extent of the harm to the Green Belt, Countryside and ALLI, the key consideration is whether this harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the inappropriate development. In this case, the applicant has promoted a number of considerations which have been considered in detail above. In light of the analysis contained in this report, it is concluded that the benefits of the scheme do not clearly and demonstrably outweigh the harm that would be caused.

Additionally, the development would result in loss of high-quality agricultural land contrary to policy BNE48 and paragraph 112 of the NPPF.

The application would normally be determined under delegated powers but is being referred to Planning Committee for decision for consistency due to Committee recently determining a number of other applications for housing development on green field sites where the argument and balance regarding lack of 5 year housing land supply, the 3 strands of Sustainable development set out in the NPPF and the weight attached to the Development Plan and NPPF have been the determining issues.

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/>