

MC/21/1004

Date Received: 8 April 2021
Location: Land West of Layfield Road Gillingham
Medway ME7 2QY
Proposal: Construction of 20 No. residential dwellings and the creation of a new access from Pier Road. Provision of associated car parking, hardstanding, landscaping, open spaces and ecology area, infrastructure including drainage and earthworks including tree clearance and the formalisation of parking area at Layfield Road.
Applicant: Esquire Developments Ltd and MHS Homes Ltd
Mr Andrew Wilford
Agent
Ward: Gillingham North Ward
Case Officer: Dylan Campbell
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 18th August 2021.

Recommendation - Approval with conditions subject to the full SAMMS Mitigation payment

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers GLR-BPTW-05-ZZ-DR-A-1060 Rev C01 received 8 April 2021; and GLR-BPTW-05-ZZ-DR-A-0120 Rev C03 and GLR-BPTW-05-ZZ-DR-A-0122 Rev P01 received 19 July 2021.

Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 No development above slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented 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.

- 4 Prior to the first occupation of the development herein approved a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any dwelling and/or building is occupied and shall thereafter be retained.

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

- 5 Prior to the first occupation of the development herein approved, full details of a hard and soft landscape scheme (including outside of the application site) should be provided:
- i. Plans and information providing details of existing and proposed finished ground levels, means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, all paving and external hard surfacing, lighting and services (including drainage), tree grilles, minor artefacts and structures. Soft landscape works, including details of planting plans, tree positions, planting build ups, written specifications (including cultivation and other operations associated with grass, tree and planting establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes, root treatments and proposed numbers/densities where appropriate.
 - ii. Details for the design and specification of tree planting to enable healthy establishment at maturity. Information should provide details for the planting environment (including within hard landscape), calculated soil volume, tree support and tie specification, guards and grilles, aeration and irrigation systems, soil build-up information (avoiding the use of tree sand), tree cell systems (to street tree planting environments).

A timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and timetable and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

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

- 6 Prior to the first occupation of the development herein approved, a Landscape Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for

implementation. The development shall thereafter be managed in accordance with the approved details.

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

- 7 No development shall take place until the scheme for the protection of the retained trees within the Arboricultural Report Ref: GRS/TS/TCP/AIP/TTP/AIA/3/20 Rev A (dated 8 June 2021) received 8 June 2021 has been implemented. The tree protection measures shall be retained throughout the construction phase of the development.

Reason: Required prior to the commencement of development to ensure no irreversible harm to retained trees and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE43 of the Medway Local Plan 2003.

- 8 No development shall take place (including site clearance) until an Ecological Mitigation and Management Plan (EMMP) has been submitted to and approved in writing by the Local Planning Authority. The EMMP shall be based on the recommendations in Section 6 of the Ecological Appraisal by Aspect Ecology (dated April 2021) and Section 4 of the Reptile Survey report by Aspect Ecology (dated June 2021). It shall provide detailed mitigation measures and ecological enhancements to be carried out on site, together with a timetable for implementation. The EMMP shall include the following:
- a) Risk assessment of potentially damaging site clearance and construction activities.
 - b) Extent and location of proposed mitigation measures, shown on appropriate scale maps and plans.
 - c) Identification of 'biodiversity protection zones'.
 - d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during site clearance and construction (may be provided as a set of method statements);
 - e) The location and timing of sensitive works to avoid harm to biodiversity features.
 - f) The times during construction when specialist ecologists need to be present on site to oversee works.
 - g) Responsible persons and lines of communication.
 - h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - i) Use of protective fences, exclusion barriers and warning signs.

The development shall be implemented in accordance with the approved EMMP throughout site clearance and the construction period.

Reason: Required prior to commencement of development to ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 9 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use together with a report to demonstrate its effect on the landscaping of the site (including an overlay of the proposed lighting onto the site landscaping plans), the rural landscape, bats (including reference to the recommendations of the Bat Conservation Trust) and of how this effect has been minimised. These measures shall be based on those outlined in the recommendations of Section 6 (MM5) of the Ecological Appraisal by Aspect Ecology and will thereafter be implemented and maintained in accordance with the approved details.

Reason: In order to limit the impact of the lighting on the landscaping of the site, nearby residents and wildlife and with regard to Policies BNE1, BNE2, BNE5 and BNE39 of the Medway Local Plan 2003.

- 10 Prior to the first occupation of the development herein approved a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions, together with a plan of management compartments.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period.
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The

plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long-term management of habitats, species and other biodiversity features in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 11 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 specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on any archaeological interest and to ensure that features of archaeological interest are properly examined and recorded in accordance with Policy BNE21 of the Local Plan 2003.

- 12 No development shall take place until details of foundations designs and any other proposals involving below ground excavation have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on any archaeological interest and to ensure that due regard is had to the preservation in situ of important archaeological remains in accordance with Policy BNE21 of the Local Plan 2003.

- 13 No development shall take place until a scheme based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

The scheme shall include (where applicable):

- i. Details of the design of the scheme (in conjunction with the landscaping plan where applicable).
- ii. A timetable for its implementation (including phased implementation).
- iii. Operational maintenance and management plan including access requirements for each sustainable drainage component.
- iv. Proposed arrangements for future adoption by any public body, statutory undertaker or management company.

The development shall be undertaken in accordance with the agreed scheme.

Reason: Required before commencement of development to manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 168 of National Planning Policy Framework 2021.

- 14 Prior to the first occupation of the development herein approved a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the un-adopted parts of the scheme as constructed.

Reason: To ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere in accordance with paragraph 168 of the National Planning Policy Framework 2021.

- 15 No development shall take place (including site clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of hours of construction working; measures to control noise affecting nearby residents; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period on the amenities of local residents with regard to Policy BNE2 of the Medway Local Plan 2003.

- 16 No development other than that required to be carried out as part of an approved scheme of remediation must commence until conditions 17 to 19 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 20 has been complied with in relation to that contamination.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

17 An investigation and risk assessment in addition to any assessment provided with the planning application, must be completed in accordance with the recommendations of section 31 in the Phase 1 Desk Study, Site Reconnaissance & Phase II Site Investigation Report by Leap Environmental dated 21 July 2020. The scheme shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination.

(ii) an assessment of the potential risks to:

* Human health

* Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.

* Adjoining land,

* Groundwaters and surface waters,

* Ecological systems,

* Archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Land Contamination Risk Management document (LCRM)'.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

18 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 19 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development

Reason: Required before occupation of development to avoid any irreversible detrimental impact on human health as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 20 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 17, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 18, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 18 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 19.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 21 The development herein approved shall be implemented and retained in accordance with the recommendations outlined in the Air Quality Assessment Ref: 38843-2021(dated March 2021) received 8 April 2021.

Reason: Required to ensure that the development does not prejudice the amenities of the surrounding area and future occupiers of the properties in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 22 The development herein approved shall be implemented and retained in accordance with the recommendations outlined in the Noise Impact Assessment Ref: 210202/1 (dated 22 March 2021) received 8 April 2021.

Reason: Required to ensure that the development does not prejudice the amenities of the future occupiers of the properties in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 23 No development shall take place until full details of the following highway improvements have been submitted to and approved in writing by the Local Planning Authority:

Access & Parking arrangements as outlined in drawing number 15236-H-01 Rev P2 within the Transport Statement Ref: PL/IH/15236 (dated April 2021) received 8 April 2021.

The approved details shall thereafter be implemented in full prior to first occupation of the development.

Reason: to ensure the development preserves conditions of highway safety, pedestrian safety and the free flow of traffic, in accordance with Policies T1, T2 and T3 of the Medway Local Plan 2003.

- 24 Prior to the first occupation of the development herein approved the area shown on drawing number GLR-BPTW-05-ZZ-DR-A-0120 Rev C03 received 19 July 2021 as vehicle parking space (including the formalised parking adjacent to Layfield Road) shall be provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 25 Prior to the first occupation of the development herein approved details of cycle storage facilities in the form of individual lockers shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall be implemented in accordance with the approved details and retained thereafter.

Reason: To ensure satisfactory cycle storage in accordance with Policy T4 of the Medway Local Plan 2003.

- 26 Prior to the first occupation of the development herein approved details of the provision of 20 electric vehicle charging points (1 per dwelling) shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained in working order

Reason: In the interests of sustainability in accordance with paragraph 112E of National Planning Policy Framework 2021.

- 27 Prior to the first occupation of the development herein approved details of refuse storage facilities in private rear gardens and on the highway shall be submitted to and approved in writing by the Local Planning Authority. The refuse storage facilities shall be implemented in accordance with the approved details prior to first occupation of the development.

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.

- 28 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Planning Statement (dated April 2021) received 9 April; and email correspondence with the applicant received 28 July 2021. The development shall not be occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been implemented.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 154 the National Planning Policy Framework 2021

- 29 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) the dwellings herein approved shall remain in use as a dwelling house falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 30 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A, B and E of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of visual and neighbouring amenity and safeguarding protected trees in accordance with Policies BNE1 and BNE2 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

The proposal seeks full planning permission for the construction of 20 residential dwellings and the creation of a new access from Pier Road, provision of associated car parking, hardstanding, landscaping, open spaces and ecology area to the east, infrastructure including drainage and earthworks including tree clearance and the formalisation of parking area at Layfield Road. The application has been jointly brought forward by Esquire Developments and MHS for a 100% affordable housing scheme, subject to a successful bid for grant funding for shared ownership.

The proposal forms a series of 10 pairs of 3-bedroom, 2.5 and 3-storey, semi-detached dwellings with the main access from Pier Road. A buffer of soft landscaping is proposed along Pier Road to screen the development and provide a natural defence against the road. Each dwelling would benefit from a private rear garden with refuse and cycle storage. 30 parking spaces would be provided to the front of the dwellings along with 4 parallel visitor spaces. Formalisation of 10 parking spaces is proposed in Layfield Road to serve the existing residents of Layfield Road.

Two forms of architectural character are proposed to provide variation along the proposed streetscene, derived from the Layfield Road and civic building characters within the locality. These characters are referenced in the ground floor bay windows and modest dormers to front and rear, strong gable fronted roof form at 3 storeys, white weatherboard material and yellow and red brick tones, along with black window frames and dark roof tiles.

Housing type 1 would measure approx. 9.5m in depth, approx. 5m in width, approx. 5.7m to the eaves and approx. 10.7m to the ridge. The ground floor would comprise a kitchen, living and dining room, store cupboard and W/C; the first floor would comprise a double bedroom and single bedroom, bathroom, and store cupboard; and the second floor would comprise a double bedroom, en-suite, study, and store cupboards.

Housing type 2 would measure approx. 9.5m in depth, approx. 5m in width, approx. 8m to the eaves and approx. 10.7m to the ridge. The ground floor would comprise a study, kitchen and dining room, store cupboards and W/C; the first floor would comprise a living room, double bedroom, and bathroom; and the second floor would comprise a single bedroom and double bedroom with a roof terrace.

Housing type 3 would measure approx. 9.5m in depth, approx. 5m in width, approx. 8m to the eaves and approx. 10.7m to the ridge. The ground floor would comprise a study, kitchen and dining room, store cupboards and W/C; the first floor would comprise a living room, double bedroom, and bathroom; and the second floor would comprise a single bedroom and double bedroom with a roof terrace.

In addition to the residential element of the scheme, the proposal includes a dedicated ecology area in the eastern area of the site adjacent to 65 Layfield Road. The area measures approx. 0.156 ha and would not be accessible for residents or members of the public. The ecology area would consist of new planting of native species of trees and shrubs. Other ecological enhancements include log piles, bat boxes, hedgehog domes, bee bricks and bird boxes. Additional landscaping is proposed between the parking spaces to the front of the proposed dwellings, to the west of the site adjacent to Baron Close, as well as the landscape buffer to the north of the site and planting outside of the site boundary adjacent to Pier Road.

Site Area/Density

Site Area: 0.609 hectares (1.5 acres)

Site Density: 33 dph (13 dpa)

Relevant Planning History

MC/18/2437

Construction of five 3-bedroom houses with carports, associated parking, and access driveway together with parking spaces retained for use of the residents
Decision: Refusal
Decided: 6 August 2019

Representations

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

Natural England, Environment Agency (EA), KCC Archaeology, KCC Biodiversity, RSPB, Kent Wildlife Trust, Kent Police, Southern Gas Network (SGN), EDF Energy

and Southern Water have also been consulted.

1 letter of support has been received from Rehman Chishti MP outlining that this development, for affordable housing, would be a welcome development for families and welcomes the additional parking for residents, and measures to support wildlife in the area.

8 letters have been received raising the following objections:

- Overdevelopment of the area
- Inadequate Parking
- Increased parking competition
- Safety of access onto Pier Road
- Traffic concerns and congestion
- Traffic pollution
- Protection of Conservation Area
- Loss of wildlife and need for mature trees
- Loss of woodland
- Disruption during construction process

Natural England advise that subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

The **EA** have assessed this application and they are unable to provide bespoke comments with respect to groundwater and contaminated land where proposed development is outside of a Source Protection Zone. They recommend that the standing advice provided is followed which relates to groundwater and contaminated land (outside of Source Protection Zones only).

KCC Biodiversity initially reviewed the ecological information submitted and advised that further surveys for reptiles, along with any necessary mitigation measures were required prior to determination of the planning application. The survey and proposed mitigation have now been submitted. KCC Biodiversity have been consulted and they are satisfied that sufficient information has been submitted and provided suggested conditions.

Additionally, they have advised of the need for a contribution to the North Kent SAMMS and appropriate assessment. They welcome the retention and creation of habitats within the east of the site, which could provide enhanced opportunities for biodiversity. Advice in relation to bats has been provided for designing any lighting scheme. Permeability across the site for hedgehogs is advised. An informative is provided regarding any work to vegetation that may provide suitable nesting habitats.

Kent Police have advised that applicants/agents should consult them as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured By Design (SBD) as appropriate. They have advised that if the requirements listed in the consultation response are secured by planning condition no objection are raised.

SGN has advised that there are high pressure pipelines in the vicinity of the proposed work area. SGN formally object to this planning application until such time as a detail consultation has taken place. Following this consultation response from SGN, HSE has been consulted and the outcome was they do not advise on safety grounds, against the grant of planning permission in this case. SGN have been advised of this outcome. SGN have responded with guidance and restrictions regarding works near gas pipelines.

Southern Water indicates that foul and surface water sewage disposal to service the proposed development can be provided. Southern Water requires a formal application for a connection to the public foul and surface water. Advice on SuDS, SuDS maintenance and when they would be adopted by Southern Water. A sewer now deemed to be public could be crossing the development site. Therefore, an ownership investigation of the sewer will be required before any further works commence on site. Southern Water can facilitate water supply to service the proposed development. A formal application for a connection to the water supply is required.

KCC Archaeology advise there is a risk that important archaeological remains might be present, but the heavily overgrown nature of the site prevents any meaningful evaluation of the site's archaeological interest prior to the determination of the application. Leaving this open-ended is not ideal, but the applicant's consultant understand the risk and that if significant remains are present then the design of the scheme may need to be revisited (either due to the significance of the archaeology present or as a result of the cost of investigating it). As a result, a programme of archaeological work would be secured by condition.

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 2021 and are considered to conform.

Planning Appraisal

Principle

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

The application site is located within a greenfield site within an urban area, populated by trees, secondary woodland, scrub and other self-regenerating vegetation, therefore the principle of the proposed development would fall outside of the development strategy as set out in the Local Plan, which directs development to derelict, damaged and previously developed land as the first choice for new development, in preference to the release of fresh land. Policies S1 and S2 of the Local Plan seek to prioritise redevelopment within the existing urban fabric and then strategically sustainable development using a sequential approach to location. The site is designated under Policy L6 of the Local Plan defined as an open space allocation, which would be safeguarded for the provision of informal open space.

The scheme proposes 20 affordable residential dwellings, the creation of a new access from Pier Road, car parking, landscaping and ecology area to the east, infrastructure including drainage and earthworks, tree clearance and the formalisation of parking area at Layfield Road.

Part of the site has previously been used as allotments as indicated by historic maps. 'Allotments' are excluded from the definition of 'previously developed land' in Annex 2 of the NPPF and as such the site is a greenfield site. A key element of national housing policy within the NPPF is to minimise the loss of greenfield sites for residential use by making the best use of development opportunities within existing urban areas.

It is in considering these Local Plan policies that the proposal, as a residential scheme on an unallocated greenfield site would be deemed contrary to the strategic direction of the Local Plan highlighted in Policy S1 and S2 and supported by Policy H4 of the Local Plan which seeks to minimise the loss of greenfield sites a resist the loss of open space for residential use and supports residential development in the form of infilling of vacant or derelict land providing that a clear improvement in the local environment will result.

However, it is acknowledged and material that the Local Plan is of some age, being adopted in 2003; the Council does not currently have a five-year land supply; and as of the 2020-21 Housing Delivery Test, the Council had only delivered 55% of its target number of dwellings in the preceding 3 years.

The NPPF seeks to pursue sustainable development, in a positive way through a presumption in favour of sustainable development, unless the policies within the NPPF provide clear reasons for refusing development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (paragraph 11).

In determining whether the principle of this proposal is acceptable, it is important to assess the loss of protected open space against the provision of much needed housing and whether the proposal constitutes sustainable development within the planning balance.

Loss of Open Space

Paragraph 119 of the NPPF states that decisions should *'promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.'*

The NPPF also seeks to provide open space and protect and enhance existing open space and recreation as access to a network of high-quality open spaces is important for the health and well-being of communities. Paragraph 99 of the NPPF resists development of existing open space unless an assessment has been undertaken which shows the open space to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision; or the development is for alternative sports and recreational provision, the benefits of which outweigh the loss of the current or former use.

In determining whether the loss of open space is acceptable, it is important to assess the quality and availability of the site as open space, the benefits it brings for health and well-being of communities, and the quality and availability of the space.

The application site is classed as a greenfield site, having not previously been developed and was allocated for informal public open space in the Local Plan. The NPPF seeks high-quality open space and opportunities for sport and physical activity, which is important for the health and well-being of communities. The open space does bring a benefit in terms of visual amenity. However, since the adoption of the Local Plan in 2003, the space has not been a usable community asset and has remained in private ownership. Moreover, it is understood from the Planning Statement (dated April 2021) that the site experiences ongoing issues with anti-social behaviour, which was evident when visiting the site and therefore does not benefit the community as useable space. Additionally, it is noted that there is a significant provision of open space in the locality being Grange Road and the Strand and it is considered that the loss of the application site as informal public open space would not lead to a deficiency in provision for the community. Taking this into account, it is considered that the loss of this site as informal public open space would not conflict with the objectives of the NPPF. However, careful consideration is required regarding the loss of open space in the planning balance in terms of the impact on the visual amenity of the area and in relation to the Gillingham Green Conservation Area which is characterised by the chain of open spaces that connect and contribute to the setting of the Grade II* St Mary Magdalene church.

Design and Layout

Paragraphs 126 and 130 of the NPPF emphasises the importance of good design. Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area; Policy BNE14 of the Local Plan relates to development affecting the setting of Conservation Areas and paragraphs 202 and 203 of the NPPF outlines that the harm of a development should be weighed against its benefits in terms of its impact on heritage assets.

Layout

The site is an informal public open space which makes a positive contribution to the Gillingham Green Conservation Area. The site is bounded by residential development, Gillingham Green, Layfield Road and the newer development of Mistletoe Court, and it is characterised by the chain of open spaces that connect and contribute to the setting of the church. The surrounding existing development, namely Layfield Road, Court Lodge Road and King Edward Road to the east and southeast of the site comprise long terraces in a linear form, generally 2-storey in height and results in a high density of dwellings.

The proposed development would result in a loss of an area of informal open space to provide for a total of 20 semi-detached residential dwellings. In terms of the size and scale of the development, the proposed height of the buildings would be similar to others in the local context and of a similar density. The building line would be relatively uniform, being of a similar alignment and height, with minimal spacings between properties, due to the site constraints and number of dwellings proposed. This configuration makes the line appear as a single terraced block instead of being viewed as distinct semi-detached houses. Moreover, the proposal includes a total of 30 off road parking spaces and 4 visitor spaces.

Concerns were raised by the Council regarding the amount of site clearance needed to accommodate this density of development and the level of hardstanding that would result to accommodate the required parking. The applicants were advised that the high proportion of hardstanding coupled with the number of dwellings could result in a harsh, and cramped form of over development of the site, which due to the constraints of the site, could not be mitigated against with adequate landscaping. Therefore, it was considered proposal would result in a detrimental change in the character of the Conservation Area, whereby there would be a significant loss of soft landscaping, replaced with a densely packed housing, hardstanding, and insufficient scope for replacement planting.

Whilst the density of the proposed housing would be similar to the surrounding built form of the development, it was considered that this scheme would need to be more sensitive to the application site, being an area of open space and to the character and appearance of the Gillingham Green Conservation Area. In light of this, the LPA suggested a reduction in the number of units, which would allow for greater spacing between the units, less parking spaces and therefore increased scope for landscaping.

The applicants advised that the scheme as proposed would not be viable with a reduction of units below 20. The application is supported by a Financial Viability Assessment (dated 16 March 2021) which concluded that a viable scheme is one which contains 20 homes for market sale including no S106 contributions. Although it should be noted that the proposal is for the scheme to be 100% affordable housing. Therefore, reduction in the number of units would not be possible and this path has not been pursued.

In considering a way forward which would help address the Council's concerns, negotiations have resulted in the applicants putting forward additional mitigation measures which would include additional planting to the north of the application site, between the site boundary and Pier Road, whereby there would be a significant

landscaped buffer to soften the appearance of the hard surfaced areas. This coupled with the proposed planting beds between parking spaces would help break up the linear row of development. Whilst this does not fully address the concerns raised regarding the densely packed appearance of the development, it is appreciated that a reduction in the number of dwellings is not viable. Additionally, the Council does not currently have a five-year land supply; and as of the 2020-21 Housing Delivery Test, the Council had only delivered 55% of its target number of dwellings in the preceding 3 years. In light of this, whilst a reduction in units would be preferable, the mitigation measures proposed, the presumption in favour of sustainable development, the need for housing and the fact that the scheme proposes 100% affordable housing would give significant weight in favour of the proposal. This is discussed further in the Planning Balance section of the report.

Any forthcoming planning application would include conditions which require the submission and approval of a materials, hard and soft landscaping, boundary treatments and detailed landscaping strategy including planting outside of the application site.

Architecture

Two forms of architectural character have been developed to provide some variation along the proposed streetscene, derived from the Layfield Road and civic building character.

Housing type 1 would reference the Layfield Road character with dormer windows to front and rear, ground floor extruded window into the kitchen and difference in colour of brick choices. In total there are 8 red brick houses and 4 yellow brick houses with a ground floor extruded window.

Housing type 2 would reference the civic character with white weatherboarded strong gable end and would be located at either end of the street. The roof terrace to the front of the dwelling provides a setback in the roofline. This terrace is located off the master bedroom and in total there are 4 of these houses across the site.

Housing type 3 would be very similar to type 2 in referencing the civic character with white weatherboarded strong gable end. This housing type would be located at the centre of the street fronting the access onto Pier Road. The roof terrace to the rear of the dwelling provides a setback in the roofline. This terrace is located off the master bedroom and in total there are 4 of these houses across the site.

Coupled with a detailed landscaping strategy which would include planting outside of the application site, it is considered that the scheme has, in design and layout terms, been well thought through and subject to detailing would represent a high-quality development. Any forthcoming planning application would include conditions which require the submission and approval in writing of materials, boundary treatments and hard and soft landscaping including planting outside of the application site.

Visual Impact on the Historic Environment

The site is currently a green area, populated by trees, secondary woodland, scrub and other self-regenerating vegetation located in the Gillingham Green Conservation Area as designated under Policy BNE12 of the Local Plan which seeks to preserve and enhance the character and appearance of the Conservation Area. Policy BNE14 of the Local Plan also provides guidance on development within Conservation Areas outlining that high quality design should be achieved. Paragraph 201 of the NPPF seeks to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Any remaining harm needs to be weighed as part of the planning process against the overall public benefits of the development, as per paragraph 202 of the NPPF. Policy BNE43 of the Local Plan and paragraph 174 of the NPPF seeks to retain trees, woodlands, hedgerows and other landscape features that provide a valuable contribution to local character.

The site is located in north Gillingham, to the south of the A289 (Pier Road); and west of Layfield Road, which is a heavily parked dead-end residential street; to the west is Baron Court; to the immediate south is another area of open space designated under Policy L6 of the Local Plan; further south is Christmas Street; and to the southwest is Play-Away Activity Centre Children's Nursery.

The significance of the Conservation Area was noted by a Planning Inspector for an appeal related to a previous application on an adjacent site (MC/05/1976). The Planning Inspector stated *"To me the historic and architectural interest of the Conservation Area lies in the church as the focal point. Its character is largely defined by the chain of open spaces that connect and contribute to the setting of the church."* The application site can be considered to be one of these open spaces and although it does not currently contribute to the usable open space available to the public it contributes significantly to the visual amenity and character of the Conservation Area.

The proposal would result in a considerable proportion of existing vegetation to be removed to facilitate the construction of the dwellings which would change the character to the existing site and the visual nature of Pier Road, which is at present tree lined and "green" at this location. Understanding this point and through negotiation with the Council, the applicants have put forward landscape mitigation measures to achieve a screen of landscaping to Pier Road as well as retaining and enhancing vegetation throughout the site where possible. The landscape proposals are considered acceptable and adequate in minimising the visual impact of the development on the conservation area. The assessment of the landscape proposals is set out in greater detail in the Landscape and Trees section of this report. Subject to further considerations of the proposed new planting no objections are raised regarding the impact to the visual character and appearance to the Conservation area in accordance with Policies BNE12 and BNE14 of the Local Plan and paragraphs 201 and 202 of the NPPF.

Landscape and Trees

Policy BNE43 of the Local plan states that development should seek to retain trees, woodlands, hedgerows, and other landscape features that provide a valuable

contribution to local character. Policy BNE6 of the Local Plan relates to the need for detailed landscape schemes to be submitted with applications for major development to enhance the character of the locality and relate to planting, maintainability, vistas, hard landscaping, retention of important existing features, supporting wildlife, management, and maintenance. Policy BNE14 of the Local Plan seeks to preserve or enhance Conservation Areas, which includes the retention and protection of trees and open spaces. paragraphs 174 and 180 of the NPPF outlines that planning decisions should contribute to and enhance the natural and local environment and if significant harm cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, the planning permission should be refused.

The site is covered by secondary woodland and scrub, which is considered to make a positive contribution to the visual character of the conservation area. The woodland area comprises a mix of species including sycamore, hawthorn, elm, elder, alder, silver birch, ash, malus and plum as outlined in the applicants Arboricultural Report Ref: GRS/TS/TCP/AIP/TPP/AIA/3/20 Rev A (dated 8 June 2021) and the Ecological Appraisal Ref: 6066 RefL EcoAp vf /MC/MD.

There are questions regarding the accuracy of the submitted Arboricultural Report, whereby some areas of the site have not been adequately surveyed, some trees appear to be mis-plotted and the number of trees that could be retained. Concerns have also been raised regarding the impact to the trees to be retained to the south of the application site, outside of the applicant's ownership.

Although there does appear to be some discrepancies in the Arboricultural Report, it is noted that the application is also supported by an Ecological Appraisal, which gives a clearer indication of the extent of the secondary woodland. These documents read together, along with photos available on google earth and the several site visits undertaken by Officers provide a clear picture of the existing site conditions to be able to make an informed decision on the proposal with regard to tree loss and landscaping.

Excluding the proposed ecology zone, the proposal necessitates the removal of many of the trees to facilitate the construction of the proposed dwellings. These trees are not subject to a TPO but do form part of the Conservation Area and it is understood that the loss of this woodland area could result in a negative impact to the streetscene and Conservation Area particularly if little or no mitigation is proposed. Following concerns raised by the Council regarding the loss of trees and little scope for adequate replacement planting, it has been agreed that additional planting outside of the site along the northern boundary can be secured by condition as part of any forthcoming permission. Therefore, it is considered that through replacement planting within and outside of the site boundaries, it would be possible to adequately mitigate the impact of the development which would arise as a result of the loss of trees.

The scheme would be highly reliant upon the quality of planting, level of screening and successful planting establishment that can be achieved across the northern boundary of the site to help integrate it within its surroundings. Therefore, detailed landscaping

and management plans would be conditioned as part of any forthcoming planning permission.

Concerns have been raised by the Council about the likelihood of the trees along the southern boundary being retained given the proposed land level changes and engineering works required near to the trees. The applicants have offered an engineering solution whereby the construction of the retaining wall along the southern boundary would not result in detrimental impact to the trees. The Council are not convinced that this solution would mitigate against the impact to the trees, and it is likely that the trees would need to be removed. Although these trees have some amenity and ecology value, it is considered that the loss of these trees would not result in a detrimental impact and would therefore not warrant refusal of the application. As such, no objection would be raised to the removal of these trees should the applicant's design solution not be successful in this regard. It is understood that these trees are not within the ownership of the applicants and if planning permission is forthcoming, and it becomes apparent that the trees along the southern boundary cannot be retained, the applicants will need to contact the landowner in this regard. It is recommended that an informative be included on the decision notice to draw the applicant's attention to this.

Subject to conditions being secured relating to tree protection measures being implemented for the retained trees and a detailed landscaping strategy including planting outside of the application site being submitted, no objection is raised with regard to Policies BNE6, BNE14 and BNE43 of the Local Plan and paragraphs 174 and 180 of the NPPF.

Ecology

Paragraph 8 of the NPPF relates to sustainable development, paragraph 174 and 179 of the NPPF outlines that planning decisions and plans should contribute to and enhance the natural and local environment in terms of, and amongst other matters, minimising impacts on and providing net gains for biodiversity; and paragraph 180 of the NPPF provides guidance regarding habitats and biodiversity when determining planning applications. Policy BNE39 of the Local Plan outlines that development would not be permitted if statutorily protected species and/or their habitat will be harmed and that conditions would be attached to ensure that protected species and/or their habitats are safeguarded and maintained.

The application is supported by an Ecological Appraisal Ref: 6066 EcoAp vf /MC/MD (dated April 2021) and Phase II Survey Results (Reptiles) Ref: 6066 Ph2 dv2/MC/DM (dated June 2021).

The ecological appraisal noted that the site largely comprises dense scrub and developing woodland. The site also contains areas of slightly less dense scrub with tall ruderal vegetation which are predominantly located within the east of the site. Suitable habitat for reptiles is present on site. Reptiles are protected through the Wildlife and Countryside Act 1981 (as amended) and are a priority species in the UK. To assess the potential impacts to any reptile populations, the applicants have undertaken a reptile survey and provided details on how this population will be retained

on site. The Phase II survey indicated the site contains 'low' populations of Common Lizard and Slow Worm. A section of the suitable reptile habitat in the south-eastern part of the site would be lost. As such, to safeguard reptiles during works to these areas the Phase II survey recommends habitat manipulation to encourage reptiles to disperse to suitable areas of retained/nearby habitat, and habitat enhancement to enhance and increase the carrying capacity for reptiles.

The retention and creation habitats within the east of the site is welcome as this could provide enhanced opportunities for biodiversity. It is considered that the ecological information submitted in support of this planning application as detailed above is sufficient. If planning permission is forthcoming, conditions securing ecological avoidance and mitigation measures and the implementation of ecological enhancements would be attached.

It should be noted that lighting can be detrimental to roosting, foraging and commuting bats, the recommendations from the Bat Conservation Trust and the Institution of Lighting Professionals, titled 'Guidance Note 8 Bats and Artificial Lighting', should be considered, when designing any lighting scheme for the proposed development. These measures would be secured as part of any forthcoming planning permission.

Permeability across the site for hedgehogs should also be considered. Close board fencing should be avoided where possible, with suitable alternatives selected that allow movement underneath. It is recommended that 'hedgehog highways' (i.e. at least 13 x 13 cm holes) are cut into the base of close board fencing to allow movement of hedgehogs across the site. Furthermore, gaps should be left underneath gates and brick spaces should be left at the base of any proposed brick walls. Hedgehog holes should be positioned to connect as much of the landscape as possible to the development site. Subject to conditions securing these measures, no objections are raised regarding Policy BNE39 of the Local Plan and paragraphs 8, 174, 179 and 180 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposed development on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and paragraph 130f of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

The proposal would be sited between Layfield Road, Baron Court, Christmas Street; and Play-Away Activity Centre Children's Nursery, however it would be relatively isolated from these surrounding properties and sited at a lower land level. The nearest residential properties would be Baron Court approx. 19m to the west of the application site. Due to the relationship of the proposed dwellings with surrounding neighbours, the orientation of the site and the path of the sun, there would be no detrimental impact on neighbour's amenities in terms of loss of outlook, daylight or sunlight. The proposal would result in a degree of mutual overlooking for the occupiers of the proposed dwellings but would not result in any detrimental impact in terms of privacy as outlook

would be orientated from rear elevation windows predominantly down future occupants' own gardens.

Due to the proximity of the proposal to neighbouring dwellings it is recommended that a Construction Environmental Management Plan is secured by condition to mitigate noise and disturbance to nearby residents during the construction process.

Future Occupiers Amenity

With regard to the amenities of the future occupiers, the proposed dwellings have been considered against the technical housing standards - nationally described space standard dated March 2015 (the national standard).

The proposal would comprise 20 three-bedroom five-person dwellings over three floors which would require a minimum GIA of 99m² as set out in the national standard. House Type 1 would measure approx. 100.3m², and House Types 2 and 3 would measure approx. 103.4m². All single and double bedrooms would meet the national standards area and width requirements and all habitable rooms would be provided with suitable outlook.

As guidance, the Medway Housing Standards (interim) November 2011 (MHDS) states that gardens should be 10m in depth and 7m when constraints exist. The depth of the proposed gardens would be between approx. 6.94m and 7.6m. Whilst having relatively small gardens, some with a short fall of approx. 0.06m is not ideal for family sized dwellings, however it is appreciated that this is a relatively constrained site in an urban location. Additionally, these gardens would be bounded by a retaining wall to the rear and trees beyond this. Therefore, the gardens would only benefit from sunlight in the early hours of the morning and late evening and would be overshadowed in the middle of the day. Whilst the tree canopies will have an impact on outlook and daylight provision, and this relationship is not ideal, in recognising that there are areas of open space close by (Grange Road and the Strand), the visual benefit that the presence of trees can have on personal wellbeing, and that future occupiers would be moving into these homes knowing the trees are there, it is considered that on balance, this relationship is considered acceptable. Furthermore, there will be times of the year when the trees will not be in leaf, and therefore the impact on outlook and daylight during these periods will be improved.

In summary, the impact of the development on the amenities of neighbours is considered acceptable as is the standard of accommodation which would be provided for occupants of the site itself having regard to Policy BNE2 of the Local Plan and paragraph 130 of the NPPF.

If planning permission was forthcoming, due to the restricted garden sizes, and number of parking spaces, it is considered that permitted development rights relating to enlargement and outbuildings be removed under Classes A, B and E of the schedule 2, part 1 of the Town and Country Planning (General Permitted Development) Order 2015, in the interest of future occupier and neighbouring amenity in accordance with Policy BNE2 of the Local Plan and paragraph 130 of the NPPF.

Given the size of the proposed properties and the ability to subdivide rooms to create additional bedrooms, there is potential for the properties to be converted to a small HMO in the future. Given the single household residential character of the area that this development would comprise of and the level of parking available, a conversion to a small HMO may result in a harmful impact to the amenity of neighbouring residents in terms of noise and disturbance through increased comings and goings of individuals and amenity and highways safety in terms of indiscriminate parking. Therefore, if planning permission was forthcoming, it is recommended that permitted development rights be removed regarding the change of use between use class C3 and C4.

Air Quality

Consideration has been given regarding the relationship of the proposal and Pier Road particularly in relation to noise and air quality. The Gillingham Air Quality Management Area (AQMA) follows the A289 Pier Road. The AQMA has been declared for NO² from road transport sources. The proposed development is located immediately to the southeast of this AQMA. Policy BNE24 of the Local Plan relates to air quality and airborne emissions. Paragraph 186 of the NPPF outlines that decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

The application is supported by an Air Quality Assessment Ref: 3884\GM\03-2021\AQA (dated March 2021). The assessment contains mitigation measures relating to construction activity, building mitigation and vehicle emissions mitigation which are considered acceptable and would be conditioned to be implemented as part of any forthcoming planning permission. Therefore, no concerns are raised regarding air quality and the proposal is considered to be in accordance with Policy BNE24 of the Local Plan and paragraph 186 of the NPPF.

Noise

The application is supported by a Noise Impact Assessment (dated 22 March 2021) due to the proximity of the busy Pier Road to the north of the application site. Policy BNE2 of the Local Plan and paragraph 130 of the NPPF seeks to secure future occupier amenity with regard to noise, as noise can significantly affect the quality of life of future residents.

The assessment considered that the main noise source affecting the proposed housing development is traffic noise from Pier Road. Noise levels from the nursery play area are low in comparison with the road traffic noise, even at the rear of the proposed houses where the road traffic noise is shielded by the structures of the houses. The assessment goes on to explain the necessary acoustic gradings required for the windows, ceilings, second floor front roof and dormer window surrounds facing Pier Road to achieve the internal noise levels recommended by BS 8233:2014; and the requirements for mechanical ventilation. The assessment concludes that with these noise protection measures in place, noise levels within the houses and outside in the rear gardens will be suitable for the proposed residential use.

The recommendations set out in the submitted assessment are acceptable and subject to the conditions requiring implementation, the proposal is considered to be in accordance with Policy BNE2 of the Local Plan and paragraph 130 of the NPPF.

Contamination

Policy BNE23 of the Local Plan requires that proposals for development of land likely to be contaminated should be accompanied by the findings of a site examination, which identifies contaminants.

This application is supported by a Phase 1 Desk Study and Site Reconnaissance Report Ref: LP2476 (dated 1 March 2021) which recommends a Phase 2 intrusive investigation due to potential contamination issues which could have impacted the site.

If planning permission is forthcoming, it would be considered necessary to recommend contaminated land conditions. These conditions would relate to an investigation and risk assessment, a scheme of remediation and implementation of this scheme along with a watching brief condition. The assessment and remediation scheme would be required before commencement of development in accordance with Policy BNE23 of the Medway Local Plan and paragraph 183 of the NPPF.

Archaeology

Policy BNE21 of the Local Plan relates to development affecting potentially important archaeological sites, the need for an archaeological field evaluation and states that development should not lead to the damage or destruction of important archaeological remains. The significance of a heritage asset is defined in the NPPF under Section 16. Paragraph 197 of the NPPF provides guidance on determining applications, paragraph 203 of the NPPF describes the approach to be taken towards non-designated heritage assets and paragraph 205 of the NPPF also makes provision for the recording of heritage assets that are likely to be demolished or destroyed by development.

The application is supported by an Archaeological Desk Based Assessment Ref 06532C (dated March 2021). The assessment states that the site does not contain any designated archaeological assets. The site is located in an area of archaeological potential associated with its position overlooking the banks and creeks of the River Medway, which would have been an important resource that has been exploited from

the prehistoric period onwards. The Assessment has found that there is low potential for below-ground archaeological remains in the application site associated with the Roman, early medieval, medieval, post-medieval and modern periods. However, there is medium potential for remains from the late prehistoric period and medium to high potential for Palaeolithic artefacts and Pleistocene deposits.

Non-geoarchaeological trial trenching (as a first stage in a programme of archaeological works) is considered an appropriate response and it is considered that such investigations could be carried out following any grant of planning permission and secured by condition.

For the site's Palaeolithic interest, it has been noted the study identifies a medium to high potential for such remains. If present such remains have the potential to be of high (including national) importance. The Palaeolithic Assessment suggests the drilling of three purposive geoarchaeological boreholes at the site as a preliminary stage of Palaeolithic evaluation, the results of which would inform of the nature and thickness of the Head across the site as a useful guide of where to put down test-pits or trenches as a second stage of investigation.

In terms of timings, it has been noted that the applicant's intention would be to carry out the archaeology works immediately following grant of planning permission.

Given the good potential and possibility for nationally important archaeological remains, deferring evaluation of the site's Palaeolithic/Pleistocene geoarchaeological interest to after determination of the planning application would be a significant risk. This is especially pertinent as the application documentation suggests the site will be terraced to accommodate the new dwellings and so options for preservation in situ appear minimal. This is a risk both to the archaeological resource, but also a potential risk to the viability of the development.

It is appreciated that the heavily overgrown nature of the site prevents any meaningful evaluation of the site's archaeological interest prior to the determination of the application, if approved. Leaving this open-ended is not ideal, but the applicant's consultant has advised that they understand the risk and that if significant remains are present then the design of the scheme may need to be revisited (either due to the significance of the archaeology present or as a result of the cost of investigating it). Therefore, any forthcoming planning permission would include conditions relating to the submission and approval of a programme of archaeological work in accordance with a written specification and timetable; and details of foundations designs and any other proposals involving below ground excavation.

In these circumstances, no objections are raised regarding Policy BNE21 of the Local Plan and paragraphs 197, 203 and 205 of the NPPF.

Flood and Drainage

Policy CF13 of the Local Plan outlines development will not be permitted within a tidal flood area in particular circumstances. Paragraph 166 of the NPPF states that when determining any planning applications, local planning authorities should ensure that

flood risk is not increased elsewhere and that schemes incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate. Paragraph 168 of the NPPF also goes on to say that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

The application site comprises land which is situated within Flood Zone 1 in accordance with Environment Agency mapping. It is also noted that the Environment Agency Flood Map highlights a small area at the front and the rear of the site are subject to a high risk of surface water flooding with an internal strip experiencing low risk, this is due to the levels of the site and can largely be designed out.

As highlighted within the submitted Statement, the British Geological Mapping indicates the presence of Thanet Formation (sand, silt, and clay), which does not allow for suitable infiltration in some cases. Testing which has been undertaken on a site within its immediate vicinity highlights that infiltration is not a viable option. It is recommended that with any subsequent conditions further testing is undertaken to ensure that filtration is not viable.

The proposed use of cellular storage in connection with trapped gullies on the site to contain the surface water before discharging at the greenfield runoff rate of 2l/s is considered acceptable.

It is noted that due to the underlain geology and topography of the site permeable paving is not considered suitable for the development. The use of rainwater harvesting, grey water recycling and water butts where practicable would be recommended to provide an additional means of surface water attenuation as well as reduced demand on potable water supplies. Overall, the SuDs proposal is considered acceptable in principle, however, a detailed scheme would need to be submitted and approved and this would be secured through conditions.

Highways

This application is supported by a Transport Statement Ref: PL/IH/15236 (dated April 2021).

The proposed development site is located an urban area of Gillingham alongside the A289 Pier Road, which has a 40mph speed limit. To the west of the site, the A289 offers access via the Medway Tunnel to the A228 at Frindsbury and the M2 at Junction 1, via Chatham Maritime. To the east, the A289 offers links to the A2 at Watling Street and the M2 at Junction 4, together with connections to Rainham and Sittingbourne. In terms of non-motorised infrastructure, shared footway and cycleways are located along Pier Road with a controlled crossing in the near vicinity of the site. The closest bus stops to the site are located on Church Street and the A289 Pier Road both to the west of the site, and within approximately 260 metres of the western edge of the site.

Access

The development would have access from the A289 Pier Road which would be provided mid-way along the site frontage in the form of left in/left out arrangement. A carriageway width of 7.9m would be provided on entry to the site and a splitter island installed within the centre of the bell-mouth to separate incoming and outgoing vehicles and to facilitate safe pedestrian and cycle crossings.

The proposed site access junction has been designed in accordance with Design Manual for Roads and Bridges (DMRB) document CD 123 and is similar in form to several existing local junctions on Pier Road. The junction has been positioned in order to provide a 2.4 x 120m visibility splay to the east, in accordance with the posted 40mph speed limit on Pier Road.

Highways safety regarding vehicles leaving the site and then moving from the nearside lane to the offside lane in order to make a U-turn to travel eastbound on Pier Road has also been assessed. Whilst there is no clear guidance on the distance of side road junctions from roundabouts, DMRB CD 122 'Geometric design of grade separated junctions' provides guidance on weaving lengths in free-flowing conditions. Paragraph 4.6 of DMRB CD 122 provides advice for the minimum weaving length section for urban roads based on design speed and the design flow.

A design speed of 40mph equates to a weaving length of 140m, which is less than the weaving length of 170m which would be provided in this instance. The site access however will be located at the point where westbound drivers begin braking and are slowing for the roundabout. As such, a design speed of 37mph is considered reasonable. This provides a weaving length of 125m, which is greater than the distance of 140m which would be provided.

The provided weaving length of 140m and a design speed of 40mph, a total weaving flow of 1,100 vehicles per hour (vph) is permitted. The maximum total hourly westbound flow recorded by our traffic survey on Pier Road was only 1,200 vph over the two lanes, with a small proportion of that subsequently u-turning at the roundabout. As such, the proposal would be well below that threshold.

On this basis, it is considered that the proposed access junction is located an adequate distance from the roundabout. Moreover, egressing drivers will be afforded with sufficient visibility to emerge from the site into sufficiently large gaps in oncoming traffic to make these manoeuvres without interference from other vehicles.

The access arrangements have been reviewed via an Independent Road Safety Audit which did not raise any significant issues that could not be dealt with a further design stage. It is considered that the proposed access arrangements would not result in a detrimental impact to highway safety or function.

Parking

The Council's Parking Standards advise of two spaces per 3+ bedroom dwelling and 0.25 visitors' spaces per dwelling. However, the standards do allow for a reduction

if the development is within an urban area that has good links to sustainable transport and where day-to-day facilities are within easy walking distance. Given the proximity to bus stops and Gillingham Pier, it is considered that the site is in a sustainable location whereby a reduction could be considered.

There would be a total of 34 residential car parking spaces provided. 20 spaces would be allocated with a further 10 spaces unallocated providing a ratio of 1.5 spaces. The remaining four spaces are provided as visitor bays. The applicants have also indicated that 20 spaces would be provided with electric vehicle charging points. Lastly, each dwelling would benefit from secure cycle storage within their rear garden.

The applicants have agreed to formalize the parking arrangements along Layfield Road to create 10 off road spaces to be used for those residents along Layfield Road and would be offered up for adoption to the public highway.

Traffic Impact

It is not considered that the additional units would materially impact the highway function and therefore no objection would be raised.

In summary the parking and highway safety impacts of the development are considered to be acceptable including with regard to Policies T1, T2, T4 and T13 of the Local Plan and paragraphs 104, 105, 111 and 112 of the NPPF.

S106 Matters

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 (a s106 agreement) may only be taken into account if the obligation is (a) necessary to make the development acceptable in planning terms;(b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

Paragraph 58 of the NPPF says that it is for the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. In this case a viability assessment report has been produced, which addresses the viability of development across the application site. The viability assessment has been verified by an independent development consultant who concludes that the development of 20 100% affordable homes is only a viable scheme if it contains no S106 contributions, other than the Bird Mitigation payment.

Therefore, it is on this basis that no S106 obligations are being pursued, other than Bird Mitigation. In addition, it is proposed that the letter of comfort from the MHS Chief Executive is accepted and that the proposal, by exception, is considered to meet the requirements of Policy H3 of the Local Plan and is accordance with paragraph 65 of the NPPF.

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 £253.83 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 before the decision notice is issued. Subject to the full payment being made prior to the issuing of the decision no S106 obligation or Unilateral Undertaking is required, and no objection is therefore raised under Policies S6 and BNE35 of the Medway Local Plan 2003 and paragraphs 180 and 181 of the NPPF.

Climate Change and Energy Efficiency

The Planning Statement (dated April 2021) and email correspondence with the applicant received 28 July 2021 has confirmed the sustainable technologies that would be incorporated into the scheme which is summarised as follows:

- Constructed to the latest Building Regulations standards and in accordance with Part L1A.
- The SAP assessment and minimum EPC rating of these dwellings would achieve a B rating.
- Party walls are constructed to robust details and all connections to accredited construction details all to achieve a minimum air leakage of 5m³/hm².

- All dwellings will be fitted with highly efficient boilers with an emission of <40mgN and weather compensators.
- Electricity to all plots will be fitted with intermittent extract fans and 100% Low E lighting throughout.
- All plots fitted with water restrictors to ensure the compliance with the latest Part G calculations of ensuring that each dwelling will not use more than 125litres of potable water per person per day.
- 1 Electric vehicle charging point per dwelling.
- Ecologically enhanced zones as well as additional landscaping.
- Bat/bird boxes fitted to every dwelling.
- Hedgehog Nest Domes.
- Best Practice Measures to reduce the impact of the construction activities.

Any forthcoming permission would include a condition requiring the implementation of the sustainable and energy efficiency technologies and the submission and approval of a signed verification report. No objections would therefore be raised regarding paragraph 154 of the NPPF.

Presumption in Favour of Sustainable development and the Overall Planning Balance (Having Regard to the Council's Position on its Five-Year Land Supply)

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

The Council accepts that the current Local Plan is of some age, being adopted in 2003. However, the assessment above refers to Local Plan policies where they are still considered relevant and applicable.

The Council cannot demonstrate a five-year supply of housing land sought by paragraph 74 of the NPPF. There is therefore a significant need for new housing in the Medway area, including affordable housing and as the development proposed would create new housing, the presumption in favour of sustainable development as set out in Paragraph 11(d) of the Framework is engaged. Paragraph 11(d)(ii) applies which states that:

- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 8 of the NPPF states that 11(d) also includes for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the

previous three years. As of the 2020-21 Housing Delivery Test, the Council had only delivered 55% of its target number of dwellings in the preceding 3 years.

In assessing the proposed development against the policies in the NPPF as a whole, as well as relevant Local Plan policies, the NPPF indicates that there are three dimensions to sustainable development: economic, social and environmental. It is, therefore, appropriate to balance the assessment of the development as set out above, against the Local Plan policies and policies in the NPPF in these terms and unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits, of doing so, planning permission should be granted.

Economic

New residents of these family sized homes will generate more demand for local services and facilities, and this would contribute to boosting the local economy contributing to the vitality of the community and the local economy, particularly in the nearby Gillingham Pier and Gillingham Town Centre, and, given the wide range of services in each location, this weighs in favour of the proposal.

The development would also boost the local economy by providing construction jobs and supporting local building trades, albeit that this would be for a temporary period.

Given the urban location and surrounding services and employment opportunities and the existing children's nursery adjacent to the site, future occupants of the development would also likely support businesses and facilities within the local area. These benefits weigh in favour of the proposal.

Whilst the development would provide additional council tax income this would be used to mitigate for and deliver necessary services and infrastructure for the residents and would, therefore, be a neutral effect.

The proposal would not result in financial contributions due to viability issues.

However, it should be noted that any S106 financial contributions would've been secured to make the proposal acceptable to mitigate the effects of the development and render it acceptable in planning terms rather than constituting economic benefits. As such, the lack of S106 contributions weighs against the proposal.

Social

The NPPF confirms that social objective is: "to support, strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future need and support communities, health, social and cultural wellbeing". Paragraph 71 of the NPPF states that where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall

delivery rates and expected future trends; and paragraph 72 of the NPPF states that LPAs should support the development of entry-level exception sites, suitable for first time buyers. These sites should be on land which is not already allocated for housing and should comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of the NPPF; and be adjacent to existing settlements, proportionate in size to them, and not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards.

The development would be sited on land not already allocated for housing and would deliver 20 x 100% affordable dwellings suitable for first-time buyers subject to a successful bid for grant funding for shared ownership, contributing to the identified need in the Medway area. The proposal will also be delivered by an SME developer, jointly brought forward by Esquire Developments and MHS, and therefore could be delivered in a reasonable timeframe. However, this would be subject to the successful completion of any pre-commencement conditions.

In view of the shortfall in housing supply, it is considered that significant weight can be attached social and economic benefits arising from the proposal for the provision of 20 x 100% affordable dwellings delivered by an SME, to meet the lack of housing supply in accordance with the guidance in the NPPF.

Environmental

The NPPF seeks to protect and enhance our natural, built and historic environment; including making effective use of land, improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The proposal would necessitate in the loss of part of an area of informal open space where there is currently secondary woodland, to facilitate the proposed dwellings and therefore, would result in some harm to the character and appearance of Gillingham Green Conservation Area and ecology/biodiversity. Paragraph 11 of the NPPF relates to the presumption in favour of sustainable development and states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case, although the application site is secondary woodland, this does not fall under a protected area listed in footnote 7 of the NPPF. The application site does fall within a designated heritage Asset, being Gillingham Green Conservation Area, and has the potential to include archaeological interest as listed in footnote 7 of the NPPF. Therefore, these assets have been considered and mitigation measures have been appropriately conditioned as outlined in the Landscape and Trees, and Archaeology sections of this report.

It is considered that the impact on the character of the Conservation Area can be largely and adequately mitigated against through additional planting to the north of the site, and enhancements within the designated ecology zone. Additionally, ecology mitigation measures would be implemented to avoid any detrimental impact on protected species within the site, and through the ecological enhancements' these

species can be accommodated in the western area of the site. There is a risk that important archaeological remains may be present, therefore, any forthcoming planning permission would include conditions relating to the submission and approval of a programme of archaeological work in accordance with a written specification and timetable; and details of foundations designs and any other proposals involving below ground excavation.

Lastly, the proposal would incorporate a range of sustainable and energy efficiency technologies outlined in the Climate Change and Energy Efficiency section of this report and any forthcoming permission would include a condition requiring the implementation of these and the submission and approval of a signed verification report.

Taking all the above factors into consideration the cumulative economic and social impacts of the proposal would significantly and demonstrably outweigh the environmental harm, which would be adequately mitigated and compensated for, when considered against the Framework as a whole.

Conclusions and Reasons for Approval

In summary there is no objection in principle to the proposed affordable housing scheme and the impact of the development regarding the design, streetscene, amenity, trees, ecology, heritage and archaeology, highways/parking, contamination and flooding is considered acceptable subject to conditions. Approval is therefore recommended including with regard to Policies S1, S2, S6, BNE1, BNE2, BNE6, BNE12, BNE14, BNE21, BNE23, BNE24, BNE35, BNE39, BNE43, H3, H4, T1, T2, T4, T13 and CH13 of the Local Plan and the advice set in paragraphs 8, 11, 58, 71, 72, 73, 74, 99, 104, 105, 111, 112, 119, 126, 130, 154, 166, 168, 174, 179, 180, 181, 183, 186, 197, 201, 202, 203 and 205 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation for approval.

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://publicaccess1.medway.gov.uk/online-applications/>