

MC/20/2979

Date Received: 19 November 2020
Location: Land To The North Of 2 Farm Cottages Lodge Hill Lane
Chattenden Rochester
Proposal: Demolition of existing structures and erection of 9No. residential dwellings. Formalisation of the existing access from Lodge Hill Lane and provision of associated car parking, hardstanding, landscaping and infrastructure including drainage and earthworks.
Applicant Esquire Developments
Mr Andrew Wilford
Agent Esquire Developments
Mr Andrew Wilford
Studio 3 The Old Laundry
Green Street Green Road
Longfield
DA2 8EB
England
Ward: Strood Rural Ward
Case Officer: Madeline Mead
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 14th December 2022.

Recommendation - Refusal

- 1 The development for residential dwellings, is considered to have a significantly detrimental impact on Chattenden Woods and Lodge Hill Site of Special Scientific Interest, in terms of the increased activity from future occupants of the development accessing this area and through impact on the protected Nightingales that inhabit this site, from cat predation. The development fails to comply with Policies BNE35 and BNE37 of the Medway Local Plan 2003 and paragraphs 174, 179 and 180 of the National Planning Policy Guidance 2021.
- 2 The application fails to address the impact of the proposal on the Special Protection Areas of the Thames Estuary and Marshes and the Medway Estuary and Marshes through either the submission of details to allow the undertaking of an Appropriate Assessment or via a contribution towards strategic mitigation measures. In the absence of such information or contribution, the proposal fails to comply with the requirement of the Conservation of Habitat and Species

Regulations 2010 and is contrary to Policies BNE35 and S6 of the Medway Local Plan 2003 and paragraphs 180 and 181 of the NPPF.

Proposal

This application proposes to demolish existing buildings and structures on site and the construction of nine residential dwellings. The proposed dwellings would be either semi-detached or detached properties and would be two storey in height. Two pairs of semi-detached dwellings would be linked via garages and these garages would have living accommodation within the roof space, which would be served by dormers on the rear roof slope.

Three different types of housing designs are proposed. One of the house types would be used for seven of the properties, however, these designs have been varied with either different materials or garage types.

Each property is to be provided with two car parking spaces and one of these spaces would be a car port or garage.

The dwellings would be accessed from Lodge Hill Lane, via a private access road. Plot one would front onto the existing access road and the remaining plots would be inward facing onto the new road that would serve the development.

Small areas of landscaping are proposed, at the front of the site, to either side of the new access road and to the back edge of the site.

Site Area/Density

Site Area: 0.47 hectares (1.2 acres)

Site Density: 19 dph (8 dpa)

Relevant Planning History

MC/22/1388 Prior notification of a proposed change of use of 2x agricultural buildings into 5x dwellinghouses (Class C3)
Decision: Application Withdrawn
Decided: 30 September 2022

Land off Lodge Hill Lane

MC/20/2980 Outline application with some matters reserved (appearance, landscaping, layout and scale) for the construction of 8 to 12 self build dwellings, provision of open spaces, landscape buffers, drainage features and earthworks. Enhancement and widening of existing access track from Lodge Hill Lane and formation of two new cross-over accesses from Lodge Hill Lane to serve two dwellings

For consideration on this agenda

The Barn, Chattenden Farm, Lodge Hill Lane, Rochester

MC/03/0452 Conversion of redundant barn into two residential units
Decision: Approval with Conditions
Decided: 30 June 2003

MC/00/1030 Conversion of redundant barn into two residential units.
Decision: Approval with Conditions
Decided: 26 October 2000

Land at Lodge Hill Lane, Chattenden

MC/04/1168 Outline application for the construction of four detached houses
Decision: Refused
Decided: 9 July 2004

Land forming part of/Chattenden Farm, Lodge Hill Lane

ME/88/68/A Details pursuant to outline for the erection of two detached Dwellings
and garages
Decision: Approval with Conditions

ME/88/68 Outline permission for amended siting for two detached dwellings
and garages
Decision: Approval with Conditions
Decided: 17 May 1988

Representations

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

KCC Biodiversity, Natural England, Southern Water, Royal Society for the Protection of Birds, Historic England, KCC Archaeology, EDF Energy, Southern Gas Networks, Kent Wildlife Trust and Hoo Parish Council have also been consulted.

Thirty two letters have been received with the following objections:

- Not a sustainable location
- Increased pressure on schools and doctor's surgery
- Overlooking
- Highway safety impact
- Impact on existing highways
- Impact on Lodge Hill Site of Special Scientific Interest (SSSI)

- Impact on wildlife
- Development not in keeping with the character of the area
- Overdevelopment
- Inadequate parking provision
- Impact on existing services, water, sewerage, power
- Mitigation proposed to SSSI is not sufficient
- Isolated site
- Vehicular access vision splay is inadequate
- Loss of trees
- Medway Council's Strategic Land Availability Assessment (SLAA) 2019 listed the site as unsuitable for building
- Increased impact on air quality
- Impact of development on the high pressure gas main
- Noise and disturbance
- Contamination

Councillor John Williams objects for the following reasons:

- Out of character with surrounding built form
- Loss of amenity
- Impact on the SSSI
- Medway Council's Strategic Land Availability Assessment (SLAA) 2019 listed the site as unsuitable for building
- Not in a sustainable location
- Pressure on schools and doctors
- Highway safety impact
- Impact on air quality
- Concern over high pressure gas main within vicinity
- Impact on wildlife
- Access road is inadequate for any more traffic

Councillor Ron Sands objects for the following reasons:

- Site is unsustainable
- Overdevelopment
- Unsafe pedestrian access
- High pressure gas main
- No street lighting
- Impact on schools
- Impact on SSSI

Hoo St Werburgh Parish Council objects to this planning application for the following reasons:

- The application is unsustainable. The need for private vehicle will be paramount for residents, no local shops, extremely poor bus service which is non-existent at times, and we believe is contrary to BNE25 of the local plan.
- Overdevelopment of a relatively small area, creating excessive traffic and an unsafe access for pedestrians. Lodge Hill Lane has traffic calming in place for safety reasons due to children's play areas etc, and this would be compromised by over 60 more traffic movements per day created by this development not including the traffic whilst construction is underway.
- There is a high-pressure gas pipeline running almost through the centre of the proposed area which should not have any development near it.
- Lodge Hill Lane is a single lane traffic at the entry point and devoid of street lighting at the top end.
- The local primary school is already running at maximum capacity and is only accessible by car or a minimum 30-minute walk for primary school, and at least 70 min walk to secondary schools.
- The proposed site is immediately adjacent to Lodge Hill SSSI, where there will be a threat from domestic cats to ground-nesting nightingales. Chattenden and Lodge Hill is the most important site in the UK for Nightingales and is designated as a Site of Special Scientific Interest (SSSI) accordingly.

The Dickens' Country Protection Society object for the following reasons:

- The development is in the countryside outside the confines of any established settlement.
- The proposal is contrary to Policy BNE25 of the Medway Local Plan.
- Agricultural buildings are on site and therefore this site cannot be considered as "previously developed land".

Southern Water Services have submitted an extract from their records showing the approximate position of the water main within the development site. They have advised that the exact position of the public asset must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised. They have also advised that a sewer now deemed to be public could be crossing the development site.

Southern Gas Networks (SGN) have advised that there are high pressure pipelines in the vicinity. The pipeline is registered with the Health and Safety Executive as a Major Accident Hazard Pipeline. SGN formally object to this planning application until such time as a detailed consultation has taken place.

Kent Wildlife Trust has noted that there is also an application for residential dwellings adjacent to the application site (reference MC/20/2980) and therefore they have assessed the impacts of the developments in combination, in relation to the SSSI Impact Risk Zone

assessment for Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI), as required by the NPPF. They advise that the developments constitute development on land outside of a SSSI which is likely to have an adverse effect on it, both individually and in combination with other developments. Kent Wildlife Trust have advised that that negative impacts will occur as a result of increased recreational disturbance to the SSSI, increased cat predation and increased disturbance arising from noise and light pollution.

The Royal Society for the Protection of Birds (RSPB) object to the application on the basis that the application site is immediately adjacent to the Chattenden Woods and Lodge Hill SSSI boundary, with the closest of the properties within 25 metres of the SSSI. As a result, nightingales will be highly vulnerable to the indirect long-term impacts arising from the proposed housing, including disturbance from noise and artificial lighting, recreational disturbance and predation by domestic cats. They have also advised that the proposed mitigation put forward by the applicant, with regard to cat covenants are unenforceable and therefore cannot be deemed appropriate as mitigation. They also advise that 400m would be an appropriate and proportionate buffer for SSSI.

Natural England remain concerned that significant impacts to the Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI) are likely to result from this proposal and advise that insufficient details have been provided, with regard to the potential impacts the residential dwellings/occupants of the dwellings would have on the SSSI and the proposed avoidance and mitigation measures that have been submitted.

They advise that reliance upon bird survey information from 2012 is likely to mean the potential impacts from this proposal to the SSSI are likely to have been underestimated.

Natural England notes that a number of mitigation measures are detailed within the June 2022 Technical Note. These include a 10 to 30 metre buffer to the SSSI boundary, a lighting strategy that will be developed, the provision of an unspecified length and design of cat proof fencing and a restrictive covenant preventing cat ownership. No details of the effectiveness of these measures in avoiding or fully mitigating impacts to the SSSI have been provided within the Technical Note and also note that the information provided within the Note acknowledges that they will not avoid all impacts, for example Section 3.31 details that 'It is acknowledged that the fence will not form a complete boundary, but is likely to be partially effective in deterring cats from entering the adjacent part of the SSSI'. No detailed information has been provided in relation to the location, design and nature of the cat proof fencing proposed along the northern boundary of the application site or information on how this will prevent any pets from the new properties accessing the SSSI and therefore requested further information be submitted for this based upon the impacts specific to this site and how it will be effective in preventing impacts to the nightingale population associated with the SSSI, based upon a robust impact assessment.

KCC Archaeology are satisfied that sufficient archaeological assessments have been provided for determination of the planning application. In depth comments will be considered under the relevant Archaeology section in the report below.

KCC Ecology (KCCE) are satisfied that sufficient information has been provided for determination of the planning application. In depth comments will be considered under the relevant Ecology section in the report below.

Historic England have advised that they do not consider that it is necessary for this application to be notified to Historic England under the relevant statutory provisions.

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 (the NPPF) and are generally considered to conform. Where non-conformity exists, this will be highlighted and addressed in the appraisal section below. The Medway Landscape Character Assessment March 2011 (the MLCA) and are considered to conform.

Planning Appraisal

Principle

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

The application site is located outside of any defined urban area as designated by the Local Plan and therefore is in a countryside location, an Area of Local Landscape Importance (ALLI), Chattenden Ridge character area from the Medway Landscape Character Assessment 2011 and immediately adjacent to Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI).

Policy BNE25 of the Local Plan states that development in the countryside will only be permitted in specified circumstances, none of which apply to the current case. Policy BNE34 of the Local Plan seeks to prevent development which would materially harm the landscape character and function of the area. However, these Policies are not in full accordance with the subsequent advice of the NPPF. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and that where the development plan policies are out-of-date, including in respect of applications for the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted unless given circumstances apply. In the current case the Council has a shortfall in housing land supply and therefore the development cannot reasonably be refused on principle alone just because it is within a rural area. Paragraph 60 of the NPPF seeks to significantly

boost the supply of homes by ensuring that a sufficient amount and variety of land can come forward where it is needed. Paragraph 69 also recognises the contribution that small and medium sized sites can make to meeting the housing requirement. In these circumstances, consideration has been given to whether or not a development in this location would be sustainable and with regard to the advice on rural housing in paragraphs 77-79 of the NPPF.

The proposed dwellings would sit within a small cluster of dwellings and the development would appear as part of that existing cluster of properties. It can therefore be contended that this development is not isolated and in accordance with paragraph 79 of the NPPF.

Paragraph 85 recognises that sites to meet community needs in rural areas may need to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. The definition of previously developed land within the NPPF states: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. The buildings on this site, may have been originally constructed as agricultural use, to serve the surrounding agricultural land, however, they have been in use as general storage for a number of years.

In determining whether this proposal is acceptable, it will therefore be important to assess the matter of sustainability as well as the wider implications of the development as detailed under the relevant headings below. In addition, the eastern boundary of the site would also adjoin the Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI) so the impact of the development on this nationally designated site also needs to be carefully considered.

Landscape and Visual Impact

The site is located within an Area of Local Landscape Importance (ALLI) as designated within the Local Plan. The site is also adjacent to the Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI), which is located to the north of the site. The impact on the SSSI is discussed under a separate heading.

Policy BNE25 of the Local Plan states that development in the countryside will only be permitted if it maintains, and where possible enhances the character, amenity and functioning of the countryside. The NPPF also sets out at paragraph 174 that planning decisions should protect and enhance valued landscapes and sites of biodiversity and contribute to and enhance the natural and local environment by recognising the intrinsic beauty of the countryside, and the wider benefits from natural capital and ecosystems.

Policy BNE34 of the Local Plan aims to restrict development if it materially harms the landscape character and function of the area unless the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape. Development within such an area should be sited, designed and landscaped to minimise harm to the area's landscape character and function.

The application site is located within the Deangate Ridge character area as identified by the MLCA. The MLCA describes the characteristics of the area as elevated ridge, medium scale farmland with undulating arable fields, providing a green buffer that separates and screens RSME Lodge Hill Camp from Hoo St Werburgh. The description notes that there is a distinctive tract of open countryside that provides attractive setting for A228 which bisects area; built development around fringes of Hoo and Chattenden settlements prominent in many views. The assessment also notes that the A228 as a major transport artery through Central Hoo Peninsula is a detracting landscape feature. The overall condition and sensitivity are identified as being 'moderate' with a moderate sense of place, apparent landform, open tree cover and high visibility.

The guidelines within the MLCA seeks to protect the countryside from development that affects openness and diminishes rural character and distinctiveness, relocate or screen land uses that harm local distinctiveness, strengthen 'gateway' value of this open farmed ridge along A228 as key route into Medway and out to Hoo Peninsula, introduce new off-road pedestrian and cycle links between Hoo, Lodge Hill and Chattenden, strengthen and reinforce native hedgerow and tree planting at field boundaries and around the edges of settlements.

The development would extend the built form out into open countryside on the eastern side of Lodge Hill Lane, therefore introducing new dwellings into an open and rural landscape.

According to the applicant's landscape appraisal there would be 'moderate to high adverse' effects on the character and landscape around the site including from along Lodge Hill Lane and the private access road off of Lodge Hill Lane in year 1 and these effects would decrease over time with year 10+ having a moderate impact from the access road to Roughways Barn facing north east to the site and the other remaining views being either low or low to neutral impact. Consequently, there would be conflict with Policy BNE25(i) of the Local Plan and paragraph 174(b) of the NPPF as the development would neither maintain nor enhance, the character, amenity and functioning of the countryside.

However, when assessing the extent of this impact it is accepted that there will be some harm arising from the development. That is almost unavoidable when open countryside is built on because green fields are perceived as more desirable than built development, but that does not, of itself, make the proposals unacceptable.

The application proposes the removal of some trees to the front of the site and within the site, however, some landscape planting is proposed to compensate this loss.

Paragraph 174 of the NPPF seeks to protect and enhance valued landscapes in a manner commensurate with their identified quality within the development plan. The site is within an ALLI, however, due to its location, the existing structures on site and the site being in close proximity of other dwellings, it is considered that the area could be developed sensitively. In addition, and where there is a housing supply deficit, development should be directed to areas of lesser environmental value. Visually it is not considered that the proposal would result in any unacceptable harm to the landscape, nor the wider countryside and the scheme could be developed in a way that leads to landscape enhancement, enabling the proposal to successfully assimilate with its surroundings.

Consequently, had the application been recommended for approval, conditions would have been recommended in relation to securing further details of boundary treatments, hard and soft landscape works, lighting, and landscape management and subject to that no objection is raised under Policies BNE6 and BNE25 of the Local Plan and paragraph 174 of the NPPF.

Conservation/Heritage

The development falls within two of the Peninsula's historic character types; that of the militarised landscape, and that of the agricultural. The site itself historically has been largely undeveloped, other than the existing farm buildings on the site and so its historic function was likely linked to both the farm for agricultural purposes, and to the Ordnance Depot as an open space around its perimeter fence that could be watched over by guards. This is supported by the Grade II Listed WW1-era sentry posts located to both the north and south of the site, which likely would have maintained a line of sight between them for security purposes, as noted in the Heritage Assessment submitted with the application.

Additional tree cover and development between the posts has since reduced this visual relationship, however, its existence is still of historic importance for understanding their use and part of the wider former military presence in the area.

The application site appears more self-contained and largely occupies the footprint of the existing farm buildings which due to the topography are not as readily visible from Lodge Hill Lane. A careful approach to the use of materials would result in a reduced level of harm to the historic farmstead.

Design and Layout

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. Paragraphs 126 and 130 of the NPPF emphasises the importance of good design.

The development would be accessed via a single access road into the site. The dwellings would be situated either side of the access road with one of the properties (plot 1 as identified on drawing number 100 Revision B) fronting onto the existing private access road.

The development proposes a mix of three house types. All of the dwellings are two storeys in height with some being linked by garages which have accommodation within the roof space, that would be served by small dormer windows on the rear roof slope. All roofs are to be pitched, in the form of either hipped, barn hipped or a mix of both, or barn hipped and gable ended. The dormers roofs are also pitched.

The scheme has been designed to contain a mix of 3 and 4-bedroom dwellings. Which would comprise a mix of detached, semi-detached and link detached dwellings. The proposed development provides a good mix of house types and sizes to meet the needs of different types of households and the architectural design is considered to be in keeping with the character of dwellings within the vicinity and of what would be expected within this rural location as a farmstead type development.

If the application were to be considered acceptable, a condition would be recommended to secure suitable materials. The application would be in accordance with Policies BNE1, BNE25, BNE34 of the Local Plan and paragraphs 126 and 130 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposed dwellings 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 130(f) of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

With regard to the impact in terms of outlook, privacy, daylight and sunlight, due to the location of the proposed dwellings and those existing dwellings within the vicinity, it is not considered that the development would have a detrimental impact on neighbouring properties.

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.

A 3b5p would require a gross internal floor area (GIFA) of 93m², a 3b6p would require a GIFA of 102m², a 4b8p would require a GIFA of 124m² and a 5b9p would require a GIFA of 128m². A double bedroom should have a floor area of 11.5m² and be at least 2.55m wide and a single bedroom should have a floor area of 7.5m² and be at least 2.15m wide.

All proposed dwellings would exceed the GIFA. Some of the bedrooms fall slightly short of the floor area size for either a double or single bedroom, however, it is considered that the bedrooms are of a shape that would provide the occupier of the room a layout to incorporate the requirements of wardrobes and bedspace.

The proposal is therefore considered to provide adequately sized living accommodation for future occupants of the dwellings.

The Medway Housing Design Standards requires a depth of 7m private amenity space on constrained sites and 10m for private amenity space in all other cases. All proposed dwellings would be provided with rear gardens of between approx. 8.8m in depth to approx. 12m and therefore the occupants of the dwelling would be provided with adequate private amenity space.

In order to ensure the dwellings, remain in single family occupancy, should the application be considered acceptable, a condition removing the permitted development rights for the dwellings to be used as small HMO's would be recommended. These conditions are necessary in the interest of amenity, including noise and disturbance from increased comings and goings, vehicle parking and due to the development not being in a predominantly mixed-use character area.

Due to the rural location of the site, potential alteration to the design of the dwellings and in some cases the depth of the rear gardens, it is considered that should the application be considered acceptable, permitted development rights should be removed with respect of Classes A, B, C and D of the General Permitted Development (England) Order 2015 (as amended).

The construction of the development itself could lead to noise and dust emissions to nearby residential properties. If the application were to be considered acceptable a condition would be recommended for a construction environmental management plan (CEMP) to be submitted.

With the abovementioned conditions imposed, should the application be considered acceptable, no objections are raised in terms of the impact on amenities of both the future occupiers and neighbours. The proposal is considered to comply with Policy BNE2 of the Local Plan and paragraph 130f of the NPPF.

Highways

Access to the dwellings would be via a private access road off of Lodge Hill Lane. In terms of the impact to the highway network, given that this development is modest in size, nine residential dwellings, it is not considered that it would result in a severe impact and therefore no objection would be raised.

With regard to access to the site, concerns are raised as to whether safe and suitable access would be provided for non-motorised users. The proposal would intensify the

usage of the junction from Chattenden Lane onto the private access. The current junction has significant obstructions to the visibility splays due to vegetation and land level. The applicants have submitted an option agreement which would control the land required to provide the vehicular vision splays, so that nothing is allowed to grow over the height of 0.9m on this land. With this option agreement in place, it is considered that adequate vision splays could be provided. If this application were to be considered acceptable, a Grampian condition would be required to secure the vision splays and maintenance of them.

Paragraph 110b of the NPPF states that, safe and suitable access to the site can be achieved for all users.

Concerns are raised that the private access would not provide safe and suitable access. Drawing 14615-H-06 P1 outlines that a painted white line would be in place to separate vehicles and pedestrians, however, with the topography of the road and no available street lighting, this would still not represent safe and suitable access for non-motorised users. However this concern would need to be weighted in the overall planning balance. Therefore, if this application were to be considered acceptable, a condition would be recommended to secure further details for a safe and suitable access for pedestrians.

The Councils Residential parking standards outline that two parking spaces should be provided for a 3+ bedroom dwelling, with visitor parking set at 0.25 of the overall unit number. The development would require twenty car parking spaces to be provided, eighteen for the dwellings and two visitor spaces. The indicative site layout submitted with the application demonstrates that this level of parking provision would be achievable on the site either as a parking space or garage. If the application were to be considered acceptable conditions would be recommended to ensure all spaces are kept available for parking and that no works could be undertaken to the car ports to enclose them without permission.

Overall, it is considered that if the application were to be considered acceptable then with the conditions recommended above the development would comply with Policies T1, T2 and T3 of the Local Plan and paragraphs 110b and 111 of the NPPF.

Ecology

An ecological appraisal, ecological addendum and additional information in the form of letters by FPCR Environment and Design Limited (FPCR) have been submitted with the application.

Dormice

It is considered that no surveys for dormice are required. It has been verified that there are no known records of dormouse within the adjacent Chattenden Woods and Lodge Hill SSSI. The comprehensive suite of ecological surveys undertaken by Thomson Ecology

for the major development application (MC/11/2516 Lodge Hill) concluded with respect to dormouse that:

- 5.4.1.36 The habitat suitability assessment indicated that approximately 65ha was of medium quality habitat for dormice; mainly ancient woodland. However, the majority of the Development Site comprises negligible or low quality habitat for dormice.
- 5.4.1.37 During the dormice nut search survey, no evidence of hazel nuts characteristic of being opened by dormice was found.
- 5.4.1.38 Similarly, no signs of nesting dormice were identified during the nest tube survey. (Lodge Hill Outline Planning Application. Replacement Environmental Statement Volume 1 Main Text February 2014. Hyder Consulting for Land Securities).

Nevertheless, it is advised that a precautionary approach to the clearance of habitat that is potentially suitable for dormice would be required to avoid the potential killing, injury or disturbance of this legally protected species. If the application were to be considered acceptable a condition would be recommended.

Reptiles

A reptile trapping and translocation exercise should be undertaken to ensure the avoidance of the killing or injury of reptiles during the construction process and to maintain the local reptile population. These avoidance and mitigation measures have been outlined in the letter dated 11th May from David Harper at FPCR consultants. If the application were to be considered acceptable a condition is recommended to secure these measures.

Hedgerows

The letter from FPCR dated 4th March 2022 entitled Hedgerow Classification seeks to persuade the local planning authority that the section of vegetation to be removed to create the necessary visibility splays does not constitute a hedgerow but instead is a line of scrub. Consequently, no information is provided in regard to the quality of hedgerows on site impacted by the proposed visibility splays. The linear vegetation is not only regarded as a hedgerow, but an important hedgerow under the Hedgerow Regulations, 1997 for the reasons set out below. Paragraph 174(d) of the NPPF requires that development should seek to contribute a net gain in biodiversity with an emphasis on improving ecological networks and linkages where possible. The removal of this hedgerow would directly affect connectivity to the wider landscape.

To qualify as 'important', a hedgerow must be at least 30 years old and meet at least one of the following eight criteria listed in Part II of Schedule 1 of the Hedgerow Regulations 1997. These identify hedgerows of particular archaeological, historical, wildlife and landscape value. It is considered that the hedgerow is at least 30 years old, and below is the criteria which is relevant in this case and which means that the hedgerow is to be classified as important under the Regulations. In summary:

1. The hedgerow marks the boundary of a historic parish or township existing before 1850.
2. The hedgerow incorporates an archaeological feature.
3. The hedgerow is a part of or associated with an archaeological site.
4. The hedgerow marks the boundary of or is associated with a pre-1600 AD estate or manor.
5. The hedgerow forms an integral part of or is associated with a field system pre-dating the Enclosures Act.
6. The hedgerow contains a listed species. These have to be listed the Wildlife and Countryside Act 1981 either in Part I of Schedule 1 (birds protected by special penalties), or Schedule 5 (other animals) or Schedule 8 (plants). In addition, species listed in certain red data books qualify. Unfortunately, the list of birds was published in 1990, and does not include species such as song thrush and linnet, whose numbers have declined more recently.
7. The hedgerow includes, on average, in a 30 metre length one of:
 - a) at least 7 woody shrub and tree species listed in the regulations.
 - b) at least 6 woody species and has at least 3 associated features.
 - c) at least 6 woody species including a black-poplar tree, large-leaved lime, small-leaved lime or wild service tree.
8. The hedgerow runs alongside a bridleway, footpath, road used as a public path or a byway open to all traffic, and includes at least four woody species, on average, in a 30 metre length and has at least two associated features from the list below.

The associated features are:

- (a) a bank or wall which supports the hedgerow along at least one half of its length;
- (b) gaps which in aggregate do not exceed 10% of the length of the hedgerow;
- (c) where the length of the hedgerow does not exceed 50 metres, at least one standard tree;
- (d) where the length of the hedgerow exceeds 50 metres but does not exceed 100 metres, at least 2 standard trees;
- (e) where the length of the hedgerow exceeds 100 metres, such number of standard trees (within any part of its length) as would when averaged over its total length amount to at least one for each 50 metres;
- (f) at least 3 woodland species within one metre, in any direction, of the outermost edges of the hedgerow;
- (g) a ditch along at least one half of the length of the hedgerow;

It is therefore considered that if the application were to be considered acceptable a condition be recommended requiring appropriate compensation for the loss of this section of important hedgerow. It is recommend that this take the form of planting a replacement section of native species hedgerow on the back edge of the easement. In keeping with the objectives of the Hedgerow Regulations, the replacement hedgerow shall be treated as if it were an "important" hedgerow within the meaning of regulation 4 and maintained for a period of at least 30 years.

Ecological Enhancements

Ecological enhancements are proposed within the ecological appraisal, by FPCR (October 2020). This includes retention and enhancement of boundary features (except for small sections of the southern boundary treeline), ecological enhancements within the open spaces, bat boxes and the incorporation of tubes and/or bricks into the built fabric of residential dwellings, sensitive external lighting, creation of dead wood piles and hibernacula.

Paragraph 174(d) of the NPPF states that planning decisions should minimise impacts on and provide net gains for biodiversity and paragraph 180(d) states that plans should secure measurable biodiversity net gains.

It is considered that if the application were to be considered acceptable conditions would be recommended to secure the ecological enhancements.

Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI)

The application site is bounded to the north by the Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI), with the SSSI being of importance for the ancient and semi natural woodland habitat and the nationally important population of breeding nightingale that the site supports. Policy BNE35 of the Local Plan seeks to protect direct or indirect harm to the wildlife interest of international and national conservation sites including SSSI's unless the development is connected with, or necessary to, the management of the sites wildlife interest. Furthermore, Policies BNE37 and BNE39 of the Local Plan also seek to protect important wildlife habitat and protected species and/or their habitat.

Paragraph 174 of the NPPF states that:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

Paragraph 180 of the NPPF also states that:

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

Within footnote 63 of paragraph 180c of the NPPF an example of such development includes infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

Residential development in close proximity to the SSSI has the potential to result in significant impacts to the SSSI from factors such as noise, lighting, recreational disturbance and wider urbanising effects including cat predation to nightingales and impacts to their habitat within the SSSI.

Within their Ecological Appraisal the applicants proposed a number of mitigation measures to prevent informal access to the SSSI, along with some additional measures to address cat predation. These measures can be summarised as follows:

- A cat free covenant on the new dwellings.
- The hedgerow along the northern boundary would be strengthened and bolstered, with a second hedge line planted in front. A fence with an angled overhang would be installed in between these hedge lines.
- New residents will be provided with an information pack which would detail the sensitivity of the surrounding areas.

Tower Hill to Cockham Wood SSSI is located approximately 1.6km south of the application site and is designated for both its biological and geological interest. It includes deciduous woodland and neglected ash *Fraxinus excelsior* coppice, as well as areas of dense scrub with grassy clearings and calcareous pastures, with herb species such as yellow-wort *Blackstonia perfoliata* and ploughman's spikenard *Inula conzya*. Between the woodland and intertidal mudflats, a grassy zone dominated by sea couch-grass *Elymus pycnanthus* occurs, with bithynian vetch *Vicia bithynica*. Tower Hill and Upnor Quarry are sandy areas, which support a rich invertebrate fauna, including 7 nationally rare wasp species.

The proposed development (including the adjacent site, reference: MC/20/2980) falls within the impact risk zone for both SSSIs.

The following documents were submitted as part of the application:

- Ecological appraisal dated October 2020
- Natural England Response (by FPCR, dated 15 February 2021)
- Kent County Council Response (by FPCR dated 30 March 2021)

The following mitigation measures are proposed:

- A cat free covenant
- The hedgerow along the northern boundary would be strengthened and bolstered, with a second hedge line planted in front. A fence with an angled overhang at the top would be installed in between the hedge lines. Hedges would comprise predominantly thorn bearing species to deter possible access from cats, dogs and residents into the SSSI from the site.
- A house buyer pack highlighting the importance and sensitivity of the adjoining SSSI.

Natural England, KCC Ecology and the RSPB have been consulted on the information submitted and summarise the following for the mitigation measures:

KCC Ecology: It is proposed to avoid cat predation impacts by prohibiting cats being kept on any of the properties within the proposed development. This is proposed to be achieved through a restrictive covenant on the future owners. Medway Council will need to seek its own legal advice on the likely efficacy of such measures and their enforceability and to produce the required conditions or planning obligations to secure their implementation.

Natural England: FPCR in their letter of the 11 May 2021 has not provided any further, evidence based, information in relation to the nature and scale of the potential impacts to the SSSI. Natural England's advice remains that a comprehensive, evidence based impact assessment considering all of the potential impact pathways should be provided as part of this application. Such an assessment should fully consider the potential impacts to the SSSI which may result from pathways such as noise, lighting and recreational disturbance along with wider urbanising effects including cat predation to Nightingales and impacts to their habitats within the SSSI.

In addition, no further information on how the full range of potential impacts to the designated site will be avoided or fully mitigated has been provided. As such, the advice provided in Natural England's previous letters regarding the need for further information on both the likely impacts to the SSSI and mitigation measures for the application remains.

RSPB: consider cat covenants are unenforceable and therefore cannot be deemed appropriate as mitigation. RSPB consider that there should be a presumption against net new housing development within the "buffer zone" (400m) around the boundary of the SSSI.

Independent Review

In light of the information submitted by the applicant, as detailed in the relevant section above, and the comments received from Kent Wildlife Trust, RSPB, KCC Biodiversity and Natural England, the Council commissioned a technical review from an Independent

Ecologist to assess the robustness of the information that had been provided by the applicant including the effectiveness of the mitigation measures proposed in relation to the SSSI. In providing the report, the Council asked the Ecologist to consider the following questions:

1. Is the report robust and in accordance with relevant industry guidance?
2. Notwithstanding the reliance on the 2012 Nightingale survey results, has appropriate, proportional survey work and a comprehensive review of available background information been undertaken to allow a robust assessment of the proposals?
3. Given the land ownership constraints prohibiting a full update survey of the SSSI, do the 2012 Nightingale survey results allow a reasonable assessment of likely impacts on this species?
4. Is the scope of potential effects/impact pathways considered as part of the report comprehensive?
5. Is the assessment of impacts site specific and evidence based?
6. Is sufficient information provided regarding mitigation measures and their likely effectiveness?
7. Is there any government guidance that identifies 150m (Natural England referenced distance) as a recognised off set distance for residential development from the boundary of a SSSI?
8. Having due regard to relevant local and national planning policy do you think the applicant put forward appropriate mitigation proposals in the event of any urbanising impact to protected species (specifically Nightingales), with those proposals being proportionate to the scale of development?
9. Do you deem that the evidence provided in relation to cat predation accurately reflects published data and sources?
10. On balance, has the applicant undertaken reasonable steps to mitigate the potential impacts of the development on protected species, when considering proportionality and scale of the proposed development?

The ecologists review of the information provided on the habitats within the SSSI and its associated population of Nightingales, as well as the information on the effectiveness of the mitigation measures to be implemented to minimise impacts and effects from the proposed development is detailed below.

1. Is the report robust and in accordance with relevant industry guidance?

The Ecological Appraisals produced by FPCR and the Technical Briefing Note produced by Aspect Ecology appear to have been undertaken in accordance with The Guidelines for Ecological Impact Assessment in the UK and Ireland (2018) (CIEEM Guidance) which is the recognised industry guidance for carrying out Ecological Impact Assessments for developments of this type, although this is not explicitly stated in any of the reports.

In accordance with the CIEEM Guidance to identify the baseline conditions at the Site and within the Zone of Influence of the Proposed Development, a desk based

assessment has been carried out followed by a habitat survey and Phase 2 surveys for badgers, bats, great crested newts and reptiles as these species were identified as being potentially present within the Sites boundaries. No breeding bird survey was carried out. It was considered by the Applicant's ecologists that further surveys on birds were disproportional to the habitats within the Sites and the measures to ensure that there was separation from the more immediate areas of the SSSI along the northern boundary.

The desk-based assessment methodology involved the standard practice of gathering information on nearby ecological designations and known sites for protected and notable species. To do this Kent and Medway Biological Records Centre (KMBRC) were contacted for designated sites and protected/notable species records within 1km of the Sites requested, with the data provided for the last 10 years interrogated. Chapter 4 of the Ecological Appraisals present summaries of the bird records adjacent to or encompass the site which do not list Nightingales as having been recorded.

The online Multi-Agency Geographic Information for the Countryside (MAGIC) database was also utilised. Furthermore, the 2012 national Nightingale surveys information was also interrogated for Chattenden Woods and Lodge Hill SSSI. These are the standard sources of information obtained for sites such as this, however it is noted that records held by other specialist organisations were not obtained such as from the Woodland Trust, Kent Bat Group, Kent Ornithology Society and Kent Reptile and Amphibian Group which may have led to some gaps in information limiting the understanding of the baseline conditions. Furthermore, no data from recent Nightingale surveys carried out within Chattenden Woods and Lodge Hill SSSI held by Homes England was made available to the Applicant.

The initial habitat survey of the Sites was carried out on 17th January 2020 based on the standard Extended Phase 1 Habitat Survey Methodology¹⁹, which is standard guidance for Phase 1 habitat surveys, to ascertain the general ecological value of the Site and to identify the main habitats and ecological features present. During the survey particular attention was paid to the potential presence of protected, rare or notable species.

The surveys were undertaken in accordance with standard practice but during the middle of winter when deciduous vegetation may not be so prominent or extensive (i.e. bramble scrub which naturally dies back over winter) and outside of the period when Nightingales are present in the UK (see paragraph 3.3.1). However, any potentially suitable breeding habitat in the form of dense vegetation or coppiced woodland near freshwater should still have been recognisable during the survey.

The Phase 2 Surveys for badgers, dormouse, water vole and reptiles were carried out in accordance with species specific guidance where available, which is standard practice for Phase 2 Surveys.

There is no industry guidance on the specific methodology for assessing impacts on Nightingales beyond general guidance.

The survey extents were restricted to the Site with no access available to the SSSI adjacent to the northern boundary of the Sites which limits the appreciation of the baseline conditions.

In summary the report is considered to be in accordance with industry guidance although there are some areas where additional information would have been beneficial in helping make the assessment of effects more robust.

2. Notwithstanding the reliance on the 2012 Nightingale survey results, has appropriate, proportional survey work and a comprehensive review of available background information been undertaken to allow a robust assessment of the proposals?

It is recognised in the industry that surveys can only be carried out in areas where access is permitted by the landowner. In this case FPCR surveyed the habitats within the Sites only, however breeding birds were not surveyed.

It is understood that access was denied to the adjacent area of Chattenden Woods and Lodge Hill SSSI within the old Chattenden Barracks and therefore the survey could not be carried out over a larger area of adjacent land and that although it is understood that Homes England have surveyed the area for Nightingales no additional survey information was made available to the Applicant. Furthermore, during the Phase 1 Habitat Survey carried out in January 2020 FPCR did not identify habitat that they considered was suitable for breeding Nightingales and therefore it was considered that a Nightingale survey was not appropriate to be undertaken.

Instead, FPCR and Aspect Ecology relied on and analysed the existing data that was made accessible to them. Therefore, the assessment of effects has been correctly carried out on available and known information as well as assumptions on the wider area, which is considered an appropriate methodology and allows for an assessment of the Proposed Development based on the known information at the time of the planning application.

Considering the data for nightingales dates back to 2012 and the land directly to the north of the Sites within the Chattenden Woods and Lodge Hill SSSI has been undisturbed for many years, it would, however, have been useful if FPCR had carried out a further habitat survey during breeding bird season as well as breeding bird surveys within the Site (as requested by Natural England and KCC Ecology) during the nesting period for Nightingales as this would have provided more certainty regarding their presence and absence within scrub areas of the Sites (which are likely to have partially died back in winter when the Phase 1 survey occurred, hiding their full extent and density during Nightingale breeding season). In addition, standard techniques for breeding bird surveys include listening for bird calls which

could have helped identify the presence/absence of nightingales close to the Sites within the areas of Chattenden Woods and Lodge Hill SSSI that was not accessible.

There was also mention in the evidence base provided by FPCR that there is one official PRoW 200m north from the proposed development and another 850m north near Bridge Wood Field Archery Club which could be used by Proposed Developments' new residents.

As PRoW are publicly accessible in land where there is a lack of certainty regarding the condition of the habitats (which was last formally assessed in 2012), it would have been useful if the ecologists could have carried out site visits to facilitate an appraisal of the condition of the land and also whether they could hear any nightingales during breeding bird season to provide more certainty relating to the recreational effects of the Proposed Developments. For instance, if the habitats were not suitable and there were no signs of nightingales in proximity to the PRoW there would be less risk of them being disturbed. On the other hand, if the habitats in proximity to the PRoW were suitable and nightingales were heard, then the risks of their disturbance would be better understood.

Overall due to the lack of certainty and because there is no public access and therefore limited/no disturbance immediately north of the Sites boundaries it should be assumed that Nightingales are present in potentially significant numbers within the areas of Chattenden Woods and Lodge Hill SSSI in close proximity to the Sites to provide a robust assessment. These assumptions are more robust than the ones provided in the reports produced by FPCR or Aspect Ecology

3. Given the land ownership constraints prohibiting a full update survey of the SSSI, do the 2012 Nightingale survey results and allow a reasonable assessment of likely impacts on this species?

The extent of the survey as explained above has been dictated by land access constraints and has been restricted to the Sites only. This means that the assessment of effect on land within the Zone of Influence for the Proposed Developments is restricted and has been based on data which is 10 years old. It is acknowledged by the Applicant's Ecologists that the habitat within Chattenden Barracks directly north of the Sites has become more established since 2012 through lack of use and management, with scrub and other habitats potentially suitable for Nightingales establishing over this intervening period, which could throw doubt on the effectiveness of using the 2012 data for defining the baseline conditions within the Zone of Influence of the Proposed Development which is also within Chattenden Woods and Lodge Hill SSSI.

The key potential impacts that could extend beyond the Site boundary into Chattenden Woods and Lodge Hill SSSI relate to urbanising effects, recreational effects (dog walking) and cat predation. It is acknowledged that without more recent bird data (within the Site and its surroundings) and/or habitat condition data (within Chattenden Woods and Lodge Hill SSSI) any changes that may have occurred over

the last 10 years are unclear which leaves a lack of certainty relating to any assessments relating these aspects.

However, it is acknowledged that the Applicant's team have assumed that there are no Nightingales using the Sites and the land within the Sites is not functionally linked to Chattenden Woods and Lodge Hill SSSI which may not be correct assumption without the data to support it. The Applicant's team have assumed that Nightingales may be present within the land directly to the north of the Sites within Chattenden Woods and Lodge Hill SSSI and have provided mitigation measures on this basis to address effects relating to the urbanising, recreational and cat predation effects associated with the Proposed Developments. The mitigation measures and their effectiveness are discussed below under question 6.

Although the surveys have been restricted out of necessity rather than choice, this has meant that land within the Zone of Influence of the Proposed Developments to the north of the Site within Chattenden Woods and Lodge Hill SSSI has not been robustly assessed which creates a lack of certainty relating to the assessment of impacts on Chattenden Woods and Lodge Hill SSSI and its associated Nightingale population. A breeding bird survey of the Site would have been helpful to reduce the uncertainty created by the lack of data. In summary the assessment is weak due to the lack of data within the Zone of Influence of the Proposed Developments.

4. Is the scope of potential effects/impact pathways considered as part of the report comprehensive?

The Ecological Appraisals and Technical Briefing Note provide an analysis of the baseline conditions within the Site but there is limited information available for the land to the north of the Sites within the Chattenden Woods and Lodge Hill SSSI. Regardless of this deficit, impacts and effects specifically on effects on Chattenden Woods and Lodge Hill SSSI and Nightingales without the proposed embedded mitigation measures were identified in Chapter 5 of the Ecological Appraisals and further clarified in the subsequent Technical Briefing Note. The key impact/effect pathways as summarised in Aspect Ecology's Technical Briefing Note included:

- Habitat loss;
- Damage to trees and vegetation;
- Connectivity and functionality of supporting habitat;
- Air/water pollution;
- Hydrological effects;
- Recreational effects;
- Urban edge effects; and
- Cat predation.

The discussions on impact/effect pathways are comprehensive. They also reflect the key threats identified by Natural England in 2013 (paragraph 3.2.4) and by Natural England and KCC Ecology within their consultation responses (Chapter 4).

The identification of the worst case realistic impact and effect pathways has been supported by an evidence base (appropriate to the Site, Proposed Development and constraints to surveys) which was then used to inform the mitigation measures incorporated into the design of the Proposed Development.

Therefore, the scope of potential effects/impact pathways considered as part of the Ecological Appraisals and subsequent Technical Briefing Note is considered to be comprehensive.

5. Is the assessment of impacts site specific and evidence based?

The Ecological Appraisals and the subsequent information provided in the Technical Briefing Note discussed in Chapter 4 have been carried out in accordance with legislation, policy and best practice guidance as set out in Chapter 2. The assessments of impacts and effects are based on a site specific description of the baseline conditions with information gathered through both desk based assessment and on-site survey information. Furthermore, the evidence base was either clearly referenced or provided within the main body of the reports or in the appendices. Where there are constraints and limitations applied to the methodology these have been appropriately referenced.

Therefore, it is considered that the assessment of impacts relating to both Proposed Developments are site specific and evidence based.

6. Is sufficient information provided regarding mitigation measures and their likely effectiveness?

The most appropriate and viable mitigation measures for the Proposed development have been chosen in a logical manner which reflects the known baseline conditions within the Site and the assumed worst-case assumptions associated with the baseline conditions within Chattenden Woods and Lodge Hill SSSI as well as the identified potential impacts and effects associated with the Proposed Developments. However, one of the key constraints when considering the effectiveness of the proposed mitigation is the proximity of the built development to the Chattenden Woods and Lodge Hill SSSI which is between a maximum of 10m and 25m.

The key mitigation measures proposed for both the Proposed Developments are:

- The provision of two hedgerows planted with thorny species separated by a cat proof fence along the northern boundaries of the Sites. The details of these are to be secured through planning conditions. The hedgerows and fencing will minimise access to the adjacent Chattenden Woods and Lodge Hill SSSI land to people, dogs and cats (either associated with the Proposed Developments or existing developments to the south). It will also prevent urbanising effects and development creep occurring;

- The green infrastructure/buffer area will not be lit creating a dark corridor and a buffer between the lighting within the Proposed Development and the adjacent Chattenden Woods and Lodge Hill SSSI. The Lighting Design Strategy is to be secured through planning conditions;
- No cat policy which will be secured through a planning condition and implemented through the Management Company. If there are no cats within the Proposed Developments, there will be no predation within or surrounding the Sites; and
- Information packs to new residents which highlights the sensitivity and importance of Chattenden Woods and Lodge Hill SSSI and its nightingales.

The two hedgerows and intervening cat proof fencing will be most effective if properly implemented and maintained, which could be secured through planning conditions such as those recommended by KCC Ecology. However, as noted by Natural England they are only effective where they occur and there is limited information on how to stop people, dogs and cats walking around the western and eastern extents of the hedgerows and fencing to enter Chattenden Woods and Lodge Hill SSSI as the neighbouring land is outside of the control of the Applicant. It is though noted that there is a fence around this part of old Chattenden Barracks within the SSSI which will prevent access by people and could act as a deterrent to cats and dogs. If a person, cat or dog did get through/round the hedgerows and fencing there is no additional buffer available to stop them potentially directly disturbing any Nightingales within this area of Chattenden Woods and Lodge Hill SSSI.

If the no cat policy can be legally secured by Medway Council and is effectively implemented as set out in the evidence base, it could be effective. But to be most effective, it needs to work in conjunction with other mitigation measures but again if a cat was present within the Proposed Developments and escaped into the Chattenden Woods and Lodge Hill SSSI there is a potential due to the lack of information and presence of suitable habitat to disturb or predate on any Nightingales present.

The information packs to new residents are helpful but will only provide advisory measures, which are not legally implementable and could be ignored by the new residents especially if the packs are lost or not read. The effectiveness of the information packs on their own to prevent recreational disturbance by dog walkers using the two PRoW which cross through third party land within Chattenden Woods and Lodge Hill SSSI is uncertain without further information on the condition of the surrounding habitat and proximity to Nightingales. Also, as the land is owned by a third party there is no obvious mechanism of enforcing the advice presented in the information pack. Although, it is recognised that there will be low numbers of new residents (potentially 50.420) and not all of them will regularly walk along the PRoWs

or have dogs, any additional disturbance could adversely affect the breeding success of Nightingales.

Sufficient information is not currently available to inform a full planning application (Land to the north of 2 Farm Cottages (MC/20/2979)) or an outline planning application (Land off Lodge Hill Lane (MC/20/2980)) of their nature and scale.

7. Is there any government guidance that identifies 150m (Natural England referenced distance) as a recognised off set distance for residential development from the boundary of a SSSI?

During this independent review, no government or national guidance has been identified that identifies 150m as a recognised off-set distance for residential development from the boundary of a SSSI. The appropriate distance of a residential development is specific to the impact and effects associated with the individual developments and the recognised threats to the SSSI.

It is recognised that the Site is located within Natural England's Impact Risk Zones for Sites of Special Scientific Interest for Chattenden Woods and Lodge Hill SSSI²¹, however these Impact Risk Zones are to be used to generally assess planning applications for likely impacts on SSSIs and to help determine when to consult Natural England. They do not provide specific distances to offset residential developments.

From previous experience, it is considered likely that the 150m distance identified by Natural England is in relation to cat predation as cats tend to roam and hunt outside of the house and garden they reside in. However, in this instance if the 'no cat policy' is agreed between the Applicant and Medway Council and effectively implemented there will be no cats present on the Sites and therefore this distance is not relevant to these particular Proposed Developments.

8. Having due regard to relevant local and national planning policy do you think the applicant put forward appropriate mitigation proposals in the event of any urbanising impact to protected species (specifically Nightingales), with those proposals being proportionate to the scale of development?

Wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). It is illegal to take or harm them, their nests (whilst in use or being built) or their eggs. Additionally for some species listed in Schedule 1 of the Act it is an offence to intentionally or recklessly disturb the adults while they are in and around their nest or intentionally or recklessly disturb their dependent young. This is carried through all relevant national and local planning policy.

FPCR have considered that as a result of their habitat survey carried out in January 2020 there is no suitable habitat for nesting Nightingales within the Site. There is though, no available recent data on the habitat suitability for Nightingales or their presence/absence within the areas of Chattenden Woods and Lodge Hill SSSI

adjacent to the Sites or in proximity to the two PRoWs crossing through the SSSI that could be used by future residents. Regardless the Applicant has proposed the mitigation measures set out in answer to question 6 above.

Through the implementation of all these mitigation measures and their long-term monitoring and management, which could be secured through planning conditions and/or Section 106, the Applicant has put forward mitigation proposals in the event of any urbanising, recreational and cat predation impacts and effects to protected species (specifically Nightingales). However, it will be necessary and appropriate to secure appropriate ongoing management and monitoring measures to ensure that the measures will continue to operate effectively over time and are enhanced further if adverse effects occur.

9. Do you deem that the evidence provided in relation to cat predation accurately reflects published data and sources?

There is no formal national or government guidance relating to domestic cat predation in relation to new residential developments. Instead, there are published studies relating to the distance feral and domestic cats tend to travel from their place of residence within their home range in different countries across the world. Aspect Ecology in their Technical Briefing Note refer to the following six studies:

- Review provided by: Woods, M., McDonald, R.A and Harris, S (2003) Predation of wildlife by domestic cats *Felis catus* in Great Britain. *Mammal Rev.* 2003, Volume 33, No.2 p174-188;
- www.rspb.org.uk/birds-and-wildlife/advice/gardening-for-wildlife/animal-deterrents/cats-and-garden-birds/are-cats-causing-bird-declines/; and
- Saul, J (2000) Cat ownership amongst the general public. Unpublished report, Sandy: RSPB;
- Howes, C.A (2000) Red in tooth and claw: 2. Studies on the natural history of the domestic cat *Felis catus* Lin. In *Yorkshire. Naturalist*, 127, 101-131;
- Dickman, C.R (1996) Overview of the impacts of feral cats on Australian native fauna. Institute of Wildlife Research and School of Biological Sciences, University of Sydney. Prepared for Australian Nature Conservation Agency; and
- Moseby, K.E and Read, J.L (2006) The efficacy of feral cat, fox and rabbit exclusion fence designs for threatened species protection. *Biological Conservation*, 127 (4):429-437. Cited in: RSPB Ecology (October 2019) the Predator Exclusion Fence Manual.

Other studies on cat predation that could have been referenced include:

- <https://www.knowyourcat.info/info/territory.htm>
- <https://www.sciencedaily.com/releases/2011/05/110526114531.htm>
- <https://www.nature.com/articles/NCOMMS2380>

Each study reaches slightly different conclusions about the distance travelled by domestic cats (which is less than feral cats) due to the unique characteristics of each study, study area, type of cat (domestic and feral), whether they have been neutered and availability of food but on average the 400m from their place of residence cited by Natural England is considered appropriate for assessing cat predation effects from this Proposed Development.

It is worth noting that studies on domestic cats have discovered that home ranges are less extensive for sterilised cats and those that live in an urban environment as house cats never create colonies with neighbouring cats, if they meet it is more to assert their territorial rights. In addition, there is greater abundance of food and shelter in urban areas which reduces the need to hunt. All these minimise the area of their home ranges.

However, the minimum 400m distance between the proposed built environment and potentially suitable habitat has not been applied by the Applicant to minimise effects on Nightingale as the Sites are directly adjacent to Chattenden Woods and Lodge Hill SSSI where the conditions (lack of disturbance and presence of appropriate habitat) are suitable for potentially significant numbers of Nightingales to be present.

10. On balance, has the applicant undertaken reasonable steps to mitigate the potential impacts of the development on protected species, when considering proportionality and scale of the proposed development?

Yes. The mitigation measures proposed will help to deter people creating disturbance from recreational activities and minimise cats predation as well as other urbanising effects occurring within Chattenden Woods and Lodge Hill SSSI. No additional measures are considered practicable or appropriate for residential developments of this scale in this location, on the land within the Applicant's control considering they are adjacent to the Chattenden Woods and Lodge Hill SSSI. However, it is considered that the measures are likely to reduce potential effects rather than fully mitigating them do the proximity of the Proposed Developments to suitable habitat for Nightingales within Chattenden Woods and Lodge Hill SSSI.

In summary the Ecologists independent review has considered whether the proposed development will create an adverse effect on the Chattenden Woods and Lodge Hill SSSI and its associated breeding population of Nightingales. The review has also considered the potential for urbanising effects (fly-tipping, informal garden extensions and residents managing the woodland edge), recreational disturbance effects and effects from predation by domestic cats from the proposed development.

Overall, the Ecologists independent review considered that there is a lack of certainty relating to the assessment of impacts on Chattenden Woods and Lodge Hill SSSI and its associated Nightingale population due to a breeding bird survey of the site not being carried out and due to the lack of access provided by the landowner to the Chattenden Woods and Lodge Hill SSSI; the scope of potential effects/impact pathways considered as part of the Ecological Appraisal and subsequent Technical Briefing Note is considered

to be comprehensive; the assessment of impacts relating to the proposed development are site specific and evidence based; with regard to mitigation measures, sufficient information is not currently available to inform the application of their nature and scale; the minimum 400m distance between the proposed built environment and potentially suitable habitat has not been applied by the applicant to minimise effects on Nightingale as the site is directly adjacent to Chattenden Woods and Lodge Hill SSSI where the conditions (lack of disturbance and presence of appropriate habitat) are suitable for potentially significant numbers of Nightingales to be present; and the mitigation measures proposed will help to deter people creating disturbance from recreational activities and minimise cats predation as well as other urbanising effects occurring within Chattenden Woods and Lodge Hill SSSI. No additional measures are considered practicable or appropriate for residential developments of this scale in this location, on the land within the applicant's control considering they are adjacent to the Chattenden Woods and Lodge Hill SSSI. However, it is considered that the measures are likely to reduce potential effects rather than fully mitigating them due to the proximity of the proposed development to suitable habitat for Nightingales within Chattenden Woods and Lodge Hill SSSI.

Overall, it is considered that the mitigation measures proposed are only likely to reduce potential effects rather than fully mitigating them due to the proximity of the site to suitable habitat for Nightingales within the SSSI and therefore the development would have an adverse effect on the SSSI. In addition, if monitoring of the mitigation demonstrates that adverse harm is resulting from the development to the nightingale population, there is no further mitigation that the applicants could introduce within land in their control. Consequently, the proposal would conflict with Policies BNE35 and BNE37 of the Local Plan and paragraphs 174, 179 and 180 of the NPPF.

Archaeology

The application is accompanied by a Heritage and Archaeology Assessment by HCUK Group. This report provides a reasonable account of the site's archaeological potential and identifies a potential for archaeological remains of Prehistoric, Romano-British and medieval date to be present at the site. The potential for Palaeolithic archaeology may be greater than the report indicates and additionally, the discovery of evidence for Mesolithic activity to the south within Chattenden suggests that Mesolithic communities were familiar with and active within the landscape and therefore the potential for archaeological remains of this period can similarly not be ruled out. The report also identifies that the site lies within a landscape that is rich in remains associated with nineteenth and twentieth century military activity.

The applicant's assessment notes that should archaeological remains be present they would likely be impacted by the development proposals. The report also identifies that further archaeological works may be required in advance of, or during redevelopment of the site.

Archaeological works would be required and these would likely take the form of archaeological evaluation works (trial trenching) in the first instance with the results of this

trial trenching being used to inform the scope of any further archaeological investigation and recording that may be required. Therefore, if the application were to be considered acceptable a condition would be recommended for a programme of archaeological works.

Subject to the above mentioned recommended condition, the proposal is considered to comply with Policy BNE21 of the Local Plan and paragraphs 197, 203 and 205 of the NPPF.

Trees

An arboricultural report, tree location plan, tree removal plan and tree protection plan, by GRS Arboricultural Consultant (dated 22nd October 2021) has been submitted with the application.

A group of trees on the southern boundary of the site, three trees on the southern boundary of the adjacent site (application MC/20/2980), a tree to the middle of the site and groups of Leyland Cypress within the site and on the northern and eastern boundary of the site are all proposed to be removed as part of this application. These trees are not protected by any preservation order and although they do add to the character of the area, they are not a dominant landscape feature. Some replacement tree planting is proposed mainly to the frontage of the new access road and to the northern back edge of the site. It is considered that the replacement tree planting proposed would compensate for the loss of the existing trees.

Within the boundary of the neighbouring property, Roughways Barn, is a large Black Poplar. If the application were to be considered acceptable conditions would be recommended for further details to be submitted of the road construction method and how this would not impact on the root protection area of the tree and the location of services into the site.

Overall, it is considered that adequate tree replacement planting could be achieved on the site and therefore the loss of the existing trees identified would be considered acceptable.

If the application were to be considered acceptable it is considered that issues relating to tree removal, protection, and replacement can all be satisfactorily dealt with by appropriate conditions. Subject to those conditions no objection would be raised under Policy BNE43 of the Local Plan and Paragraph 174 of the NPPF.

Contamination

A Phase 1 Desk Study, Site Reconnaissance & Phase II Site Investigation Report has been submitted in support of the application, which is in line with current guidance. The investigation did reveal the presence of contaminants of concern at elevated levels and recommended further investigations be carried out in areas beneath the hardstanding and barns across the eastern site area, along with further investigation around HA104 (as

identified on the drawing investigation locations within the report) where fuel impacted soils were encountered in the vicinity of the diesel storage tank. Further investigations need to be carried out and therefore if the application were to be considered acceptable conditions would be recommended.

The site is identified on the PADI+ system (which is the Health and Safety Executives planning advice web app) as being within one or more explosives safeguarding zones. This system advises that the Health and Safety Executives Explosives Inspectorate be consulted on this application. Consultation has been carried out with the Explosives Inspectorate, however, no formal comments by them have been made. The applicants within the report have advised that the risks from unexploded ordnance have been assessed in accordance with CIRIA guidance⁶. A non-UXO specialist preliminary screening assessment has been carried out. The risks have been assessed by considering firstly the likelihood of military activities on, or in the vicinity of the site as determined from the desk study and historical review. Secondly the risk of UXO has been assessed by reference to the unexploded WWII aerial delivered bomb (UXB) regional risk maps produced by Zetica. The Zetica risk maps indicate a moderate risk.

The report further states that given that there is a military base located immediately north of the site, Brimstone UXO completed a Stage 1 Preliminary UXO Risk Assessment (referenced PRA-20-1218 and dated 01/05/2020) and concluded a moderate risk from German UXO and a low to moderate risk from British/Allied UXO.

Considering both risk assessments above and taking a conservative approach the risk onsite from UXO has been rated as Moderate.

Subject to the above recommended condition, the proposal is considered to comply with Policy BNE23 of the Medway Local Plan and paragraphs 174, 183 and 184 of the NPPF.

Noise

An acoustic assessment has been submitted with the application and it is considered that the assessment is acceptable and demonstrates that there are minimal risks to the amenity of existing and proposed residential properties.

The proposal is considered to be in accordance with Policy BNE2 of the Local Plan and paragraph 130 of the NPPF.

Air Quality

Due to the close proximity of the development to the Four Elms Hill Air Quality Management Area standard mitigation will be required in accordance with the Medway Air Quality Planning Guidance, including the installation of electric vehicle charging points and low NOx gas fired boilers. If the application were to be considered acceptable a condition would be recommended to secure these measures.

Flood and Drainage

The application site comprises brownfield land and it is recognised that the site is situated within Flood Zone 1 in accordance with Environment Agency mapping. It is also noted that the Environment Agency Flood Map highlights the site as very low risk of surface water flooding.

It is noted that cellular storage tanks are proposed to be used to deal with the surface water run off before being attenuated into the existing surface water sewer within the surrounding area at 2l/s.

Paragraph 079 of National Planning Policy Guidance Flood and Coastal Change states that when considering major development, sustainable drainage systems (SuDs) should be provided unless demonstrated to be inappropriate.

SuD's are designed to control surface water runoff close to where it falls and mimic natural drainage as closely as possible. They provide opportunities to:

- Reduce the causes and impacts of flooding.
- Remove pollutants from urban runoff at source.
- Combine water management with green space with benefits for amenity, recreation and wildlife

The proposals are considered acceptable in principle but a detailed scheme would need to be approved and therefore if the application were to be considered acceptable conditions would be recommended to achieve this and the development is considered to be in accordance with paragraph 168 of the NPPF.

Climate Change and Energy Efficiency

The application has not been submitted with a statement as to how the dwellings would address climate change and energy efficiency. Therefore, if the application were to be considered acceptable a condition is recommended for a climate change and energy efficiency statement and for an energy efficiency and climate change verification report to be submitted. With the abovementioned condition imposed the proposal is in accordance with paragraph 154 of the NPPF.

Bird Mitigation

As the application site is within 5km of the Medway Estuary & Marshes SPA, Ramsar and SSSI and 2km of the Thames Estuary & Marshes SPA, Ramsar and SSSI, though small, the proposed development is likely to have an 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 £250.39 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 SAMMs tariff has not been paid for this application. In the event of an appeal being submitted against the refusal of planning permission for this application, a completed unilateral undertaking should be submitted as part of the appeal documentation. Failure to do so could result in the Planning Inspectorate including a ground to dismiss the appeal for failing to provide adequate measures to mitigate potential significant adverse effects on the North Kent Marshes SPA.

Relevant appeal decisions with regard to this matter include APP/A2280/W/16/3146030 (MC/15/3987), APP/A2280/W/16/3151528 (MC/16/0825), APP/A2280/W/16/3161195 (MC/16/3304) and APP/A2280/W/17/3173056 (MC/16/2030).

Without this agreement in place and in the absence of information for an appropriate assessment to be undertaken, the Local Planning Authority cannot be satisfied that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the North Kent Marshes SPA which is contrary Paragraphs 180 and 181 of the NPPF and Policies S6 and BNE35 of the Local Plan.

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 7 of the NPPF states that the policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

SSSI's are protected under the Wildlife and Countryside Act 1981 from harmful operations, including development proposals. Paragraph 180 of the NPPF gives a high level of protection to SSSI's, including on land within or outside these designated sites, and states that development which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. It also states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

As detailed within the SSSI section of this report above, the independent review concludes that the mitigation measures proposed are appropriate to the proposed development, considering the site location and the current understanding of the baseline conditions. In coming to that conclusion, it is recognised that there is no further mitigation that the applicants could implement upon within which they would have control. However, the effectiveness of the mitigation measures is very dependent on the effectiveness of their implementation and whether ongoing management and monitoring could be secured through planning conditions and Section 106. Results of the ongoing management and monitoring could be shared with KCC Ecology and Natural England as appropriate to enable any remedial actions to be taken if required in agreement with all parties. Overall, the independent review considered that the proposed mitigation measures, would effectively reduce potential effects on Nightingales within Chattenden Woods and Lodge Hill SSSI but that doubt remained regarding whether the effects on the SSSI would be fully mitigated. In addition, if the monitoring were to demonstrate adverse impact on the nightingale population, there are no further mitigation measures that the applicants could implement within areas of their control.

Therefore, the application of policies in the NPPF that protect areas or assets of particular importance would provide a clear reason for refusing the proposed development as the effects from the residential dwellings on the SSSI would not be fully mitigated against and would have a detrimental impact on the SSSI through recreational disturbance and Cat predation.

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 recently published 2021-2022 Housing Delivery Test, the Council had delivered 67% of its target number of dwellings compared with the defined housing requirement.

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

The new residents will generate more demand for local services and facilities, and this would contribute to boosting the local economy and vitality of Chattenden. 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. There would also be the benefit of support for a Small or Medium Enterprise (SME). Moderate weight would be given to these factors.

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

Social

The NPPF confirms that the 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”.

The development would deliver nine dwellings towards housing land supply, although relatively minor these would contribute to the identified need in the Medway area. It is

considered that moderate weight can be attached to the social benefits of the provision of nine dwellings to meet the lack of housing supply in accordance with the guidance in the NPPF.

The proposal will also be delivered by an SME developer and therefore could be delivered in a reasonable timeframe. However, this would be subject to compliance with any pre-commencement conditions.

The site is within walking distance of the bus stop and the community centre. The bus service runs a limited service during the week and weekends to access local shops. The other services within the vicinity such as Chattenden Primary School, Church, convenience stores and petrol station would fall outside of the accepted 800m walking distance, however local shops can be reached by a short trip by car.

The impacts from COVID have highlighted the need for dwellings to be adaptable, allowing for the occupiers to spend a significant amount of time at home, including working from home. Taking account of this, the proposal is designed with spacious dwellings and would therefore be able to facilitate home working. This contributes to and promotes well-being for the future occupiers. Limited weight is attached in this regard given that it largely benefits the occupiers of the development itself and not the surrounding population.

Environmental

Through recommended conditions the development would be developed taking into account climate change and energy efficiency and electric vehicle charging points.

It is considered that landscape impact can be satisfactorily mitigated and the development would appear as part of the existing cluster of buildings/properties at this location.

As outlined within the Ecologists Independent Review the mitigation measures proposed are appropriate to the proposed development, considering the site location and the current understanding of the baseline conditions and reflecting that there is nothing else the applicants can promote in terms of mitigation within their control. However, the effectiveness of the mitigation measures is very dependent on the effectiveness of their implementation and whether ongoing management and monitoring could be secured through planning conditions and Section 106. The review considered that measures would reduce potential effects on Nightingales within Chattenden Woods and Lodge Hill SSSI but that doubt remained regarding whether the effects on the SSSI would be fully mitigated. In addition, if monitoring revealed that despite the mitigation there were still adverse impacts on the nightingale population, there are no further mitigations that the applicants could implement within areas under their control.

Taking all of the above into consideration and applying the tilted balance pursuant to paragraph 11d of the NPPF, it is considered that the impacts further dwellings/occupants of the dwellings, would have on the SSSI, with regard to the recreational disturbance and cat predation would be significantly detrimental and the mitigation measures proposed

could not be put in place to fully mitigate these impacts and therefore the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

Conclusions and Reasons for Refusal

The development for residential dwellings, is considered to have a significantly detrimental impact on Chattenden Woods and Lodge Hill Site of Special Scientific Interest, in terms of the increased activity from future occupants of the development accessing this area and through impact on the protected Nightingales that inhabit this site, from cat predation. The development fails to comply with Policies BNE35 and BNE37 of the Medway Local Plan 2003 and paragraphs 174, 179 and 180 of the National Planning Policy Guidance 2021.

The application fails to address the impact of the proposal on the Special Protection Areas of the Thames Estuary and Marshes and the Medway Estuary and Marshes through either the submission of details to allow the undertaking of an Appropriate Assessment or via a contribution towards strategic mitigation measures. In the absence of such information or contribution, the proposal fails to comply with the requirement of the Conservation of Habitat and Species Regulations 2010 and is contrary to Policies BNE35 and S6 of the Medway Local Plan 2003 and paragraphs 180 and 181 of the NPPF.

The application would normally fall under delegated powers for determination but is being reported to Committee at the request of the Head of Planning due to the sensitivity of the site issues and to clarify the difference between this site/proposal and the one recently approved at View Road.

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/>