

MC/24/1289

Date Received: 21 June 2024

Location: Land west of Edinburgh Road, Isle of Grain, Rochester, Medway

Proposal: Construction of 34 dwellings together with access, parking, landscaping, open space and associated infrastructure and earthworks.

Applicant Esquire Developments Ltd

Agent

Ward: All Saints

Case Officer: Tom Stubbs

Contact Number: 01634 331700

Recommendation:

A. Resolution to approve subject to:

- (i) notification of HSE to decide if they wish to call into the secretary of state to be considered
- (ii) for the assessment of the Grain Local Wildlife site to be submitted and assessed by KCC Ecology.

B. The imposition of the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of 18 months from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 21 June 2024:

IOG-BPTW-S01-00-DR-A-0100 Rev C01
IOG-BPTW-T01-ZZ-DR-A-1010 Rev C01
IOG-BPTW-T01-ZZ-DR-A-2010 Rev C01
IOG-BPTW-T03-ZZ-DR-A-1012 Rev C01
IOG-BPTW-T03-ZZ-DR-A-2012 Rev C01
IOG-BPTW-T04-ZZ-DR-A-1013 Rev C01
IOG-BPTW-T04-ZZ-DR-A-1014 Rev C01
IOG-BPTW-T04-ZZ-DR-A-2013 Rev C01
IOG-BPTW-T04-ZZ-DR-A-2014 Rev C01

Received 26 June 2024

IOG-BPTW-XX-XX-DR-A-2201 Rev C02

Received 6 August 2024:

6570-LLB-XX-XX-DR-L-0001 REV P05
IOG-BPTW-S01-00-DR-A-0010 REV C02
IOG-BPTW-S01-01-DR-A-0011 REV C02
IOG-BPTW-S01-ZZ-DR-A-0012 REV 02
IOG-BPTW-T02-ZZ-DR-A-1011 REV C02
IOG-BPTW-T02-ZZ-DR-A-2011 REV C02
IOG-BPTW-T04-ZZ-DR-A-1013 REV C02
IOG-BPTW-ZZ-00-ST-A-5401 REV C02

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

- 3 No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, protection of hedgerows, hours of working, deliveries to the site, parking of operatives vehicles, noise, dust arising from the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be undertaken in accordance with this approved plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period on the amenities of local residents with regard to Policies BNE2, BNE37 and BNE39 of the Medway Local Plan 2003.

- 4 No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority. The archaeological works shall thereafter be carried out in accordance with the approved specification.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on any archaeological interest and in accordance with Policy BNE21 of the Local Plan 2003.

- 5 No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and

a written report of the findings must be produced. The written report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health.
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
 - adjoining land.
 - groundwaters and surface waters.
 - ecological systems.
 - archaeological sites and ancient monuments.
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

- 6 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

- 7 No development shall take place (other than development required to enable the remediation process to be implemented) until the remediation scheme approved under condition 6 has been carried out in accordance with its terms. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

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

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

- 8 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 5, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6 which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 6 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with 7.

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

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

The scheme shall include (where applicable):

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

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

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 168 of NPPF

- 10 No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA). The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

The approved CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- (i) Temporary drainage systems.
- (ii) Measures for managing pollution / water quality and protecting controlled waters and watercourses.
- (iii) Measures for managing any on or offsite flood risk.

The development shall thereafter be undertaken in accordance with the agreed details.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 168 of NPPF.

- 11 No development above slab level shall take place until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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

- 12 No development shall take place above ground floor slab level until details of the provision of 1 electric vehicle charging point per dwelling has been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained in working order.

Reason: In the interests of sustainability in accordance with paragraph 116(e) of National Planning Policy Framework 2023.

- 13 Prior to the first occupation of any dwelling herein approved, full details of both hard and soft landscape works including ecological enhancements and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority.

These details should include

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

The development shall be implemented in accordance with the approved details and timetable and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

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

- 14 Prior to the first occupation of the development herein approved, a landscape management plan, shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for implementation. The development shall thereafter be implemented in accordance with the approved details. Prior to any handover of the maintenance of the public landscape areas to a management company, there must be a site visit involving the LPA, the proposed

landscape management company and the developer. The site visit will include a review of the site area proposed to be transferred to the management company and will assess whether the approved landscape plans have been implemented as approved, the condition and maintenance of all planting and what measures are necessary prior to a handover to the management company. The results of the site visit/walk over shall be submitted to and approved in writing by the Local Planning Authority and the agreed requirements in terms of re-planting/maintenance shall be undertaken prior to any hand over to the management company.

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

- 15 Prior to the first occupation of any dwelling herein approved, details of the detailed locations, specifications and long-term management strategy of the ecological enhancement measures, including but not limited to swift and bat bricks, shall be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented and thereafter retained in accordance with the agreed management strategy.

Reason: To provide ecological enhancement with regards to paragraph 180 of the National Planning Policy Framework 2023.

- 16 No dwelling shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any dwellings are occupied and shall thereafter be retained.

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

- 17 Prior to the first use of any of the buildings (or within an agreed implementation schedule), a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water drainage systems have been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: To ensure a suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk on site or elsewhere in accordance with paragraph 175 of the National Planning Policy Framework 2023.

- 18 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Sustainability Strategy section of the design and access statement. The development shall not be occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been implemented.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 159 the National Planning Policy Framework 2023.

- 19 Prior to any handover of the maintenance of the public landscape areas to a management company, there must be a site visit involving the LPA, the proposed landscape management company and the developer. The site visit will include a review of the site area proposed to be transferred to the management company and will assess whether the approved landscape plans have been implemented as approved, the condition and maintenance of all planting and what measures are necessary prior to a handover to the management company. The results of the site visit/walk over shall be submitted to and approved in writing by the Local Planning Authority and the agreed requirements in terms of re-planting/maintenance shall be undertaken prior to any hand over to the management company.

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

- 20 No development shall take place until details of a Delivery, servicing and Waste Management plan have been submitted to and approved in writing by the Local Planning Authority. The plan should include details of how bins will not be presented onto the grass verge of Grain Road. The management of waste within the site shall thereafter be carried out in accordance with the approved details.

Reason: Required prior to commencement of development to ensure adequate waste collection without prejudice to the amenities of existing and future.

- 21 Prior to the occupation of any dwelling herein approved, the area shown on the submitted drawing IOG-BTPW-S01-00-DR-A-0010 Rev C02 as vehicle parking space shall be provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space/garaging.

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

- 22 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use together with a report to demonstrate its effect on the landscaping of the site (including an overlay of the proposed lighting onto the site landscaping plans), the rural landscape, nearby residential properties, bats (including reference to the recommendations of the Bat Conservation Trust) and of how this effect has been minimised. Any external lighting shall be implemented in accordance with the approved details.

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

- 23 In this Condition "retained tree" means an existing tree which is to be retained in accordance with the Tree Removal Plan - TRP-01 and Tree Protection Plan TPP-01 dated 22 April 2024; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of any part of the development for its permitted use.
- a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.
 - c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written approval of the Local Planning Authority.

Reason: To protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

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

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

Proposal

This application seeks full planning permission for the construction of 34 new homes (use class C3) together with access, parking, landscaping, open space and associated infrastructure and earthworks.

The residential development would part front onto Grain Road and part onto the extended access road from Edinburgh Road. The houses would be a mixture of two storey gable roof properties in semi-detached or terrace appearance to create a mix of housing ranging from 1 bed maisonettes to 4 bedrooms dwellings.

A footpath and new public realm is proposed to allow pedestrian and cycle access from the new access road onto Grain Road. A new pedestrian crossing of Grain Road is also proposed. Landscaping is proposed that retains trees onsite and includes a buffer planting strip to the adjacent agricultural field.

Site Area/Density

Site Area: 0.98 hectares (2.42acres)

Site Density: 34.69dph (14.87dpa)

Relevant Planning History

Grain LNG

MC/15/2270

Hazardous Substance Consent Application seeking:
A) an increase in the maximum volume storage capacity with the phase II and phase III tanks (4 tanks in total) of Liquefied Natural Gas (LNG) from

190,000m³ to 206,700m³, with no increase total amount of LNG stored on site being a maximum of 564,746.3 tonnes;

B) the storage of 689 tonnes of Natural Gas; and

C) the storage of 200 tonnes of Liquid Petroleum Gas (LPG).

Decision: Approved with conditions

Decided: 28 August 2015

Representations

The application has been advertised on site, in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties. KCC Archaeology, KCC Biodiversity, St James Isle of Grain Parish Council, NHS Medway, UK Power Networks, National Grid, Southern Gas Networks, Southern Water, Royal Society of Protection Birds (RSPB), Kent Wildlife Trust, Natural England, Lower Medway Drainage Board and Kent Police have also been consulted.

Forty-one letters of objections have been received from forty different households raising the following planning concerns:

- Grain is remote with already stretched infrastructure comprising of shops, schools, doctors and water pressure. Also, poor bus services and access to train stations.
- One road to and from Grain in poor state with potholes, floods and heavy pollution.
- The vehicle access is via Coronation Road and Edinburgh Road which are heavily parked. Should be from Grain Road.
- Houses will cause loss of vision of people entering and exiting village.
- Not enough parking provided. Concerns about waste vehicles turning and unrealistic movement data of which 34 dwellings would impact the A228.
- Loss of Grade 2 agricultural land.
- How will run off be considered.
- Concerns about antisocial behaviour of council housing. Also, not suitable for social housing due to its remoteness.
- Impact on wildlife.
- Impact on neighbours during construction.
- Over development outside of the village boundary.
- Loss of privacy.
- COHMA area.

Natural England have written to indicate further details in the form of a Habitats regulation assessment is required. This has since been undertaken.

The Health and Safety Executive (HSE) have provided comments using their land use planning guidance. HSE is a statutory consultee for certain developments within the consultation distance of Major Hazardous Site/Pipelines. HSE advise against as the risk

of harm to people at the proposed development site is such that HSE's advise is that there are sufficient reasons on safety grounds for advising against the granting of planning permission in this case.

Major Hazzard Site are subject to requirements of the Health and Safety at Work act 1974 which specifically includes provisions to protect the public. However, the possibility remains that a major accident could occur at an installation and this could have serious consequences for people in the vicinity. Although the likelihood of a major accident is small, it is felt prudent for planning to consider the risks to people in the vicinity of the hazardous installation.”

If the Local Planning Authority is minded to grant permission, Section 9 of paragraph 072 of the online Planning Practice Guidance on Hazardous Substances – Handling development proposals around hazardous installations would need the LPA to notify HSE for them to determine whether to call the application in for determination by the Secretary of State.

St James Isle of Grain Parish Council have objected raising the following concerns:

- Access through Coronation Road and Edinburgh Road is narrow due to park cars and there are already issues with other cars from streets parking in them.
- Poor connectivity from the A228/B2001 which is not well maintained.
- COMHA regulations will apply to new residents.
- Pedestrian crossing is in a dangerous location.
- The scheme is an overdevelopment of a small parcel of land outside the village envelope.
- Concerns about the use of tandem parking spaces.
- Lack of facilities to support the proposed development. Schools are oversubscribed and police and ambulances need to come from the urban area.

Kent Wildlife Trust have written to indicate the application site is sited within a 5 minute walk of the Grain Pit Local Wildlife Site (LWS) which supports priority habitat broadleave, mixed and yew woodland as well as fen, marsh and swamp. The site is also a 10 minute walk from the Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar and South Thames Estuary Marshes Site of Special Scientific Interest (SSSI).

There is a potential for impact on designated sites of potential occupiers of the development from recreational use of both the SSSIs and the Local Wildlife Site. The application does not have significant information of potential impacts. They advise that a bird survey is undertaken.

KCC Biodiversity initially wrote asking for further information in the form of a shadow Habitat Regulation Assessment for impact on SSSIs.

This was later provided and as a result KCC ecology raised no concerns.

There is a need for the consideration of impact on Grain Pit Local Wildlife Site. The submitted Preliminary Ecological Appraisal indicates there is limited potential for reptiles, bats, nesting birds and badgers onsite and there is no requirement for specific species surveys prior to determination. However a protected species mitigation strategy will have to be undertaken and this can be conditioned.

With regard to Biodiversity Net Gain (BNG) this was submitted after the introduction of the legislation. There are some minor discrepancies between the Biodiversity Net Gain Feasibility Assessment report and Statutory BNG metric calculation, however this can be resolved by the BNG condition discharge stage. *An informative will be issued to cover this within any decision to approve.*

With regard to ecological enhancements, recommendations are made in the ecological details which are considered to be acceptable. However if planning permission is granted the landscape masterplan should be updated to demonstrate that the ecological enhancements would be incorporated into the site.

Dickens Country Protection Society have objected that the site is an overdevelopment with too much terrace housing and too heavy a reliance on tandem parking.

Lower Medway Internal Drainage Board have written to inform that the site is within the Lower Medway Drainage Boards district and indicate that SUDs conditions should be secured as part of any approval.

Southern Gas Networks responded with a plan describing the location of SGN assets and guidance notes about locating pipes onsite and safe digging practices. *An informative will be added to any decision to bring this to the applicant's attention.*

UK Power Networks provided a copy of their records which show the electrical lines and/or plant, and a fact sheet with information regarding the use of their plans and working around their equipment and details of who to contact if the development will affect UK Power Networks High Voltage Equipment. *An informative will be added to any decision to bring this to the applicant's attention.*

Kent Police have written to advise of their concerns with regard to security and have set out some issues that need to be addressed/considered; they have also suggested the developer contacts them to ensure compliance with Secure by Design (SBD). *An informative would be included within the application to bring this letter of representation to the applicant's attention.*

National Grid have written to indicate about the equipment near the application site and list the developers' responsibilities. *An informative would be included within the application to bring this letter of representation to the applicant's attention.*

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 December 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Principle

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

The application site is located within in the Countryside adjacent to the Settlement boundary of Grain as indicated by the proposals map to the Local Plan. Policy H11 seeks to restrict development in the rural area unless it is either allocated in the Local Plan or minor development within the confines of the village. The site has no landscape designations. Policies S1 and S2 of the Local Plan seek to prioritise development within the existing urban fabric and then strategically sustainable development using a sequential approach to location. Policy BNE25 of the Local Plan directs that development in the countryside will only be permitted on a site allocated for that use; development essentially demanding a rural location, or the re-use or adaption of an existing built-up area.

However, it is acknowledged that the Local Plan is of some age, being adopted in 2003; the Council does not currently have a five-year land supply. In light of that, paragraph 11 of the NPPF is engaged. In this respect policies which seek to restrict the supply of housing are considered to be out of date and a presumption in favour of sustainable development is applied.

Policy BNE48 seeks to limit development on the best and most versatile agricultural land (grades 1, 2 and 3a). The policy states that development will be permitted where:

- There is an overriding need for the development that outweighs the protection of agricultural land.
- There are no suitable opportunities for development on previously developed land or land within the village confines.
- Sufficient land on lower grades is not available or protected by landscape/wildlife etc designations.

The agricultural land has not previously been surveyed but predicted to be a grade 2 quality. An agricultural report has been submitted in support of this application which indicates that due to the site being considerably under 20-hectare it could not be

considered significant. It also indicates that other lower land is available but not suitable for development as in a flood plan. The loss of the agricultural land will need to be considered within the planning balance.

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

The NPPF also provides a narrative in terms of housing proposals for the rural area at Paragraph 82 indicates decision should be responsive to local circumstances and support housing needs including affordable housing, while paragraph 83 seeks to promote sustainable development in rural areas and that housing should be located where it will enhance or maintain the vitality of rural communities. While paragraph 84 seeks to prevent isolated homes in rural areas.

Paragraph 109 also states that the planning system should actively manage patterns of growth to address transport issues, and that significant development should be focussed on locations which are, or can be made, sustainable. While this emphasises limiting the need to travel and offering genuine travel choices, it recognises that opportunities to maximise sustainable travel will vary between urban and rural areas.

The development would not result in an isolated development due to the proximity to existing properties in Edinburgh Road and Grain Road.

The loss of agricultural land and development in the countryside harms will have to be considered under the planning balance later in the report due to the Councils 5-year land supply.

Affordable Housing, Housing Mix

Supported by paragraphs 63 and 65 of the NPPF, Policy H10 of the Local Plan supports a range and mix of house types and sizes where the site is over 0.5ha or 1ha (depending on if rural or urban setting) and the principle of development is acceptable. Policy H3 of the Local Plan also requires a proportion (minimum 25%) of residential developments to be affordable housing where there is an identified need and where the development is of sustainable scale.

All of the proposed 34 houses are intended to be taken on by an affordable provider. However, this could only be secured through the use of grant funding and accordingly S106 or conditions cannot be used to secure provision. The applicant has provided confirmation of an agreed deal with an affordable housing provider subject to grant funding and a letter from the provider confirming they have grant funding available to use for this scheme. In the unlikely event that this agreement between developer and

registered provider breaks down, the applicant has confirmed that they will come back to the LPA to discuss alternative ways of securing affordable housing.

Design and impacts on countryside, landscape, heritage and trees.

Policy BNE1 of the Local Plan states that the design of development should be appropriate in relation to the character, appearance and functioning of the built and natural environment and satisfactory in terms of scale, mass, proportion, details, and materials. Paragraphs 131 and 135 of the NPPF emphasises the importance of good design and 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. As previously mentioned, Policy BNE25 of the Local Plan sets out what development is acceptable within the countryside, while Policy BNE43 seeks to retain trees on development sites. The NPPF also sets out at paragraph 180 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.

Although the scheme is located outside the village confines, it is considered a sensible extension of Grain following the existing building line of the existing village boundary along both Coronation Road and Edinburgh Road in general. The two-storey nature of the dwellings would be in keeping with the character of the area and neighbouring properties. The properties fronting Grain Road would present predominantly rear garden boundary treatment and a mix of visitor and residential parking spaces on to the new road. with little direct overlooking at the top of that new road. The applicants have amended the scheme to provide additional flank windows to units to increase surveillance and this is welcomed. However, if the properties were reorientated to front the new access road then this would result in rear boundary treatment fronting Grain Road which would be a poorly designed gateway to Grain and consequently the proposed scheme is considered the right approach to the layout.

Amenity

There are two main amenity considerations, the impact on neighbouring occupiers in terms of sunlight, daylight, outlook and privacy, and the standard of amenity which would be experienced by future residents of the site itself. Policy BNE2 of the Local Plan and paragraph 135 of the NPPF relates to the protection of these amenities.

Neighbouring Amenity

By virtue, the siting, size, scale and location of windows within the development, orientation of the site and path of the sun and in relation and distance to neighbouring properties and their habitable room windows there would be no unacceptable impact on neighbouring properties amenities with regards to privacy, outlook, sunlight or daylight as proposed.

There is the potential disturbance from noise and dust as a result of construction activity and consequently a condition requiring a Construction Environmental Management Plan (CEMP) is recommended.

Occupier Amenity

The proposed dwellings have been considered against the Technical Housing Standards - nationally described space standard dated March 2015 (the national standard). The dwellings would be in accordance with these requirements.

As guidance, the Medway Housing Standards (interim) November 2011 (MHDS) states that private rear gardens for the width of the property should be 10m in depth or 7m when constraints exist. The proposed gardens of the houses exceed the minimum requirements. The gardens of the ground floor maisonette properties at plots 6 - 9 are smaller but much larger than the size of area associated to private amenity spaces for flats and is thus considered. The first floor maisonettes do not have any private external amenity space but are compliant with the MHDS as they provide the expected 5sqm as additional internal gross internal floor area.

The waste strategy and tracking for the vehicles has been assessed and is considered acceptable.

Subject to the recommended conditions, no objection is raised in terms of the amenities for both the future occupiers and neighbour amenities under Policy BNE2 of the Local Plan and paragraph 135 of the NPPF.

Highways

The development is proposed to be served by an unadopted spine road linked to Edinburgh Road. The access arrangements are considered acceptable with pedestrian footpaths and a pedestrian link to Grain Road. The proposed pedestrian crossing on Grain Road is well located with good vision. With regards to vehicle movements the TRICS assessment in the transport statement is considered sufficient reflective and robust and confirm that the proposal will be expected to create 13 peak hour trips – or a little more than 1 vehicle movement every 5 minutes. This can be absorbed within the local highway network capacity.

The amended tracking shows that waste vehicles can be received and meet collection standards. However, a condition is recommended to restrict the properties fronting Grain Road to present on the grass verge.

The development is considered to provide suitable car parking provision and layout. No details of cycle storage have been provided and therefore a condition to secure this is also recommended.

Subject to the recommended conditions to secure cycle parking details, electric charging points, a Construction management plan and the abovementioned waste management plan, the proposal conforms to Policies BNE2, T1, T2, T3, T4 and T13 of the Local Plan and paragraph 115 of the NPPF.

Contamination

Policy BNE23 of the Medway Local Plan 2003 requires that land known to be or likely to be contaminated should be accompanied by detailed site examination and appropriate remedial measures to reduce or eliminate risk to human health and the wider environment be agreed.

The application is supported by a Phase 1 Desk Study which is considered acceptable and in line with current guidance. The report recommends a phase 2 intrusive investigation based on the preliminary risk assessment is required.

Subject to conditions to secure the investigation and any required remediation, no objection is raised to the proposal under Policy BNE23 of the Local Plan and paragraphs 180 of the NPPF.

Ecology and BNG

The application is supported by a Preliminary Ecological Appraisal which is considered acceptable and indicates that there is limited potential for reptiles, bats, nesting birds and badgers onsite and there is no requirement for specific species surveys prior to determination. However, a condition for protected species mitigation strategy is recommended.

The application was submitted after the statutory biodiversity net gain requirements and the application is supported by a Biodiversity Net Gain Feasibility Assessment report and Statutory BNG metric calculation. There are discrepancies between the two but this can be resolved by the statutory BNG condition discharge stage and an appropriate informative is recommended.

With regard to ecological enhancements recommendations are made in the ecological details which are considered to be acceptable. However the landscape masterplan should be updated to demonstrate that the ecological enhancements will be incorporated into the site and an appropriate condition is recommended.

The supporting information has so far failed to take into account the Grain Pit Local wildlife site and whether the development would have a detrimental impact on it and if so, what mitigation can offset the impact. The applicant is providing an assessment for the local site be considered by KCC Biodiversity and Kent Wildlife Trust. The recommendation is therefore for a resolution to approve subject to a positive response from the assessment.

Subject to the recommended conditions and resolution, no objections are raised with respect to Policy BNE37 of the Local Plan and paragraphs 180 and 186 of the NPPF.

Flooding/ Sustainable Drainage Systems (SUDS)

The application is supported by a Flood Risk Assessment and drainage strategy and the site is located within flood zone 1 (low risk) of the Environment Agency flood map.

On the basis of the submitted information it is recommended that a full suds scheme be secured by condition. It is recommended that the use of rainwater harvesting, grey water recycling and water butts where practicable in order to provide an additional means of surface water attenuation as well as reduced demand on potable water supplies. It is also recommended that permeable paving (lined) is used on the site where practicable.

Subject to the recommended conditions regarding the submission of a suitable SUDs scheme, a Construction Surface Water Management Plan (CSWMP) and a verification report the proposed development is in accordance with paragraphs 167 and 169 of the NPPF.

Archaeology

Policy BNE21 of the Local Plan relates to archaeological sites and directs that development should not be permitted unless an archaeological field evaluation has been carried out by an approved archaeological body in advance of development.

The application is supported by a desk-based assessment which provides an acceptable account of the site's archaeological potential and an appropriate condition is recommended to secure a programme of archaeological works.

Subject to the abovementioned condition the proposal is in accordance with Policy BNE21 of the Local Plan and paragraph 200 of the NPPF.

Climate change and energy efficiency

The applicant has provided a list of energy efficiency mitigation measures within the Sustainable Strategy of the design and access statement. These include fabric first approach to sustainability, EV charging points and air source heat pumps. These measures are considered appropriate. An appropriate condition also requiring verification is recommended. The site would therefore be considered appropriate with regard to paragraph 159 of the NPPF.

COHMA – Health and Safety Executive (HSE)

The Health and Safety executive have been consulted on the application as per paragraph 45 of the NPPF which states that Local Planning Authorities should consult appropriate bodies when considering applications for development around or near major

hazard sites. The response indicates there is sufficient reasons on safety grounds for advising against planning permission.

It goes on to indicate "Major Hazzard Site are subject to requirements of the Health and Safety at Work act 1974 which specifically includes provisions to protect the public. However, the possibility remains that a major accident could occur at an installation and this could have serious consequences for people in the vicinity. Although the likelihood of a major accident is small, it is felt prudent for planning to consider the risks to people in the vicinity of the hazardous installation."

This response is based on the HSE land use planning methodology because the site is located in the mid distance zone of a hazardous installation and is over 30 units. Further correspondence with HSE has confirmed in this case the concern is regarding hazardous substances stored at National Grid Grain LNG which was approved under the hazardous substance planning application approved under planning reference MC/15/2270 for the storage of including Liquefied Natural Gas (LNG), Liquid Petroleum Gas (LPG) and Natural Gas. The application site fits in the middle zone from the Grain LNG Site and is therefore at a risk of 1 chance per million per year.

The advice would be no objection if the application were for 30 units with a site density of under 40 dwellings per hectare. The applicant was informed of the HSE concerns and asked how they intended to proceed and if they could amend their scheme to comply with HSE land use principles. The applicants chose to proceed as the loss of 4 units would impact on the viability for the affordable provider. In addition, it is not clear why on the same site 30 units would be acceptable but 34 would not in relation to safety.

Accordingly, it is recommended that a resolution to approve be given which will then trigger a 21 day notification to the HSE (under Section 9, paragraph 072 of the Online Planning Practice Guidance on Hazardous Substances). This would allow the HSE to consider the health and safety impacts in more detail and decide whether to call the application in to the Secretary of State.

S106 Matters, viability and affordable housing.

Full s106 contributions were requested within the consideration of the application in accordance with the Developer Contribution Guide. Paragraph 58 of the NPPF states that it is for the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. In this case a financial viability appraisal was submitted by the applicant in discussion with the Council's viability consultant. The conclusion was that the scheme would not be viable with any s106 contributions if the scheme were to be 100% affordable as proposed. Consequently, no s106 has been secured against this application.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination,

on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £328.27 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. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation). Giving a total contribution of £11,161.18.

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by 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. Further information regarding the work being undertaken is available at The Bird Wise website which can be found at <https://northkent.birdwise.org.uk/about/>.

The applicant has agreed to this and are in the process of submitting a SAMMS Mitigation Contribution Agreement and payment and therefore no objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 186 and 188 of the NPPF.

A decision from the Court of Justice of the European Union detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Given the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out as part of this application. This is included as a separate assessment form.

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 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-date⁷, granting permission unless:
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 8 of the NPPF states that 11(d) also includes for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74.

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

Economic

New residents within this area will generate more demand for local services and facilities and this would contribute to boosting the local economy. The application would provide employment opportunities in construction jobs and supporting local building trades, albeit that this would be for a temporary period whilst also supporting 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 residents and would, therefore, be a neutral effect.

Social

The NPPF confirms that social objective is: “to support, strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future need and support communities, health, social and cultural wellbeing”.

The development would deliver 34 dwellings (of mixed size) towards housing land supply, all of which would be for an affordable housing provider contributing to the identified need in the Medway area. It should also be noted that the development would be delivered by an SME developer who have agreed conditions to shorten timeframes for implementation

on site which will see the required houses needed, built earlier than standard conditions allowed adding to this significant weight.

However, the potential risk of harm from Grain LNG Hazardous Material storage could cause an issue with regard to safety and health and this would also be of significant weight and hence the recommended of a resolution subject to further detailed assessment by the HSE rather than a straight approval.

The proposed crossing seeks to provide improvements to crossing points along Grain Road for the benefit of both future occupiers and residents of Grain and carry a moderate weight.

Environmental

In terms of the residential development conditions are recommended to ensure that electric vehicle charging points are incorporated into the reserved matters design. The Carbon reduction measures are considered to carry moderate weight given that some proposals are to meet the requirements of the NPPF but recognising that some go beyond the minimum for the newly proposed Part L of Building Regulations.

Landscaping is to be secured by condition and will ensure the provision of ecological enhancements.

There is the loss of agricultural land which as identified as grade 2. However, due to the site being considerably under 20-hectare it could not be considered significant. Other lower land is available but not suitable for development as in a flood plan. The loss of the agricultural land cannot be given more than moderate weight.

Conditions regarding contamination and SUDs would offset the impact of the development and are therefore considered neutral.

It is considered that the social and economic benefits of this application for the provision of up to 34 new affordable dwellings towards the Councils five-year housing land supply demonstrably outweigh impact on the countryside especially as the site would appear as a natural extension of the existing built form.

The potential risk of harm from Grain LNG Hazardous Material storage needs careful consideration, due to the nature of the potential impact of an event with the probability of 1 chance per million per year were to take place. However, it is unclear whether the HSE would support a reason within any possible appeal, as the proposal does not exceed the density limitation and is only 4 units above the 30 unit limit. With regard to this application the development is to be brought forward by an affordable housing provider who can also provide an additional contact point for residents to be notified of any emergency procedures in the unlikely event of a disaster to assist with evacuation. An appropriate condition could require this. In addition, Grain LNG site is operating in accordance with other regulations to ensure its safe operation and on this basis the HSE concluded in their

letter of representation to Hazardous Substance Consent MC/15/2270 that *“On this basis the HSE has concluded that the risk to the surrounding population arising from the proposed operations(s) are so small that there are no significant reasons, on safety grounds, for refusing Hazardous substances Consent.”*

The Local Planning Authority is absolutely not dismissing the apparent safety concerns raised but wishes the HSE to give fuller and more detailed consideration to this matter and that can only be secured through a resolution to approve.

The application will be reported back to planning committee following that detailed consideration and response from the HSE for final determination.

Taking all of the above into consideration and applying the tilted balance pursuant to paragraph 11d of the NPPF, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits conditions and securing the required s106 matters.

Conclusions and Reasons for Resolution for Approval

Overall, it is considered that this proposal is acceptable due to the quick provision of housing and affordable housing required within the Medway area. These benefits have been considered in the planning balance against the negative impacts regarding the impact on the countryside, loss of agricultural land and COHMA concerns to allow a resolution to approve for the HSE to further consider the. The application would then come back to planning committee after this consideration.

In light of the planning balance the proposals are considered to comply with Policies S6, H11, BNE1, BNE2, BNE21, BNE2, BNE35, BNE43, T1, T2, T3, T4, and T13 of the Local Plan and paragraphs 11, 55, 63, 82, 83, 115, 131, 135, 136, 159, 168, 175, 180, 186, 188 and 200 of the NPPF.

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

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/>