

Medway Council
Planning Committee – 26 August 2026
Supplementary Agenda Advice sheet

Minute No. 161: Planning application - MC/26/0549 101 Balmoral Road, Gillingham, Medway ME7 4QG

Delete the following paragraph (2nd paragraph after Councillor McDonald).

“The Senior Planner confirmed that a survey had been undertaken within a 220-metre radius of the site and had identified 49 HMOs within 88 properties. He confirmed that only properties within Gillingham South Ward had been included, drawing on a range of information which included public records, licensing information, online sources and council tax records.”

Replace with:

“The Senior Planner confirmed that in addition to the 500m radius survey already referred to, a detailed survey of a 200m stretch of Balmoral Road had been undertaken, which had identified that of the 88 properties surveyed there were 9 flats and 7 HMOs. This shows that HMOs represent only 7.9% of the properties in this stretch which is not considered to be an over concentration and is acceptable.”

Minute no. 162: Planning application – MC/26/0767 49 Priestfield Road, Gillingham, Medway ME7 4RE

Delete the following paragraph:

“A further representation received from a Member of Parliament had also been included within the supplementary agenda. This was accompanied by a map and supporting figure which identified the surrounding land uses along an approximate 200-metre stretch of Priestfield Road.”

Replace with

“A further representation received from a Member of Parliament and a statement and a rebuttal to the Case Officer’s report received from the Applicant had also been included within the supplementary agenda. The supplementary agenda also included a map and supporting figure which identified the surrounding land uses along an approximate 200-metre stretch of Priestfield Road.”

All applications on the Agenda - Publication of the new National Planning Policy Framework (NPPF):

The new NPPF was published on 17 August. The paragraphs referred to in the reports on the Agenda have now been changed to Policies.

A list of changes are set out below.

<u>2024 NPPF</u>	<u>2026 NPPF</u>
11	S3
56	DM3
58	DM6
59	DM5
61	HO7
90	TC1
96	HC1
115	TR3
116	TR6
117	TR2
124	L1
125	L2
131	DP3
135	DP3 and P3
136	N3
154	GB6
164	CC3
175	F5
179	F6
181	F7
182	F8
186	F9
187	N2
193	N2
194	N6
195	N6
196	P2
197	P2
198	P3
199	P3
202-221	HE1-HE10
207	HE5
209	HE4

Page 21 – Planning Application MC/26/0194 Land at Buckland Road and Higham Road, Cliffe, Rochester

Recommendation

The updated National Planning Policy Framework (NPPF) was published on Monday 17 August 2026 and replaces the NPPF December 2024. The NPPF

paragraphs and policies referred to in the published Committee Report have consequently been superseded.

The recommended Reasons for Refusal have been amended in this Supplementary Agenda to align with the updated NPPF paragraphs and policies. An additional Reason for Refusal (6) has been added relating to a lack of mitigation to avoid impacts upon adjacent designated habitat sites.

Amended Reasons

1. The proposed development would be contrary to the spatial strategy of the adopted Development Plan. The development of an unallocated, greenfield site outside of settlement boundaries for a use which does not require a countryside location is contrary to Policies S1, S2, BNE25 and H11 of the Medway Local Plan 2003. It would also be contrary to the Spatial Development Strategy of the emerging Medway Local Plan 2041, which, through the allocation of sites, promotes urban regeneration, as well the planned expansion of identified suburban neighbourhoods and rural villages which includes Cliffe but not this site. The proposed development is also contrary to National Planning Policy Framework (2026) Policy S5.1 (h), (i) and (j) and S5.4.
2. The proposed footpaths at Higham Road and displacement of parking to the on-site car park would result in a negative impact on the residential amenity of existing residents and would adversely impact the rural nature of the street. This is contrary to policies BNE1 and BNE2 of the Medway Local Plan 2003; and National Planning Policy Framework (2026) policies TR4.1 (c) and DP3.2 (a) and (f).
3. The proposed development would result in unacceptable landscape and visual impacts through the loss of the agricultural surrounds of Cliffe, detachment of village from its rural setting and urbanisation of the settlement edge. It would give rise to a wide range of significant adverse landscape and visual effects that would not maintain the character, amenity of functioning of the countryside contrary to policies BNE25 and S4 of the Medway Local Plan 2003; policies S2 and S4 of the emerging Medway Local Plan 2041; Policy SUSDEV4 of the Neighbourhood Plan and National Planning Policy Framework (2026) policies DP3.1 and N2.1 (a).
4. The proposed development would result in the loss of 5.18ha of Grade 3a Best and Most Versatile (BMV) agricultural land, in circumstances where there is not an overriding need to develop the site, and it has not been demonstrated that the development has been proposed on poorer quality land contrary to National Planning Policy Framework (2026) Policy N2.1 (b).
5. In the absence of a completed Section 106 Agreement, the development will not provide the necessary affordable housing or infrastructure contributions contrary to policies S6, H3, L4, T3, T4, T6,

CF2, CF4 and CF6 of the Medway Local Plan 2003, Policy S24 of the emerging Local Plan and National Planning Policy Framework (2026) Policy DM6.

Additional Reason:

- 6 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 S6 and BNE35 of the Medway Local Plan 2003 and National Planning Policy Framework (2026) policies N2.2 and N6.

Representations

Three representations have been made on behalf of the Independent Group (Planning Law, Planning Merits & NPPF/Case Officer Report) as well as copies of letters from Richard Buxton Solicitors to the Local Plan Inspectors on behalf of the Independent Group in relation to the HRA position and a copy of a letter from the same solicitors also on behalf of the Independent Group to the Local Plan team again in relation to the HRA position all of these are attached to this Supplementary Agenda for Members consideration.

The Independent Group representations do not raise any additional considerations beyond the matters contained within the original Officer Report as amended by the updated reasons for refusal. Copies of these letters are on pages 19-98.

Page 70 – Planning Application MC/26/0717 311 Canterbury Street, Gillingham, Medway ME7 5XN

Appraisal

A map has been produced from on-site observations, professional judgement and a desktop study taking a circa 200m segment of the street approximately, on the basis of how the street would likely be experienced by residents by doing a walkover, followed by desktop study cross referenced to show different non-family housing located on the street. It demonstrates that there is not a significant level of HMOs within the immediate area. This map is attached on page 99.

Observations	HMOs	Flats	Commercial
Public Access	208, 305, 262, 349, 284 (5)	238	0
Article 4 Paper	208, 305, 311, 262, 349, 284 (5)	0	0
Site Visits	No obvious conversions visible.	222A and B, 238, Alton Mews, 333	1 - 260
Total properties surveyed	79		
Total HMOs	5		
Expressed as a %	6.3%		

A correction is to be made to the Ward referred to at the bottom of Page 73. It states Watling Ward but this should be Gillingham South.

Pages 80 – Planning Application MC/26/1032 4 Barnsole Road, Gillingham, Medway ME7 4DJ

Recommendation

The updated National Planning Policy Framework (NPPF) was published on Monday 17th August 2026 and replaces the NPPF December 2024. The NPPF paragraphs and policies referred to in the published Committee Report have consequently been superseded.

The recommended Reasons for Refusal have been amended in this Supplementary Agenda to align with the updated NPPF paragraphs and policies.

Amended Reasons:

- 2 The proposed dimensions for bedrooms 2, 3 and 4 within the application property do not meet the minimum size requirements of the Nationally Described Space Standard for either bedroom size or width and the living area has a poor degree of outlook and light provision that would not provide suitable living accommodation for the future occupants of the property contrary to the provisions for future occupier amenity and for reducing health inequalities and supporting health and wellbeing in Policies BNE2 and H7 of the Medway Local Plan 2003, Policies T1 and T8 of the Draft Local Plan 2025 and Policies DP3 and P3 of the National Planning Policy Framework (2026).
- 3 The proposed dormer does not provide a suitable inset from the eaves of the original roof and is not set in from either of the side boundaries which fails to appear as an extension within the existing roof resulting in the appearance of an additional storey. This causes harm to the appearance of the host property and street scene contrary to Policy BNE1 of the Local Plan and Policies DP3 and P3 of the National Planning Policy Framework (2026).

- 4 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 S6 and BNE35 of the Medway Local Plan 2003 and National Planning Policy Framework (2026) policies N2.2 and N6.

Appraisal

Additional map and figures have been produced identifying the surrounding land-uses along approximately 200m stretch of Barnsole Road. The map is attached to this Agenda on page 100.

A breakdown of uses found through both a search of the planning history, HMO licencing, council tax records, the evidence paper for the designation of the Article 4 Direction and from a walking survey is set out below. In terms of non C3 uses there were no care homes or hostels identified but 1 HMO identified. There are a number of flats in the area (set out below), however, these are within a C3 residential use and, therefore, are the same use class as all other dwellings.

Observations	HMO's	Flats	Commercial w Flats Above
Public Access	0	3, 36, 37, 38, 40, 41, 113	0
Article 4 Paper	1	-	-
Site visits	0	13 Livingstone Circus, 3, 36	1-2 Livingstone Buildings, 2-6 Livingstone Buildings, 15 Livingstone Circus
Total properties surveyed	47		
Total HMO's	1		
Expressed as a %	2.1%		

Pages 90 – Planning Application MC/26/1149 53 Shakespeare Road, Gillingham, Medway ME7 5QL

Recommendation

A correction to the approved plans condition in order to refer to the most recent submitted plans.

Amended Condition

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

Received 10 July 2026

25-063-PL-01-G - Site Location Plan, Existing and Proposed Block Plans

25-063-PL-04-G - Proposed Floor Plans

25-063-PL-05-E - Proposed Elevations

25-063-PL-06-A – Basement Plan

25-063-PL-07-B – Boundary Treatment to Front

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

Appraisal

Additional map and figures have been produced identifying the surrounding land-uses along approximately 200m stretch of Shakespeare Road. The map is attached to this Agenda on page 101.

A breakdown of uses found through both a search of the planning history, HMO licensing, council tax records, the evidence paper for the designation of the Article 4 Direction and from a walking survey is set out below. In terms of non C3 uses there were no care homes or hostels identified and no HMOs were identified. There are a small number of flats in the area (set out below), however, these are within a C3 residential use and, therefore, are the same use class as all other dwellings.

However, it is noted that 2 HMOs were identified in the area by the Article 4 evidence paper. Whilst the specific addresses have not been confirmed by the above means it is important to retain them in the table below to provide a complete picture.

Observations	HMO's	Flats	Commercial w Flats Above
Public Access	0	48-52, 54	0
Article 4 Paper	2	-	-
Site visits	0	48-52, 54	0
Total properties surveyed	78		
Total HMO's	2		
Expressed as a %	2.6%		

Page 102 – Planning application MC/26/1271 63 Copenhagen Road, Gillingham, Medway ME7 4RU

Appraisal

Additional map and figures produced identifying the surrounding land-uses along the length of the road. The map is attached to this Agenda on page 102.

A breakdown of uses found through both a search of the planning history and from a walking survey is set out below. In terms of non C3 uses there were no care homes or hostels identified but 2 HMOs were identified. This accords with the information in the evidence paper for the designation of the Article 4 Direction. There are a number of flats in the area (set out below), however, these are within a C3 residential use and, therefore, are the same use class as all other dwellings.

Observations	HMO's	Flats
Public Access	18 (granted), 63, 71 and 73 (awaiting decision)	1 to 3 (Beacon court pub 9 flats), 8, 10, 12 and 14 (former club 9 flats), 70 (3 flats), 74 (2 flats), 91 (3 flats) 106 (5 flats) all implemented 54 (2 flats) not implemented
Site visits	94	17 (1 flat), 36 (2 flats), 88 (2 flats), 55 (2 flats)
Total properties surveyed	103	
Total HMO's granted	2	
Expressed as a %	2.06	

Page 114 – Planning application MC/26/1272 65 Copenhagen Road, Gillingham, Medway ME7 4RU

Appraisal

Additional map and figures have been produced identifying the surrounding land-uses along the whole length of the Road. The map is attached to this Agenda on page 103.

A breakdown of uses found through both a search of the planning history, HMO Register, evidence paper to the Article 4, Council Tax records and from a walking survey is set out below. In terms of non C3 uses there were no care homes or hostels identified but 2 HMOs were identified. There are a number of flats in the area (set out below), however, these are within a C3 residential use and, therefore, are the same use class as all other dwellings.

Observations	HMO's	Flats
Public Access	18 (granted), 65, 71 and 73 (awaiting decision)	1 to 3 (Beacon court pub 9 flats), 8, 10, 12 and 14 (former club 9 flats), 70 (3 flats), 74 (2 flats), 91 (3 flats) 106 (5 flats) all implemented 54 (2 flats) not implemented
Site visits	94	17 (1 flat), 36 (2 flats), 88 (2 flats), 55 (2 flats)
Total properties surveyed	103	
Total HMO's granted	2	
Expressed as a %	2.1%	

Page 126 – Planning Application MC/26/0639 1 Blenheim Avenue, Chatham, Medway ME4 6UU

Recommendation

The updated National Planning Policy Framework (NPPF) was published on Monday 17 August 2026 and replaces the NPPF December 2024. The NPPF paragraphs and policies referred to in the published Committee Report have consequently been superseded.

The recommended condition 7 has been amended in this Supplementary Agenda to align with the updated NPPF paragraphs and policies.

- 7 Prior to first occupation as a six-bedroom Use Class C4 HMO herein approved details of the provision of 1 electric vehicle charging point shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with Policy TR2 of National Planning Policy Framework (2026).

Appraisal

Additional map and figures produced identifying the surrounding land-uses along the entire length of Blenheim Avenue and approximately 150m stretch of Grosvenor Avenue given the site is a corner plot. The map is attached to this Agenda on page 104.

A breakdown of uses found through both a search of the planning history and from a walking survey and checking council tax records is set out below. In terms of non C3 uses there were no care homes, hostels or HMOs identified.

This accords with the information in the evidence paper for the designation of the Article 4 Direction.

Observation	HMOs	Flats
Public access	0	0
Site visit	0	0
Total properties surveyed	0	0
Total HMOs	0	0
Expressed as a %	0%	0%

Page 138 – Planning Application MC/22/0486 Land at Longhill Avenue, Gillingham, Chatham, Medway ME5 7AT

Recommendation

The updated National Planning Policy Framework (NPPF) was published on Monday 17 August 2026 and replaces the NPPF December 2024. The NPPF paragraphs and policies referred to in the published Committee Report have consequently been superseded.

The recommended conditions set out below have been amended in this Supplementary Agenda to align with the updated NPPF paragraphs and policies.

Amended Conditions

- 4 No development shall take place until an Air Quality Emissions Mitigation Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include full details of the following standard air quality mitigation measures:
- All gas fired boilers to meet a minimum standard of <40mgNOx/kWh;
 - The provision of one electric vehicle charging point per dwelling.

The development shall be implemented, and thereafter maintained, entirely in accordance with the measures set out in the approved Mitigation Statement.

Reason: To ensure appropriate air quality mitigation in accordance with Policy BNE24 of the Medway Local Plan 2003 and Policy P3 of the National Planning Policy Framework 2026.

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

The scheme shall include (where applicable):

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

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

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Policy F8 of the National Planning Policy Framework 2026.

- 11 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) is submitted to and agreed in writing by the local planning authority in consultation with the 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 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 Policy F8 of the National Planning Policy Framework 2026.

- 14 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 Policy TR4 of the National Planning Policy Framework 2026.

- 17 Prior to the first occupation of any dwelling herein approved, details of the detailed locations, specifications and long-term management proposals 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 Policy N2 of the National Planning Policy Framework 2026.

- 19 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Environmental 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 Policy CC2 of the National Planning Policy Framework 2026.

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

Reason: This condition is sought in accordance with Policy F8 of the National Planning Policy Framework 2026 to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

Additional Condition

- 26 No development including any site clearance or excavation works shall take place until updated tree details have been submitted to and approved in writing by the Local Planning Authority.

- a) A plan showing the location of all existing trees on site with a reference number for each tree and shall identify which trees are to be retained and the crown spread of each retained tree;
- b) Any proposed alterations in existing ground levels and the position of any proposed excavation within the crown spread of any retained tree or of any tree on land adjacent to the site where the alterations and/or excavations, or any tree on land adjacent to the site, equivalent to half the height of that tree;
- c) The specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this Condition "retained tree" means an existing tree which is to be retained in accordance with paragraph a) above.

Reason: Required prior to development to ensure protected trees are retained to enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE43 of the Medway Local Plan 2003.

Appraisal

Correction of typos:

Climate Change and Energy Efficiency– replace paragraph 154 with 164

Recommendation to remove the word “refusal” from the sentence to approval.

Page 168 – Planning Application MC/24/2535 Arethusa Venture Centre, Upnor Road, Upnor, Rochester

Recommendation

The updated National Planning Policy Framework (NPPF) was published on Monday 17 August 2026 and replaces the NPPF December 2024. The NPPF paragraphs and policies referred to in the published Committee Report have consequently been superseded.

The recommended conditions set out below have been amended in this Supplementary Agenda to align with the updated NPPF paragraphs and policies.

Amended Conditions

- 8 No development shall take place 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) is 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 and 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 be undertaken in accordance with the approved details.

Reason: Required prior to commencement of development to manage surface water during construction and for the lifetime of the development as outlined at Policy F7 National Planning Policy Framework 2026.

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

The scheme shall include (where applicable):

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

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

Reason: Required prior to commencement of the development to manage surface water post construction and for the lifetime of the development as outlined at Policy F7 of National Planning Policy Framework 2026.

- 15 Prior to first occupation of the development, a lighting design plan(s) for biodiversity shall be submitted to and approved in writing by the local planning authority. The plan(s) shall include the following:

- The identification of areas/features on-site where disturbance could occur to biodiversity features such as invertebrates, hazel dormice and bat roosting sites and/or foraging/commuting routes;
- The provision of appropriate, scaled plan(s) to show how and where external lighting shall be installed;
- The provision of technical specifications for the external lighting;
- The provision of lighting contour plans to show expected lux levels on both the horizontal and vertical planes (as appropriate), so that it can be clearly demonstrated that areas to be lit shall not disturb the activity of relevant ecological receptors.

All external lighting shall be installed prior to first occupation of the development in accordance with the specifications and locations set out in the plan(s), and these shall be maintained thereafter in accordance with the plan(s).

Reason: Required prior to occupation of the development to limit the impact of light pollution from artificial light in accordance with Policy P3 of the National Planning Policy Framework 2026. With consideration for bats and other nocturnal wildlife in accordance with Policy N2 of the National Planning Policy Framework 2026.

- 18 Prior to first occupation of the development, a drawing showing the location and details of the flood defence barrier shall be submitted to and approved by the Local Planning Authority. The approved flood defence barrier shall be installed prior to first occupation and retained in good working order for the life of the development.

Reason: In order to protect the future occupants of the building from flooding in accordance with paragraph F7 of the National Planning Policy Framework 2026.

- 21 No flat herein approved shall be occupied until (or within an implementation schedule agreed by the Local Planning Authority) a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with Policy F7 of the National Planning Policy Framework 2026 to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk on site or elsewhere.

- 24 The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the energy statement by NRG Consulting, dated September 2024 (report reference: PP2438/FA/ES/202409-RT). 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 Policy CC3 of the National Planning Policy Framework 2026.

THE INDEPENDENT GROUP

ON MEDWAY COUNCIL

To: Local Planning Authority (Medway Council)

For attention of: The Chief Planning Officer, Case Officer, and Members of the Planning Committee

Re: Planning application MC/26/0194 - Land to the Left Eternal Lake Nature Reserve, South of Higham Road and East of Buckland Road, Cliffe, Rochester, Kent, ME3 7RT

Date: 19 August 2026

Our ref: TIG/MC260194/SUPP/AUG2026

Attachments: None

Dear Sir or Madam,

FORMAL SUPPLEMENTARY REPRESENTATION ON PLANNING APPLICATION MC/26/0194

August 2026 National Planning Policy Framework and response to the Planning Committee Officer Report: support for the refusal recommendation, corrected national policy framework, habitats and biodiversity, best and most versatile agricultural land, sustainable location, landscape, Higham Road amenity and the updated planning balance

I submit this formal supplementary representation in my capacity as Planning Spokesman for The Independent Group (TIG) on Medway Council for consideration in full before application MC/26/0194 is determined. I have written and adopted it personally in an advocacy and scrutiny capacity. For the avoidance of doubt, I continue to oppose the proposed development and ask the Council to refuse planning permission. This document responds to the Planning Committee Officer Report published for the meeting on 26 August 2026 and applies the National Planning Policy Framework published on 17 August 2026. It should be read alongside my Planning Merits and Planning Law representations dated 12 August 2026. Where the national-policy formulation or a factual policy-status point has changed, this later supplementary representation updates those earlier submissions without withdrawing their underlying evidence or objections.

COUNCILLOR MICHAEL PEARCE

Planning Spokesman for The Independent Group (TIG) on Medway Council

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1. Formal status and scope of this submission

- [1] This document is a formal supplementary representation on application MC/26/0194. It should be read alongside my Planning Merits and Planning Law representations dated 12 August 2026. It responds only to matters arising from the August 2026 NPPF and the published Planning Committee Officer Report, neither of which was available when those two representations were finalised.¹
- [2] I am a planning-trained member of Medway Council's Planning Committee and the Planning Spokesman for The Independent Group (TIG). I have written and submitted this supplementary representation in an advocacy and scrutiny capacity. Having made substantive representations on this application, I do not intend to participate in its determination as a member or substitute member of the Planning Committee.²
- [3] This representation is deliberately focused. It does not repeat the evidence and technical case already before the Council. It supports the officer recommendation, identifies the limited corrections or clarifications required before Committee, applies the current national decision-making policies and updates the planning balance.³
- [4] Where this representation reaches a different national-policy formulation from the Planning Merits Representation, it should be treated as the later and controlling statement of my position. In particular, the former paragraph 11(d) tilted-balance analysis has been superseded by the August 2026 Framework. I also correct my earlier treatment of Local Plan Policy BNE48: the officer report establishes that it was not saved and no longer forms part of the Development Plan, so I withdraw reliance on BNE48 as an operative development-plan policy. The underlying BMV agricultural-land objection remains for the reasons set out below.⁴

2. Executive summary

- [5] The published officer report recommends refusal on five grounds: spatial-strategy conflict; harm to Higham Road residents and the rural street; unacceptable landscape and visual effects; loss of 5.18 hectares of Grade 3a BMV agricultural land; and the absence of a completed section 106 agreement. I support the refusal recommendation, subject to the policy and report corrections below.⁵
- [6] The new Framework does strengthen the applicant's housing case in one clear respect: HO7 requires substantial weight to be given to homes contributing towards evidenced accommodation needs. I therefore update my earlier weighting and give the overall delivery of up to 100 homes substantial positive weight. That concession is built into the updated balance below.⁶
- [7] Even after making the housing-weight adjustment required by HO7, I continue to

1 Planning Merits Representation - MC/26/0194, 12 August 2026; Formal Legal and Procedural Representation - MC/26/0194, 12 August 2026; Planning Committee Officer Report, MC/26/0194, 26 August 2026 agenda; NPPF August 2026.

2 Localism Act 2011, s.25; Medway Council, Members' Planning Code of Good Practice, July 2024.

3 Planning Merits Representation - MC/26/0194, 12 August 2026; Formal Legal and Procedural Representation - MC/26/0194, 12 August 2026; Planning Committee Officer Report, MC/26/0194; NPPF August 2026.

4 NPPF August 2026, Annex A; Planning Committee Officer Report, MC/26/0194, pages 42-43 (BNE48 status); Planning Merits Representation, sections 4.2 and 15.

5 Planning Committee Officer Report, MC/26/0194, pages 1-2 and 42-45.

6 NPPF August 2026, HO7(1); Planning Committee Officer Report, MC/26/0194, pages 42-45; Planning Merits Representation, paragraphs 23 and 125 and Schedule 3.

conclude that permission should be refused. My primary position is that S5(1)(j) is not satisfied: while Medway Council's housing position evidences unmet need, I do not accept that this unallocated countryside site has been shown to be physically well-related to Cliffe or that a development of up to 100 dwellings can be accommodated taking account of existing or proposed infrastructure. S5(4) therefore applies and its exceptional-circumstances test is not met. In the alternative, if the Council reaches a different conclusion on S5(1)(j), the officer refusal reasons and unresolved N6/N2 issues still support refusal under S5(1) and S5(2).⁷

Principal NPPF issue	Evidence / position before the Council	Planning consequence
S5(1)(j), S5(2) and S5(4)	Unmet housing need is acknowledged, but the site is outside the settlement boundary and the officer report identifies detachment from Cliffe's rural setting, urbanisation of the settlement edge and continuing infrastructure/sustainable-location concerns.	Primary case: the S5(1)(j) gateway is not satisfied, so S5(4) applies. Alternative case: if the Council finds S5(1)(j) satisfied, S5(2) and the substantive harms still support refusal.
Habitats / N6	Applicant accepts Appropriate Assessment is required; construction noise, recreation, mitigation efficacy and binding controls remain material.	Potentially determinative gateway: if the required no-adverse-integrity conclusion cannot be reached, N6 says the proposal should be refused.
Nightingales / N2(2)	RSPB objection; >400m separation advice; approximately 60m buffer and reliance partly on likely habituation.	Substantial adverse on the present evidence. N2(2) provides a direct refusal policy where significant biodiversity harm cannot be avoided, mitigated or compensated.
BMV agricultural land / N2(1)(b)	5.1ha, 100% Subgrade 3a BMV; permanent loss.	Substantial adverse; new national policy expressly requires quality, grade and use of poorer-quality land where possible to be considered.
TR3 / CC2	85% car-based work-trip benchmark; final targets after 80% occupation; higher-order needs remain external to Cliffe.	Significant adverse sustainable-location consideration notwithstanding useful footway and bus measures.
DP3 / rural character	Residual Moderate Year-15 landscape effects; 31 dph indicative density; layout, scale and landscaping reserved.	Direct refusal route if the maximum development envelope cannot comply with context and relevant local design standards.
HO7 housing benefit	Up to 100 homes in an authority with serious undersupply.	Substantial positive weight expressly conceded and applied in the updated balance.
Officer report / five refusal reasons	Officers recommend refusal on spatial strategy, Higham Road amenity/rural street, landscape/visual harm, 5.18ha Grade 3a BMV loss and incomplete s106.	Recommendation supported. Reasons 1-4 are substantive and should be updated to the August 2026 NPPF; reason 5 is a holding reason if an acceptable s106 is completed.
Overall S5 balance	Primary S5(4) case: no exceptional circumstances and the benefits do not substantially outweigh	Refusal under either S5 route, even with substantial positive weight given to housing under HO7.

⁷ NPPF August 2026, S5(1)(j), S5(1)-(2), S5(4), HO7, N6 and N2; Planning Committee Officer Report, MC/26/0194, pages 1-2 and 42-45.

	countryside-character and sustainable-movement harms. Alternative S5(1)/(2) case: express refusal policies plus BMV, transport, significant landscape, Higham Road amenity and development-plan harms.	
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3. Planning Committee officer report: support, corrections and required update

- [8] The Planning Committee Officer Report for 26 August 2026 recommends refusal on five separate grounds. I support that recommendation, particularly the substantive spatial-strategy, Higham Road amenity, landscape/visual and BMV agricultural-land reasons. My purpose is to ensure that the recommendation is expressed against the law, evidence and national policy in force when Members determine the application.⁸
- [9] The landscape reason is materially stronger than the applicant's LVIA alone suggested. The Council's landscape consultant considers the applicant to have under-assessed key effects, identifies a Major adverse effect on the site, Major-Moderate adverse effects on the wider landscape/immediate surrounds and significant visual harm from nearby public viewpoints. The officer report consequently gives landscape harm significant negative weight. I adopt that stronger evidential position and update my earlier moderate landscape weighting accordingly.⁹
- [10] The published report performs its principle-of-development analysis and final planning balance under the December 2024 NPPF and paragraph 11(d). That was understandable when the report was drafted, but the Framework published on 17 August 2026 now applies to decisions immediately. The Committee therefore requires a written update applying S3/S5 and the other current national decision-making policies. The update must also increase the housing benefit from the report's significant positive weight to the substantial positive weight required by HO7. That correction favours the applicant and is expressly applied in this representation.¹⁰
- [11] The economic-benefits section contains a material factual error. It attributes operational employment to "the proposed Local Centre and School" and uses those supposed long-term jobs when assigning moderate positive economic weight. MC/26/0194 proposes no Local Centre and no School. Those nonexistent benefits should be removed and the economic weighting reconsidered; construction activity and increased local expenditure remain genuine but more limited benefits.¹¹
- [12] The report correctly explains that Local Plan Policy BNE48 was not saved and no longer forms part of the Development Plan. My earlier Planning Merits and unsent NPPF drafting treated BNE48 as operative. I correct that position expressly. No further reliance is placed on BNE48 as a development-plan policy; the permanent Grade 3a BMV loss remains material under N2(1)(b), Neighbourhood Plan ECON&EMP1, the agricultural

⁸ Planning Committee Officer Report, MC/26/0194, pages 1-2 and 42-45.

⁹ Planning Committee Officer Report, MC/26/0194, refusal reason 3, landscape appraisal at pages 20-23 and planning balance at pages 42-43.

¹⁰ NPPF August 2026, Annex A paragraph 1, S5 and HO7; Planning Committee Officer Report, MC/26/0194, pages 13-17 and 42-45.

¹¹ Planning Committee Officer Report, MC/26/0194, economic benefits/planning balance at page 43 and application description at pages 1-5.

evidence and the officer's fourth refusal reason.¹²

- [13] The Natural England position should be stated precisely. The report's consultation summary records that Natural England was unable to provide specific advice on this application and made no comment on its details. Later, the ecology assessment states that Natural England has advised that the strategic SAMMS solution will be reliable and effective. Those statements may be reconciled if the latter refers to strategic/generic advice on SAMMS rather than a site-specific endorsement of MC/26/0194, but the Committee update should make that distinction explicit.¹³
- [14] The published report states in terms that "an Appropriate Assessment is required" for screened-in effects. It then records the applicant HRA conclusion and KCC Ecology's agreement subject to SAMMS. I do not identify in the published report a clearly demarcated Medway Council Appropriate Assessment, nor an express statement that the competent authority has adopted such an assessment and reached the required no-adverse-effect-on-integrity conclusion. If officers consider the report itself to contain or adopt that assessment, the Committee update should identify it, its conclusion and the mitigation on which it depends.¹⁴
- [15] The published ecology appraisal also does not substantively address the Nightingale-specific element of the RSPB objection. The RSPB's advice for more than 400m separation from important Nightingale habitat is not a statutory exclusion zone, but it is specialist evidence directed to the urbanisation effects of residential development. The proposed buffer is approximately 60m. If officers remain satisfied that the proposal avoids significant biodiversity harm, the update should explain why that materially shorter separation is nevertheless adequate on the evidence.¹⁵
- [16] Members should therefore receive a written Committee update before determination applying the August 2026 NPPF, correcting the identified factual and policy-reference errors, stating the Council's Appropriate Assessment position, addressing the Nightingale evidence and re-performing the planning balance. Subject to that update, I support refusal, with reasons 1-4 maintained and reason 5 retained if the section 106 agreement remains incomplete.¹⁶

4. August 2026 NPPF: immediate applicability and Policy S5

- [17] The August 2026 Framework replaces the December 2024 NPPF. Its national decision-making policies are material considerations which must be read alongside the development plan. The published officer report instead applies the former paragraph 11(d) architecture, so its national-policy reasoning and final balance require a Committee

12 Planning Committee Officer Report, MC/26/0194, pages 42-43 (BNE48 status) and refusal reason 4; NPPF August 2026, N2(1)(b); Cliffe and Cliffe Woods Neighbourhood Plan 2023, ECON&EMP1; Reading Agricultural Consultants, ALC and Soil Resources, November 2025.

13 Planning Committee Officer Report, MC/26/0194, page 9 and ecology appraisal; Natural England consultation response, 20 February 2026.

14 Planning Committee Officer Report, MC/26/0194, pages 31-32; NPPF August 2026, N6; Conservation of Habitats and Species Regulations 2017, regulations 63 and 70(3); Planning Law Representation, paragraphs 30-45.

15 Planning Committee Officer Report, MC/26/0194, ecology appraisal; RSPB consultation response, 5 March 2026; Planning Merits Representation, paragraphs 52-63; NPPF August 2026, N2(2).

16 Planning Committee Officer Report, MC/26/0194, pages 1-2 and 42-45; NPPF August 2026, S5, HO7, N2, N6, TR3, CC2 and DP3.

update.¹⁷

- [18] Annex A states that the Framework's policies must be taken into account in decision-making from the day of publication. MC/26/0194 remains undetermined and is due before Committee on 26 August 2026; the current Framework therefore applies.¹⁸
- [19] My Planning Merits and Planning Law representations dated 12 August were prepared against the then-current December 2024 NPPF. Their factual evidence, technical objections, statutory analysis and legal safeguards remain relied upon, but their former national-policy citations and paragraph 11(d) balance are superseded by this representation. The separate correction to the status of BNE48 is also made expressly above.¹⁹
- [20] The site remains outside the defined Cliffe settlement boundary and is unallocated countryside. The new NPPF does not erase that development-plan position; it introduces a national route under S5 by which some development outside settlements may nevertheless be approved.²⁰
- [21] S5(1)(j)(i) requires more than evidenced unmet housing need. Although Medway Council's published housing position satisfies the unmet-need limb for present purposes, I do not accept that this establishes the remaining gateway requirements. The proposal must also be physically well-related to an existing settlement and be of a scale that can be accommodated taking account of existing or proposed infrastructure; both are separate requirements which the application must demonstrate.²¹
- [22] In my planning judgment the proposal has not demonstrated that it is physically well-related to Cliffe. The site is an unallocated 5.18-hectare orchard outside the settlement boundary at the south-western rural edge of the village, rather than an infill or rounding-off parcel within its existing built form. Most importantly, the officer's own third refusal reason describes the development as causing the loss of Cliffe's agricultural surrounds, detachment of the village from its rural setting and urbanisation of the settlement edge. Those findings are directly relevant to the qualitative physical relationship required by S5(1)(j)(i). The fact that the site adjoins some existing housing does not, without more, establish that it is physically well-related to the settlement.²²
- [23] I also do not consider the infrastructure limb of S5(1)(j)(i) to have been demonstrated. Neighbourhood Plan SUSDEV5 requires major development to demonstrate infrastructure sufficiency across waste, water, health, education and transport. The proposal remains dependent on external higher-order services and on a strongly car-based travel pattern, while the officer report itself identifies infrastructure contributions as necessary. Housing need does not remove this separate infrastructure

17 NPPF August 2026, Introduction paragraph 1 and Annex A paragraph 1; Planning Committee Officer Report, MC/26/0194, pages 13-17 and 42-45.

18 NPPF August 2026, Annex A paragraph 1; Planning Committee Officer Report, MC/26/0194, 26 August 2026 agenda.

19 Planning Merits Representation and Planning Law Representation, both 12 August 2026; NPPF August 2026, Annex A; Planning Committee Officer Report, MC/26/0194, pages 42-43 (BNE48 status).

20 Planning Committee Officer Report, MC/26/0194, pages 13-17; Medway Local Plan 2003, Policies S1, S2, BNE25 and H11; NPPF August 2026, S5.

21 NPPF August 2026, S5(1)(j)(i); Planning Committee Officer Report, MC/26/0194, pages 13-17.

22 NPPF August 2026, S5(1)(j)(i); Planning Committee Officer Report, MC/26/0194, refusal reason 3 and landscape appraisal at pages 20-23.

test.²³

[24] Accordingly, my primary case is that MC/26/0194 does not fall within S5(1)(j). S5(4) therefore applies: development outside settlements which does not fall within one of the listed S5 categories should only be approved in exceptional circumstances where the benefits substantially outweigh the adverse effects, expressly including effects on countryside character and on promoting sustainable patterns of movement. The officer's findings of significant landscape/rural-character harm, Higham Road amenity harm, BMV loss and the wider sustainable-location concerns do not disclose such exceptional circumstances, and the acknowledged benefits do not substantially outweigh those adverse effects.²⁴

[25] If the Council nevertheless concludes that the proposal satisfies both remaining limbs of S5(1)(j), my alternative case is that permission should still be refused under S5(1) and S5(2). S5(2) gives particular force to national decision-making policies which state that development should be refused in specified circumstances; N6, N2(2) and DP3(3) are directly material here. Together with the officer's substantive refusal reasons, those matters mean the adverse effects substantially outweigh the acknowledged benefits even on that alternative route.²⁵

5. Policy N6: habitats sites and Appropriate Assessment

[26] N6(1)(a) says development affecting a habitats site should be refused unless an Appropriate Assessment has concluded that it will not adversely affect site integrity, alone or in combination, or a specified statutory alternative applies.²⁶

[27] This is not an abstract policy for MC/26/0194. The applicant's own Habitats Regulations material identifies likely significant effects and accepts that Medway Council must undertake an Appropriate Assessment. The Planning Law Representation sets out why regulation 63 and, because this is outline permission, regulation 70(3) are statutory gateways.²⁷

[28] The applicant's HRA identifies construction noise, water-quality effects, recreational disturbance and urbanisation pathways. The Council must therefore reach its own integrity conclusion on the final project and on every mitigation measure necessary to support that conclusion.²⁸

[29] The same applies to the 60m western buffer, western tree line, dark corridors and lighting controls. If the Appropriate Assessment depends on those measures, the outline permission must define them with sufficient spatial and performance certainty. Reserved matters cannot be allowed to erode the mitigation assumed at the integrity stage.²⁹

23 NPPF August 2026, S5(1)(j)(i); Cliffe and Cliffe Woods Neighbourhood Plan 2023, SUSDEV5; Planning Committee Officer Report, MC/26/0194, sustainable transport and infrastructure appraisal.

24 NPPF August 2026, S5(4); Planning Committee Officer Report, MC/26/0194, refusal reasons 2-4 and planning balance.

25 NPPF August 2026, S5(1)-(2), N6, N2(2) and DP3(3); Planning Committee Officer Report, MC/26/0194, refusal reasons 1-4.

26 NPPF August 2026, N6(1)(a) and S5(2); Conservation of Habitats and Species Regulations 2017, regulations 63 and 70(3).

27 Applicant Habitats Regulations material (HRA-6636966); Planning Committee Officer Report, MC/26/0194, pages 31-32; Planning Law Representation, paragraphs 30-45; Conservation of Habitats and Species Regulations 2017, regulations 63 and 70(3).

28 Applicant Habitats Regulations material (HRA-6636966); Planning Committee Officer Report, MC/26/0194, ecology appraisal; Planning Law Representation, paragraphs 35-84.

29 Planning Law Representation, paragraphs 62-72 and Schedule 1 safeguards 5-7; applicant Parameter Plan and Lighting Assessment; Planning Committee Officer Report, MC/26/0194, ecology appraisal.

- [30] The Richard Buxton correspondence does not prove that SAMMS/Bird Wise is ineffective. It raises a narrower but important evidential challenge: after around a decade of operation, what monitoring demonstrates that the strategic mitigation is sufficiently effective for the integrity conclusion being drawn? Because the present application relies on the same mechanism, the Council's Appropriate Assessment should answer that challenge directly.³⁰
- [31] Natural England's 20 February response was generic and expressly did not provide application-specific assessment. The decision record should therefore identify the consultation undertaken for the final Appropriate Assessment, the material supplied, the representations received and how those representations were taken into account.³¹
- [32] The consequence is direct: a lawful no-adverse-effect integrity conclusion, or satisfaction of a specified statutory alternative, is a prerequisite to approval under N6. If that conclusion is absent at determination, N6 directs refusal and S5(2) gives the failure particular weight.³²
- [33] Where the necessary evidence supports the required integrity conclusion and precise controls secure the relied-upon mitigation, the N6 refusal circumstance would be overcome. Housing need, housing weight and a future condition-discharge process cannot substitute for the national and statutory habitats gateway.³³

6. Policy N2: biodiversity, Nightingales and BMV agricultural land

- [34] N2(2) is another express refusal policy: significant biodiversity harm which cannot be avoided, adequately mitigated or, as a last resort, compensated should result in refusal.³⁴
- [35] My Planning Merits Representation deliberately did not claim that significant harm to Nightingales has already been scientifically proved. That calibration remains. The RSPB has, however, made a specialist objection to the application as it stands and identifies an important Nightingale population at Cliffe Pools and adjacent areas, vulnerable to recreation and urbanisation pressures.³⁵
- [36] The RSPB advises locating new residential development more than 400 metres from important Nightingale habitat to help avoid effects from recreation, domestic cats, noise, artificial light and uncontrolled fires. That is not a statutory exclusion zone, but it is expert evidence specifically directed to residential urbanisation near this population.³⁶
- [37] The applicant proposes a 60m buffer and partly relies on likely habituation to existing visitor and industrial disturbance. Existing disturbance may be relevant to sensitivity, but an inference of habituation is not the same as site-specific evidence that a new permanent residential population, cats, garden activity, lighting, dog walking and other urbanisation

30 Richard Buxton Solicitors letters, 6 July 2026; Planning Law Representation, paragraphs 79-85 and 139; Planning Committee Officer Report, MC/26/0194, ecology appraisal.

31 Natural England consultation response, 20 February 2026; Planning Committee Officer Report, MC/26/0194, page 9 and ecology appraisal; Planning Law Representation, paragraphs 86-93 and Schedule 1 safeguard 11.

32 NPPF August 2026, N6(1)(a) and S5(2); Conservation of Habitats and Species Regulations 2017, regulations 63 and 70(3); Planning Law Representation, conclusion and Schedule 1.

33 NPPF August 2026, N6; Planning Law Representation, conclusion and Schedule 1.

34 NPPF August 2026, N2(2) and S5(2).

35 Planning Merits Representation, paragraphs 52-63; RSPB consultation response, 5 March 2026.

36 RSPB consultation response, 5 March 2026; Planning Merits Representation, paragraphs 53-54.

pressures at that separation will avoid significant harm.³⁷

[38] The Council must therefore decide whether the Nightingale/urbanisation harm is significant and, if so, whether it has been avoided, adequately mitigated or compensated. If significant harm remains unresolved, N2(2) directs refusal and S5(2) gives that failure particular consequence.³⁸

[39] N2(1)(b) requires proposals to take account of agricultural-land quality, including BMV land and its grade, and where significant agricultural development is necessary to use poorer-quality land where possible.³⁹

[40] The agricultural evidence for MC/26/0194 is unusually clear. The detailed survey records 5.1 hectares - 100% of the surveyed agricultural site - as Subgrade 3a good-quality agricultural land. Subgrade 3a is BMV. The proposal would permanently remove the whole agricultural unit from food production.⁴⁰

[41] The officer report establishes an important correction to my earlier representations: Policy BNE48 was not saved and no longer forms part of the Development Plan. I therefore withdraw reliance on BNE48 as an operative policy. The BMV objection remains founded on N2(1)(b), Neighbourhood Plan ECON&EMP1, the agricultural evidence and the officer's fourth refusal reason.⁴¹

[42] Neighbourhood Plan ECON&EMP1 adds a recent parish-specific judgment: development causing the loss of Grades 1-3 agricultural land will not be supported unless there is a proven need for sustainable development whose benefits far outweigh the loss of food-growing space and contribution to national food security. The words "far outweigh" set a deliberately demanding local test.⁴²

[43] I continue to give the permanent BMV loss substantial adverse planning weight as an advocacy judgment. The officer report gives the harm limited negative weight in its balance, but nevertheless treats the same 5.18-hectare Grade 3a loss as a standalone reason for refusal. My higher weighting reflects the permanence of the loss, the fact that the surveyed agricultural site is entirely Subgrade 3a BMV, N2(1)(b) and the made Neighbourhood Plan. It does not depend on BNE48 and is not a claim that 5.18 hectares is physically equivalent to every larger agricultural loss elsewhere.⁴³

7. Policies TR3 and CC2: sustainable location and car dependence

[44] TR3 requires significant movement-generating development to be in a location that limits the need to travel, particularly by private car, and offers a genuine choice of transport

37 The Ecology Partnership, Technical Note - RSPB Ecology Response, 19 March 2026; Planning Merits Representation, paragraphs 55-59.

38 NPPF August 2026, N2(2) and S5(2); RSPB consultation response, 5 March 2026; The Ecology Partnership, Technical Note - RSPB Ecology Response, 19 March 2026; Planning Merits Representation, paragraphs 52-63.

39 NPPF August 2026, N2(1)(b).

40 Reading Agricultural Consultants Ltd, Agricultural Land Classification and Soil Resources, November 2025; Planning Committee Officer Report, MC/26/0194, refusal reason 4 and site description; Planning Merits Representation, paragraphs 64-73.

41 Planning Committee Officer Report, MC/26/0194, pages 42-43 (BNE48 status); NPPF August 2026, N2(1)(b); Cliffe and Cliffe Woods Neighbourhood Plan 2023, ECON&EMP1.

42 Cliffe and Cliffe Woods Neighbourhood Plan 2023, ECON&EMP1; Planning Merits Representation, paragraphs 67-68.

43 Planning Committee Officer Report, MC/26/0194, refusal reason 4 and planning balance at pages 42-43; Reading Agricultural Consultants Ltd, Agricultural Land Classification and Soil Resources, November 2025; NPPF August 2026, N2(1)(b); Cliffe and Cliffe Woods Neighbourhood Plan 2023, ECON&EMP1.

modes.⁴⁴

- [45] The adopted Neighbourhood Plan gives unusually candid local evidence. It describes public transport as a "serious impediment" to the sustainability of Cliffe and Cliffe Woods, notes the absence of nearby rail access and explains the circular problem of residents having to use cars where no realistic alternative is available.⁴⁵
- [46] The applicant's Travel Plan is consistent with that structural picture. Its provisional journey-to-work mode share is 80% car driver, 5% car passenger, 7% train, 3% bus, 1% cycle and 4% walking. Final modal targets are not fixed until an initial survey at 80% occupation.⁴⁶
- [47] The proposed continuous footway, bus-stop works and willingness to discuss bus-support contributions are genuine improvements and should be credited. They improve access to existing services; they do not relocate secondary education, rail stations, higher-order shopping, wider employment or much health provision into realistic everyday walking distance of the site.⁴⁷
- [48] On the present evidence I give sustainable transport and accessibility significant adverse weight. The footway and bus measures are useful mitigation, but they do not overcome the structural dependence on external higher-order services or demonstrate the genuine modal choice required by TR3 and CC2.⁴⁸

8. Policy DP3, landscape and development-plan weight

- [49] DP3 requires development to respond to the history, character and features of the site and setting; DP3(3) is an express refusal policy where there is unjustified conflict with the context requirement, relevant design principles or explicit development-plan design standards.⁴⁹
- [50] The Council's own landscape review now provides materially stronger evidence. It considers the applicant's assessment of LCA F1 to be an under-assessment, describes the proposed Year-15 reduction to negligible/minor effects as unreliable, assesses the site effect as Major adverse and the site/immediate surrounds as Major-Moderate adverse, and identifies significant visual harm from surrounding public rights of way and roads. The officer report therefore gives the landscape harm significant negative weight.⁵⁰
- [51] Neighbourhood Plan SUSDEV4 requires greenfield development to conserve, enhance or strengthen local landscape character. H6 requires housing to respect the rural character and immediate context. H8 says greenfield density should, as far as possible, be no more than 30 dwellings per hectare; the current indicative density is approximately 31 dwellings per hectare.⁵¹

44 NPPF August 2026, TR3(1)(a) and CC2(1)(a)-(b).

45 Cliffe and Cliffe Woods Neighbourhood Plan 2023, Infrastructure chapter; Planning Merits Representation, paragraphs 74-77.

46 Markides Associates, Residential Travel Plan, January 2026; Planning Merits Representation, paragraphs 78-85.

47 Markides, Highways Response Note, 15 May 2026; Gleeson/Marrons, Response to Consultation Comments, 15 May 2026; Planning Committee Officer Report, MC/26/0194, transport appraisal.

48 NPPF August 2026, TR3 and CC2; Markides Associates, Residential Travel Plan, January 2026; Cliffe and Cliffe Woods Neighbourhood Plan 2023, Infrastructure chapter; Planning Committee Officer Report, MC/26/0194, transport appraisal.

49 NPPF August 2026, DP3(1)-(3); Cliffe and Cliffe Woods Neighbourhood Plan 2023, SUSDEV4, H6 and H8.

50 Planning Committee Officer Report, MC/26/0194, refusal reason 3, landscape appraisal at pages 20-23 and planning balance at pages 42-43; Tyler Grange, LVIA, January 2026.

51 Cliffe and Cliffe Woods Neighbourhood Plan 2023, SUSDEV4, H6 and H8; Planning Merits Representation, paragraphs 94-98.

- [52] DP3(3) is important because it is drafted as a direct refusal policy: proposals should be refused, without clear justification, if they conflict with the context requirement, relevant design principles or explicit development-plan design standards. It also says substantial weight should be given to compliance with relevant development-plan policies when assessing design quality.⁵²
- [53] I give landscape and rural-character harm significant adverse weight. This updates my earlier moderate weighting because the Council's landscape consultant identifies Major and Major-Moderate adverse effects and significant visual harm, materially strengthening the evidential basis for officer refusal reason 3.⁵³
- [54] Annex A requires a policy-by-policy approach to development-plan weight. Material inconsistency with the national decision-making policies can reduce weight, but age alone does not justify a blanket discount of otherwise consistent Local Plan or made Neighbourhood Plan policies.⁵⁴
- [55] But the same older policies contain objectives that are strongly aligned with the new national policies. BNE25's countryside-character and multi-modal-access requirements correspond with N2, TR3 and DP3. T3, T4 and T6 align with TR3 and DP3 movement principles, while BNE37 and BNE39 align with N2. The BMV resource itself is now expressly addressed by N2(1)(b), while the made Neighbourhood Plan contains the locally specific ECON&EMP1 policy. BNE48 is not relied upon because the officer report confirms that it was not saved.⁵⁵
- [56] The Council should therefore undertake a policy-by-policy consistency exercise, not apply a blanket "2003 plan = little weight" approach. Annex A expressly rejects age as a freestanding reason to reduce the weight of otherwise consistent development-plan policies.⁵⁶

9. Policy HO7 and updated planning balance

- [57] HO7 requires substantial weight to be given to homes contributing towards evidenced accommodation needs. I therefore revise my earlier weighting and give the overall delivery of up to 100 homes substantial positive weight, subject to a credible delivery trajectory. This supplementary representation should be read as superseding the former weighting in paragraphs 23 and 125 and the planning-balance schedule of the Planning Merits Representation.⁵⁷
- [58] The proposed 25% affordable housing is a genuine benefit and the officer report concludes that it is policy-compliant for this site. It nevertheless forms part of, rather than an addition to, the 100-home total. To avoid double counting against the substantial HO7 housing benefit, I give the affordable component limited additional qualitative positive

52 NPPF August 2026, DP3(3).

53 Planning Committee Officer Report, MC/26/0194, refusal reason 3, landscape appraisal at pages 20-23 and planning balance at pages 42-43.

54 NPPF August 2026, Annex A paragraph 2.

55 Medway Local Plan 2003, Policies BNE25, T3, T4, T6, BNE37 and BNE39; NPPF August 2026, N2, TR3 and DP3; Cliffe and Cliffe Woods Neighbourhood Plan 2023, ECON&EMP1; Planning Committee Officer Report, MC/26/0194, pages 42-43 (BNE48 status).

56 NPPF August 2026, Annex A paragraph 2; Planning Committee Officer Report, MC/26/0194, Development Plan and principle appraisal at pages 12-17.

57 NPPF August 2026, HO7(1); Planning Committee Officer Report, MC/26/0194, planning balance at pages 42-45; Planning Merits Representation, paragraphs 23 and 125 and Schedule 3.

weight.⁵⁸

- [59] Construction employment and additional local expenditure are genuine but limited positive benefits. The officer report's separate reliance on permanent employment in a proposed Local Centre and School must be removed because neither use forms part of this application. By contrast, the officer's moderate positive weight for the scheme's energy and carbon-reduction measures can properly remain, while the continuous footway, open space and BNG above the statutory minimum attract only limited positive weight because they are substantially mitigation or close to minimum requirements.⁵⁹
- [60] Giving housing substantial positive weight does not disapply S5(2). HO7 and the refusal policies must be read together. The national policy structure deliberately provides both: strong weight for needed homes and explicit circumstances in which adverse effects are likely nevertheless to substantially outweigh those benefits.⁶⁰
- [61] The statutory starting point remains section 38(6). I give the delivery of up to 100 homes substantial positive weight under HO7 and accept, for the purposes of S5, that Medway Council's published housing position evidences unmet housing need. I do not accept that those matters satisfy the separate physical-relationship and infrastructure requirements in S5(1)(j)(i).⁶¹
- [62] My primary planning balance therefore proceeds under S5(4). In my judgment the application has not demonstrated that the site is physically well-related to Cliffe or that a development of this scale can be accommodated taking account of existing or proposed infrastructure. The benefits, including the substantial housing benefit, do not substantially outweigh the significant landscape/rural-character and Higham Road harms, BMV loss, sustainable-location concerns and other adverse effects. The exceptional-circumstances test is not met.⁶²
- [63] In the alternative, if the Council finds that S5(1)(j) is satisfied, the outcome remains refusal under S5(1) and S5(2). The N6 gateway, unresolved N2 biodiversity issue, permanent BMV loss, sustainable-location conflict, significant Higham Road amenity harm and significant landscape/rural-character harm collectively substantially outweigh the acknowledged benefits, with S5(2) giving particular force to any unresolved express national refusal policy.⁶³

10. Conclusion

- [64] The new NPPF gives substantial weight to needed homes, but does not make housing need determinative or itself satisfy the S5(1)(j) gateway. My primary position is that the proposal has not demonstrated that it is physically well-related to Cliffe or that a development of this scale can be accommodated taking account of existing or proposed

58 Planning Committee Officer Report, MC/26/0194, housing mix and affordable housing appraisal at pages 17-18; Planning Merits Representation, paragraphs 126-129; NPPF August 2026, HO7.

59 Planning Committee Officer Report, MC/26/0194, application description at pages 1-5 and economic benefits/planning balance at page 43.

60 NPPF August 2026, HO7, S5(2), N6, N2(2) and DP3(3).

61 Planning and Compulsory Purchase Act 2004, s.38(6); NPPF August 2026, S5(1)(j)(i), S5(4) and HO7.

62 NPPF August 2026, S5(4); Planning Committee Officer Report, MC/26/0194, refusal reasons 1-4 and planning balance.

63 NPPF August 2026, S5(1)-(2), N6, N2(2) and DP3(3); Planning Committee Officer Report, MC/26/0194, refusal reasons 1-4.

infrastructure; S5(4) therefore applies and its exceptional-circumstances test is not met.⁶⁴

[65] If the Council reaches a different conclusion and finds S5(1)(j) satisfied, refusal nevertheless follows on my alternative case under S5(1) and S5(2). Under N6, a lawful no-adverse-effect integrity conclusion or applicable statutory alternative is a prerequisite to approval; N2(2) and DP3(3) likewise contain express refusal consequences in their defined circumstances, and S5(2) tells the decision-maker how those failures bear on that alternative balance.⁶⁵

[66] I therefore ask Medway Council to issue a supplementary Committee update applying the August 2026 NPPF and expressly determining the S5(1)(j) gateway before undertaking the applicable balance. The update should also correct the Local Centre/School and policy-reference errors, record the corrected status of BNE48, clarify the Natural England and Appropriate Assessment matters, address the Nightingale evidence and re-perform the planning balance under S5(4), or alternatively S5(1) and S5(2) if the Council finds the gateway satisfied. Subject to those corrections, I support the officer recommendation that MC/26/0194 be refused on the substantive grounds identified in the published report, or equivalent reasons framed against the current policy position.⁶⁶

[67] For the avoidance of doubt, this is my personal planning judgment in an advocacy and scrutiny capacity. It supplements the Planning Merits and Planning Law representations of 12 August 2026 and is not a collective instruction to any other TIG member.⁶⁷

SCHEDULE 1

11. Updated planning balance summary

Matter	Suggested weight	Reason
Overall delivery of up to 100 homes	Substantial positive	HO7 expressly requires substantial weight to homes contributing to evidenced needs; this updates the officer report's significant positive weight.
Up to 25 affordable homes	Limited additional positive	Officer report concludes 25% is policy-compliant for this site. It is a genuine qualitative benefit but is within, not additional to, the 100-home total and should not be double counted.
Other benefits: construction/local expenditure, energy/carbon measures, footway/open space and BNG above minimum	Limited-to-moderate positive overall	Genuine benefits, but partly temporary and/or substantially mitigation-led; no Local Centre or School forms part of this proposal.
Ecology / Nightingale urbanisation effects	Substantial adverse	RSPB objection, important population, >400m advice versus approximately 60m buffer and applicant reliance partly on likely habituation. Weight can be revisited if robust evidence satisfies N2(2).

64 NPPF August 2026, HO7, S5(1)(j)(i) and S5(4); Planning Committee Officer Report, MC/26/0194, pages 13-17 and 42-45.

65 NPPF August 2026, S5(1)-(2), N6, N2(2) and DP3(3).

66 Planning Committee Officer Report, MC/26/0194, pages 42-45; NPPF August 2026, Annex A, S5, HO7, N6, N2, TR3, CC2 and DP3.

67 Localism Act 2011, s.25; Medway Council, Members' Planning Code of Good Practice, July 2024.

BMV agricultural land loss	Substantial adverse	5.18ha Grade 3a BMV; permanent. Standalone officer refusal reason. Weight rests on N2(1)(b), NP ECON&EMP1 and evidence, not BNE48.
Development-plan / spatial conflict	Significant adverse	Outside the Cliffe boundary and unallocated countryside. In my judgment the proposal has not demonstrated that it is physically well-related to Cliffe; the officer's findings of detachment from the rural setting and urbanisation of the settlement edge reinforce that conclusion.
Sustainable transport / car dependence	Significant adverse	Adopted local evidence shows structural car dependence; applicant uses an 85% car-based work-trip benchmark and final targets are deferred despite useful footway/bus measures.
Higham Road amenity / rural street	Significant adverse	Officer report identifies material harm from parking displacement, the community car park and alteration of the rural street, separate from technical highway acceptability.
Landscape / rural character	Significant adverse	Council landscape consultant identifies Major and Major-Moderate adverse effects and significant visual harm; officer report gives significant negative weight.
Other residual matters	Limited adverse / neutral subject to controls	Infrastructure uncertainty overlaps transport; design, archaeology, heritage, noise, flood, strategic road capacity and foul drainage do not presently outweigh the principal issues above.
Overall NPPF / S5 balance	Refusal	Primary case: S5(4) applies because the S5(1)(j) gateway is not satisfied, and no exceptional circumstances exist in which the benefits substantially outweigh the adverse effects. Alternative case: if S5(1)(j) is found satisfied, the cumulative adverse effects still substantially outweigh the benefits under S5(1), with S5(2) giving particular force to any unresolved express national refusal policy.

SCHEDULE 2

12. Matters requiring correction or clarification before Committee

[68] Before determination, Members should receive a written Committee update because the published report applies the superseded December 2024 NPPF and paragraph 11(d), whereas Annex A requires the August 2026 national decision-making policies to be taken into account from publication.

[69] The Committee update should address the S5(1)(j) gateway expressly. I accept the evidenced unmet-housing-need limb, but do not accept that the application has demonstrated that the site is physically well-related to Cliffe or that 100 dwellings can be accommodated taking account of existing or proposed infrastructure. If either requirement is not satisfied, S5(4) applies. The applicable planning balance should then be re-performed under the current Framework, giving the overall housing contribution

substantial positive weight under HO7 while avoiding double counting of the affordable units.

- [70] The reference to operational jobs "within the proposed Local Centre and School" should be deleted because neither a Local Centre nor a School forms part of MC/26/0194, and the economic-benefit weighting should be reconsidered without those nonexistent uses.
- [71] The Committee update should confirm the corrected status of BNE48: it was not saved and is not part of the Development Plan. The BMV reason should instead be framed against N2(1)(b), NP ECON&EMP1 and the agricultural evidence.
- [72] The update should distinguish Natural England's generic/strategic advice on SAMMS from its actual application response, which did not provide a site-specific assessment, so Members are not left with the impression of an application-specific Natural England endorsement where none was given.
- [73] The Council should identify whether it has completed and expressly adopted its own Appropriate Assessment of the final proposal. If so, the update should identify that assessment, its no-adverse-effect-on-integrity conclusion and the mitigation relied upon. If not, permission should not be granted unless and until the statutory assessment is lawfully completed.
- [74] The RSPB Nightingale objection should be addressed expressly under N2(2), including the difference between the specialist advice for more than 400m separation and the proposed approximately 60m buffer. The 400m advice should not be treated as a statutory exclusion zone, but nor should it be left unanswered.
- [75] The updated balance should reflect the Council landscape consultant's Major and Major-Moderate adverse findings and significant visual harm, and the officer report's own significant negative weighting, rather than reverting to the applicant's lower residual assessment alone.
- [76] If the current NPPF assessment, Appropriate Assessment, essential mitigation controls, section 106 terms or other evidence needed for a lawful and robust decision remain incomplete, the application should be deferred or refused as the circumstances require. Subject to the corrections above, the published substantive refusal recommendation should be maintained.

Yours faithfully,

Councillor Michael Pearce

Councillor Michael Pearce

Planning Spokesman for The Independent Group (TIG) on Medway Council

Dated: 19 August 2026

THE INDEPENDENT GROUP

ON MEDWAY COUNCIL

To: Local Planning Authority (Medway Council)

Date: 12 August 2026

For attention of: The Chief Planning Officer, Case Officer, Monitoring Officer and Members of the Planning Committee

Our ref: TIG/MC260194/LEGALREP/AUG2026

Re: Planning application MC/26/0194 - Land to the left of Eternal Lake Nature Reserve, south of Higham Road and east of Buckland Road, Cliffe, Rochester, Kent, ME3 7RT

Attachments: Richard Buxton Solicitors letters (2) dated 6 July 2026

Dear Sir or Madam,

FORMAL LEGAL AND PROCEDURAL REPRESENTATION ON PLANNING APPLICATION MC/26/0194

Habitats Regulations, SAMMS/Bird Wise, construction noise, ecological parameters, statutory heritage duties, outline access, EIA screening and lawful decision-making

I submit this formal representation in my capacity as Planning Spokesman for The Independent Group (TIG) on Medway Council for consideration in full before application MC/26/0194 is determined. I have written and adopted it personally in an advocacy and scrutiny capacity. It addresses planning-law and procedural concerns only. For the avoidance of doubt, I oppose the proposed development. This representation does not contain the full planning case against the proposal; it is confined to the legal and procedural matters which must be resolved before any lawful decision could be made. A separate representation will address conflict with the development plan and national planning policy.¹

COUNCILLOR MICHAEL PEARCE

Planning Spokesman for The Independent Group (TIG) on Medway Council

1 Medway Council Public Access, application MC/26/0194, current summary and documents:
<https://publicaccess1.medway.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=T9Z9VGKNGJ600>

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1. Formal status and scope of this submission

- [1] This document is a formal planning representation on the legal and procedural requirements governing application MC/26/0194. It should be placed on the public file, circulated to the Chief Planning Officer and Monitoring Officer, and supplied in full to every Member who may determine the application.
- [2] I am a planning-trained member of Medway Council's Planning Committee and the Planning Spokesman for The Independent Group (TIG). I have written and submitted this representation in an advocacy and scrutiny capacity. Having made a substantive representation on this application, I do not intend to participate in its determination as a member or substitute member of the Planning Committee.
- [3] The description "in my capacity as Planning Spokesman for The Independent Group (TIG)" identifies my spokesman role only. This representation has been authored and adopted by me. It is not a collective voting instruction and does not mean that every other TIG member has prepared, signed or adopted each conclusion.
- [4] Other TIG members retain their individual rights either to make their own representations or, where lawfully eligible, to participate in the Planning Committee. Each member must choose and maintain the appropriate role, comply with the Members' Planning Code of Good Practice, declare relevant interests and approach any decision with an open mind.²
- [5] This document is not a Pre-Action Protocol letter, does not assert that judicial review is inevitable and is not a substitute for specialist legal advice on the final officer report, conditions, section 106 agreement and decision notice. It identifies serious and reasonably arguable legal vulnerabilities which should be resolved before determination.
- [6] The live application is an outline application for up to 100 dwellings, including affordable housing, with vehicular, pedestrian and cycle access from Higham Road, public open space, sustainable drainage, landscaping, infrastructure and earthworks. Appearance, landscaping, layout and scale are reserved; access is not reserved.³
- [7] Two letters from Richard Buxton Solicitors dated 6 July 2026 are submitted with this representation. Those letters were prepared on my instructions on behalf of the Save the Hoo Peninsula campaign in relation to the emerging Medway Council Local Plan HRA. Richard Buxton Solicitors are not presented as acting for TIG on this application. The letters are relied upon because they raise a relevant and unresolved question about the evidential efficacy of the same SAMMS/Bird Wise mitigation mechanism upon which this application relies.⁴
- [8] For the avoidance of doubt, I oppose the proposed development. This representation deliberately does not set out the complete planning case for refusal or undertake the full planning-balance exercise under section 38(6). The present question is whether the

2 Localism Act 2011, section 25: <https://www.legislation.gov.uk/ukpga/2011/20/section/25> ; Medway Council, Members' Planning Code of Good Practice, July 2024, paras 4.6-4.10:
https://www.medway.gov.uk/download/downloads/id/9405/502_members_planning_code_of_good_practice.pdf

3 Medway Council Public Access, MC/26/0194 current application description and status:
<https://publicaccess1.medway.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=T9Z9VGKNGJ600>

4 Richard Buxton Solicitors, letter to Medway Council Planning Policy, 6 July 2026, ref. SAV11/1 (LPF), paras 2-26; and letter to Local Plan Inspectors Andrew McCormack and Darren Hendley, 6 July 2026, paras 1-10. Both letters are submitted as attachments to this representation.

Council has the lawful assessments, consultations and controls necessary to determine the application.

2. Executive summary

- [9] The application is not shown to be automatically invalid merely because the issues below exist. Most are capable of correction before determination. The critical point is that the Council must not grant outline permission first and attempt to repair a statutory assessment, missing consultation or uncertain environmental control afterwards.
- [10] The clearest legal gateway is the Habitats Regulations. The applicant's own Habitats Regulations Assessment states that recreational pressure cannot be screened out because of in-combination effects, that an Appropriate Assessment is required, and that urbanisation and construction/operational impacts cannot be scoped out. Medway Council is therefore required to carry out the competent-authority assessment before granting permission.
- [11] Regulation 70(3) is especially important because this is an outline application. Where the assessment provisions apply, outline permission must not be granted unless the competent authority is satisfied that no development likely adversely to affect the integrity of a European site could be carried out under the permission, whether before or after approval of reserved matters. The outline permission must therefore contain a legally secure environmental envelope, not merely rely on later design discretion.
- [12] Construction noise is the strongest application-specific evidential issue. The applicant's Construction Noise Assessment recommends an upper range of 65-67 dBA during construction, but its deliberately conservative 25m worst-case calculation predicts 70 dBA for concreting and 76 dBA for general site activities at the eastern edge of the SPA/Ramsar receptor. The report says those unmitigated results exceed the nominated 67 dBA criterion by +3 dBA and +9 dBA respectively.
- [13] The acoustic consultant responds that the 25m scenario over-estimates typical noise because all activities would not occur simultaneously at the closest point, and that centre-of-site modelling predicts compliance. That is relevant evidence and must be acknowledged. It does not, however, answer the legal question unless Medway Council can demonstrate why the adverse worst-case scenario cannot occur under the permission, or why it would not adversely affect site integrity.
- [14] The same noise report repeatedly describes mitigation as applying "where practicable", "wherever practicable" or "wherever feasible". Those qualifications may be normal in a Best Practicable Means construction document, but mitigation which is essential to a Habitats integrity conclusion must be certain, effective and legally secured. A generic future CEMP should not be used to discover after permission whether the project can be built without adverse effect.
- [15] The ecological evidence also relies on a 60m buffer along the western boundary, retention of the western tree line, extensive planting and robust dark corridors. The submitted Parameter Plan does not itself define a 60m ecological exclusion zone in its legend. Its "Green Infrastructure" area is expressly inclusive of retained natural assets "where possible", highways, public open space, associated infrastructure, habitat

enhancement, landscaping and SuDS. If the 60m buffer and tree retention are necessary to the integrity conclusion, their spatial extent and protective function must be made binding.

- [16] Lighting requires the same treatment. The HRA relies on low lighting and robust dark corridors along the western and southern boundaries. The Lighting Assessment says that the final lighting scheme is expected to be agreed by condition and anticipates a residential P4 scheme averaging approximately 5 lux. If the integrity conclusion depends on a maximum ecological spill level, dark-corridor width, luminaire orientation or operating regime, those parameters must be defined and secured at outline stage.
- [17] The RSPB objects to the application as it stands because of recreational and urbanisation effects. It regards Bird Wise/SAMMS contributions as necessary “at a minimum” and considers additional mitigation likely to be required given proximity and scale. The applicant has responded with SAMMS, on-site open space, footpaths and the 60m buffer. Medway Council’s Appropriate Assessment must resolve that contrary ecological evidence and explain why the final package is sufficient.
- [18] The attached Richard Buxton correspondence identifies a substantial evidence issue in the emerging Local Plan HRA and argues that, after approximately a decade of operation, the cited material does not demonstrate through a sufficient longitudinal dataset that SAMMS/Bird Wise has achieved the ecological outcome assumed. That argument is not automatically determinative of this application, but it is a material challenge that Medway Council’s Appropriate Assessment should confront rather than assume away.
- [19] Natural England’s formal response of 20 February 2026 says it was not able to provide specific advice on the application and had not assessed the potential impacts on statutory nature conservation sites. It tells Medway Council that mitigation should be formally checked by the authority as competent authority through Appropriate Assessment and says non-detailed advice does not imply an absence of environmental impacts. The applicant’s later description of that response as Natural England having confirmed “no objection” should not be treated as substantive endorsement.
- [20] The noise evidence records later technical input from Natural England, including its request for the 25m worst-case and maximum-event assessments. The issue is therefore not whether Natural England had any involvement. The procedural question is what constituted Medway Council’s consultation with Natural England for the purposes of the final Appropriate Assessment, what material was provided, what representations were received and how they were taken into account.
- [21] A separate statutory issue arises from heritage. The applicant’s Built Heritage Statement identifies The Rectory House as Grade II* and concludes that the proposal would cause an “extremely negligible” level of less than substantial harm to its setting and significance. Section 66(1) therefore requires the Council to apply the statutory preservation duty. Government guidance also identifies a notification requirement to Historic England where development would affect the setting of a Grade I or Grade II* listed building. No Historic England document has been identified in the current application schedule reviewed for this representation.
- [22] Access is not reserved. The submitted highway package has evolved: the May Highways

Response says no secondary emergency vehicle access is proposed, whereas the later P07 Proposed Site Access drawing labels a footway/cycleway as dual-purpose emergency access. The July public-file package also contains both a “Potential Site Access” and a “Proposed Site Access”. That evolution is not unlawful, but the final permission must identify precisely which arrangement is approved and which earlier or alternative drawings are superseded.

[23] An EIA screening opinion does exist under MC/25/2388. Medway Council decided on 14 January 2026 that EIA was not required. The absence of an Environmental Statement is therefore not itself a procedural omission. The Council should nevertheless place the screening reasons before Members and confirm that the final project and cumulative evidence remain within the scope of that screening conclusion.

Issue	Present vulnerability	Required action before any grant
Habitats Regulations	Applicant itself requires Appropriate Assessment; outline permission engages reg.70(3).	Council-owned final AA; express reg.70(3) finding; binding environmental envelope.
Construction noise	65-67 dBA recommended; 70/76 dBA worst-case at SPA/Ramsar edge without mitigation.	Reconcile evidence; secure objective thresholds/spatial or seasonal controls and intervention measures.
60m buffer / tree line	Ecology relies on 60m western buffer and retained tree line; Parameter Plan does not itself define an inviolable 60m exclusion zone.	Fix buffer spatially and protect its ecological function if relied upon.
Lighting / dark corridors	HRA relies on low light/dark corridors; final lighting scheme deferred to condition.	Set enforceable ecological lighting parameters sufficient for integrity conclusion.
Recreation / SAMMS efficacy	RSPB objects; SAMMS is a minimum in its view; Richard Buxton correspondence challenges whether the current evidence demonstrates Bird Wise/SAMMS efficacy.	Reasoned AA response, current efficacy evidence and additional/site-specific mitigation if the standard tariff cannot be shown sufficient.
Natural England	Formal response was generic and not application-specific; later technical input appears to have occurred.	Identify reg.63 consultation trail on the final AA and have regard to the response.
Grade II* heritage	Applicant finds setting harm to The Rectory House.	Apply s.66(1); verify Historic England notification if Medway Council considers setting affected.
Access	Access is for determination; P06/P07 and emergency-access position evolved.	Approve one clear access package and mark alternatives/superseded plans.
EIA	Negative screening opinion exists under MC/25/2388.	Audit final scheme against screening reasons; no present allegation of failure to screen.

3. The decision and safeguards requested

[24] I ask Medway Council not to determine the application in favour unless and until the statutory assessments, consultations and controls identified in this representation have been completed and placed before the decision-maker.

[25] If the Council cannot ascertain, on the evidence available at the date of decision, that the proposal will not adversely affect the integrity of the relevant European site, regulation

63 requires permission to be withheld unless the separate derogation regime is lawfully pursued and met. The ordinary planning balance cannot override a failed integrity test.

- [26] Because the application is in outline, the Council must also satisfy regulation 70(3). Any parameter which is necessary to protect site integrity - including construction-noise controls, spatial buffers, tree retention, dark corridors, lighting limits or recreation-management measures - must be incorporated into the permission with sufficient precision to prevent a later reserved-matters scheme from undermining the integrity conclusion.
- [27] Before any committee meeting the decision record should contain: Medway Council's identifiable Appropriate Assessment; the regulation 70(3) conclusion; evidence of consultation with Natural England for the purposes of that assessment; the final conditions and section 106 heads of terms securing habitat mitigation; confirmation of any Historic England notification required; the final access drawing hierarchy; and the Council's confirmation that the existing EIA screening opinion remains applicable.
- [28] Where materially new information is introduced before determination, the Council should consider whether fairness or the requirements of a statutory consultation regime require further publicity or reconsultation. That is a fact-sensitive question and this representation does not assert that every technical update automatically requires a fresh public consultation.
- [29] I further ask the Monitoring Officer, or an appropriately qualified external planning-law adviser, to review the final officer report and proposed resolution on the statutory issues in this document. This is requested as a governance safeguard rather than asserted to be a separate statutory precondition.

4. The legal framework

- [30] Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 establish the plan-led decision-making framework. The NPPF is a material consideration, but it does not displace statutory duties. Paragraph 2 of the current NPPF expressly states that planning decisions must reflect relevant international obligations and statutory requirements.⁵
- [31] Regulation 63 of the Conservation of Habitats and Species Regulations 2017 applies where a competent authority is deciding whether to give consent, permission or other authorisation to a plan or project which is likely to have a significant effect on a European site and is not directly connected with or necessary to its management. The authority must make an Appropriate Assessment, consult the appropriate nature conservation body and agree to the project only after ascertaining that it will not adversely affect site integrity.⁶
- [32] Government Appropriate Assessment guidance states that the assessment must contain complete, precise and definitive findings and conclusions sufficient to ensure that no

5 Planning and Compulsory Purchase Act 2004, section 38: <https://www.legislation.gov.uk/ukpga/2004/5/section/38> ; Town and Country Planning Act 1990, section 70: <https://www.legislation.gov.uk/ukpga/1990/8/section/70> ; National Planning Policy Framework, December 2024 (as amended 7 February 2025), paras 2 and 48: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

reasonable scientific doubt remains. The same guidance states that construction parameters may be left to later determination only where the authority is certain that the consent contains conditions strict enough to guarantee that those parameters will not adversely affect site integrity.⁷

- [33] Regulation 70(3) contains a specific safeguard for outline planning permission. Where the assessment provisions apply, outline permission must not be granted unless the competent authority is satisfied that no development likely adversely to affect the integrity of a European site could be carried out under the permission, whether before or after approval of reserved matters.⁸
- [34] The Supreme Court in *C G Fry & Son Ltd v Secretary of State* [2025] UKSC 35 emphasised the legal significance of outline planning permission: the grant creates development rights and later reserved-matters decisions are constrained by what the outline permission has reserved. That reinforces the importance of fixing at outline stage the environmental limits which are necessary to make the permission lawful.⁹
- [35] Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision-maker, in considering planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building, its setting or relevant features of special architectural or historic interest.¹⁰
- [36] Government historic-environment guidance identifies Regulation 5A(3) notification to Historic England for development that would affect the setting of a Grade I or Grade II* listed building. Whether that trigger is engaged depends upon Medway Council's assessment of whether the setting is affected; the applicant's own finding of setting harm makes the question one that should be expressly resolved.¹¹
- [37] The Development Management Procedure Order 2015 defines "access", for reserved-matters purposes, as accessibility to and within the site for vehicles, cycles and pedestrians in terms of positioning and treatment of access and circulation routes and how they fit into the surrounding access network. Where access is not reserved, its material external parameters fall for determination now.¹²
- [38] Planning conditions must be necessary, relevant to planning and to the development, enforceable, precise and reasonable. Those ordinary tests are especially important where a condition is relied upon as the legal mechanism securing mitigation necessary to pass a statutory Habitats integrity test.

6 Conservation of Habitats and Species Regulations 2017, regulation 63: <https://www.legislation.gov.uk/uksi/2017/1012/regulation/63>

7 Government guidance, Appropriate assessment: <https://www.gov.uk/guidance/appropriate-assessment> ; Habitats regulations assessments: protecting a European site: <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site> ; Case C-127/02 Waddenzee: <https://curia.europa.eu/juris/liste.jsf?num=C-127/02>

8 Conservation of Habitats and Species Regulations 2017, regulation 70(3): <https://www.legislation.gov.uk/uksi/2017/1012/regulation/70>

9 *C G Fry & Son Ltd v Secretary of State for Levelling Up, Housing and Communities* [2025] UKSC 35: <https://supremecourt.uk/cases/judgments/uksc-2024-0108>

10 Planning (Listed Buildings and Conservation Areas) Act 1990, section 66: <https://www.legislation.gov.uk/ukpga/1990/9/section/66> ; *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* [2014] EWCA Civ 137.

11 Government Planning Practice Guidance, Historic environment, Table 1 (Regulation 5A(3) notification for development affecting the setting of Grade I or Grade II* listed buildings): <https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment>

12 Town and Country Planning (Development Management Procedure) (England) Order 2015, article 2 (definition of access): <https://www.legislation.gov.uk/uksi/2015/595/article/2>

5. Habitats Regulations and the integrity test

5.1 Regulation 63 and Regulation 70(3) are statutory gateways

- [39] The application site lies immediately adjacent to a highly sensitive estuarine environment. The applicant's HRA records that the development site lies approximately 10m from the Thames Estuary and Marshes SPA/Ramsar site for the purposes of its impact assessment. The exact relationship between the site, Buckland Road and the designated boundary should be shown clearly in Medway Council's assessment record.
- [40] The project is not directly connected with or necessary to the management of the designated site. The applicant itself identifies the need to proceed beyond screening to Appropriate Assessment. Regulation 63 is therefore engaged as a legal gateway rather than merely a policy consideration.
- [41] The fact that the applicant's report contains a section headed "Appropriate Assessment" does not transfer the statutory function to the consultant. The applicant supplies information. The competent authority must assess it, test it, consult Natural England for the purposes of the assessment, have regard to the response and make its own integrity conclusion.
- [42] This is particularly important because the HRA contains a stray reference to "NFDC" as competent authority even though the application is in the Medway Council area. That appears to be a drafting or quality-control error rather than a reason to invalidate the report. It nevertheless demonstrates why the Council should not mechanically treat the applicant's document as the competent-authority decision.
- [43] Because appearance, landscaping, layout and scale remain reserved, regulation 70(3) is central. The Council must identify what aspects of the ecological design are merely illustrative aspirations and what aspects are essential legal parameters. Only the latter can carry an integrity conclusion at outline stage.

5.2 The applicant identifies likely significant effects

- [44] At paragraphs 4.21-4.26 the applicant's HRA says that potential water-pollution effects from runoff and construction cannot be ruled out; construction noise may have an impact because of the site's relationship with the SPA/Ramsar; recreational pressure cannot be screened out because of in-combination impacts; and urbanisation and construction/operational effects cannot be scoped out.
- [45] At paragraph 4.24 the HRA expressly states that "an appropriate assessment of these potential effects, is required". At paragraph 5.3 it says that changes in noise, water runoff and lighting may need review because the site lies approximately 10m from the SPA/Ramsar site.
- [46] Those impact pathways are not interchangeable. A SAMMS contribution may address an identified recreational-disturbance pathway, but it does not in itself answer construction noise, lighting, water quality or other urbanisation effects. Medway Council's assessment should make a distinct finding on each pathway relied upon.
- [47] The NPPF provides the same policy direction: paragraph 195 states that the presumption in favour of sustainable development does not apply where a project is likely to have a significant effect on a habitats site unless an Appropriate Assessment has concluded that

the project will not adversely affect site integrity.¹³

5.3 Medway Council must undertake and record the Appropriate Assessment

- [48] The applicant's HRA should be treated as information to inform Medway Council's statutory assessment. The Council may adopt technical findings by reference where it critically accepts them, but the decision record must make clear which documents and versions comprise the evidence and must set out Medway Council's own conclusion on integrity.
- [49] The final Appropriate Assessment must assess the project actually capable of being authorised. It should therefore take account of the final access package, final parameter plan, final construction-noise evidence, Technical Ecology Note, Lighting Assessment, drainage controls, recreational mitigation and any amended plans or conditions upon which the integrity conclusion depends.
- [50] The Council should avoid ambiguous phrasing such as "the applicant has undertaken an Appropriate Assessment" if that obscures responsibility. The statutory assessment belongs to Medway Council as competent authority. Its adoption should be identifiable before the planning balance and before any resolution to grant is implemented.
- [51] A later discharge-of-condition process can lawfully implement detail within an environmental envelope whose adequacy is already established. It should not be used to decide for the first time whether the authorised development can satisfy the integrity test.

5.4 Construction noise and the evidential tension

- [52] The applicant's HRA relies materially on assumptions about construction noise. Paragraph 5.14 says that, with assumptions made for construction methods, additional construction works are unlikely to extend noise levels further into off-site designated areas and that noise levels are likely to remain as existing along the road networks adjacent to the designated sites. It then relies on mature-tree protection and western screening.
- [53] Paragraph 6.3 of the HRA states that "noise levels [will be] monitored in line with existing levels". Elsewhere the HRA records existing road-network noise of approximately 62-64 dB, largely from HGV traffic. The competent authority should explain what "in line with existing levels" means numerically and how that proposition relates to the separate acoustic assessment.
- [54] The Construction Noise Assessment applies several BS5228 approaches and records that Natural England advised that a 3 dBA change should be assessed. Table 1 gives a permitted construction range of 65-67 dBA using that more stringent approach, and paragraph 2.4 recommends that an upper limit of 65-67 dBA be adopted during construction hours.
- [55] The same report acknowledges at paragraph 2.3 that those limits may not be met during particularly noisy stages because of receptor proximity. It says that in those cases noise control should reduce levels as far as practicable or reduce the duration of noisy works.

13 National Planning Policy Framework, December 2024 (as amended 7 February 2025), paragraph 195 and footnote 69: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

- [56] For the worst-case calculation, paragraph 2.6 uses the closest construction area, identified as the SuDS basin, taken to be approximately 25m from the receptor. The report says that this closest point was used at Natural England's suggestion so that a worst-case scenario was tested.
- [57] Table 3 then predicts, without mitigation, 70 dBA for concreting and 76 dBA for general site activities against the nominated 67 dBA criterion at the eastern edge of the SPA/Ramsar receptor. Paragraph 2.8 records exceedances of +3 dBA and +9 dBA.
- [58] The consultant does not ignore those results. Paragraph 2.9 explains that simultaneous activity at the closest 25m point is a deliberate over-estimate and says centre-of-site CadnaA modelling predicts compliance. It also says existing traffic noise across the bird sanctuary is higher than predicted construction levels. Paragraph 2.10 compares maximum construction events of about 75-80 dB LAmax with existing HGV maxima of about 85-90 dB LAmax and considers the construction effect acceptable.
- [59] That contextual evidence is material and should be assessed fairly. The legal difficulty is narrower: if the outline permission allows noisy operations at or near the closest construction area, the competent authority must either demonstrate why those authorised worst-case events would not adversely affect site integrity or impose controls which make the unacceptable scenario legally impossible.
- [60] Paragraphs 2.11-2.12 of the noise report state that management and mitigation measures will be implemented "wherever practicable" or "where practicable". Later measures use similar qualifications. Those are legitimate Best Practicable Means concepts, but they are not necessarily an adequate legal guarantee if a particular measure is essential to the no-adverse-effect conclusion.
- [61] The final Appropriate Assessment should therefore identify the construction-noise envelope on which it relies. If 65-67 dBA is the ecological control limit, the permission should specify the receptor, metric and averaging period, construction hours, monitoring location and methodology, any seasonal or spatial restrictions, required barriers or screening, reporting, action thresholds and a clear corrective or cessation mechanism.
- [62] If the Council instead concludes that temporary exceedances above 67 dBA are compatible with site integrity, it should explain the scientific basis for that conclusion by reference to the affected qualifying features and conservation objectives. A bare reliance on general habituation should not substitute for that analysis.

5.5 The 60m ecological buffer, western tree line and parameter-plan certainty

- [63] The applicant's Technical Ecology Note states expressly that the proposed development "incorporates a 60m buffer along the western boundary" to minimise potential impacts from light, noise, urbanisation and domestic predators such as cats. It also relies on new scrub, tree planting and habitat-edge features to create an effective disturbance buffer.
- [64] The Ecological Impact Assessment likewise refers to a 60m buffer along the western edge including retention of the existing boundary/tree features. The HRA relies on retention of the western tree line and extensive planting between the development edge and the SPA/Ramsar site.
- [65] The submitted Parameter Plan, however, does not define the mitigation in the same

precise terms in its legend. “Green Infrastructure” is described as inclusive of retained natural assets “where possible”, highways, public open space and associated infrastructure, habitat enhancements, planting, hard and soft landscaping and SuDS features. The plan also defines a maximum extent of development which may include residential uses, infrastructure including highways, landscaping, open space, play and SuDS.

[66] A multi-functional green-infrastructure zone can be entirely appropriate in planning terms. The legal question is whether it is sufficiently precise if a 60m ecological buffer, retained western tree line or separation distance is necessary to satisfy the Habitats integrity test. “Where possible” is not the same as an unconditional retention requirement.

[67] The Council should therefore identify on an approved plan the exact 60m buffer or other spatial envelope on which its Appropriate Assessment relies, define which activities or infrastructure may occur within it, protect the western tree line where necessary, and ensure that later reserved-matters applications cannot reduce or fragment the mitigation relied upon at outline stage.

[68] This is a direct regulation 70(3) issue. If reserved layout or landscaping could later place incompatible development within the area which the Appropriate Assessment assumed would function as ecological mitigation, the outline permission would not provide the required certainty.

5.6 Lighting and dark corridors

[69] HRA paragraph 5.10 says light levels will be kept low and that the development will incorporate robust dark corridors, notably along the western and southern boundaries, for waders, water birds and bats. It expressly relies on the design, dark corridors, western tree retention and low-level lighting to conclude that lighting will not impact the SPA/Ramsar site.

[70] The Lighting Assessment takes a different but not necessarily inconsistent role. It says the final lighting scheme is expected to be agreed through a planning condition, and that the residential solution will be based on BS5489-1:2020 Class P4, producing an average illuminance of about 5 lux. It assesses the residual completed-development lighting effect generally as Minor Adverse after mitigation.

[71] The planning issue is not whether a later detailed lighting condition is permissible. It is whether the outline permission already fixes whatever ecological performance is necessary for the Habitats integrity conclusion. A scheme-wide average illuminance is not necessarily the same thing as a maximum spill at a sensitive ecological boundary.

[72] If Medway Council’s Appropriate Assessment relies on a maximum lux level, vertical illuminance, dark-corridor width, absence of UV output, column-height limit, luminaire orientation, curfew, shielding or another objective ecological parameter, those requirements should be stated in the permission rather than left to unconstrained later negotiation.

5.7 Recreational disturbance, RSPB evidence and SAMMS

[73] The RSPB’s consultation response dated 5 March 2026 objects to the application as it

stands because of recreational and urbanisation impacts on surrounding designated areas and wildlife. In relation to the Thames Estuary and Marshes SPA/Ramsar/SSSI it says Bird Wise/SAMMS contributions would be required “at a minimum” and that, because of proximity and scale, additional mitigation is likely to be required, giving green infrastructure as an example.

- [74] The RSPB also identifies an important Nightingale population in Cliffe Pools and adjacent areas and raises vulnerability to recreation, cats, noise, artificial light and uncontrolled fires. Nightingale is not treated in this representation as though it were itself a qualifying SPA feature; the point is that the RSPB evidence reinforces the wider sensitivity of the site’s immediate ecological context.
- [75] The applicant’s Technical Ecology Note responds that SAMMS, significant on-site open space, the integrated footpath network and the 60m western buffer are sufficient. It notes that Cliffe Pools and Eternal Lakes are managed nature reserves with visitor facilities and says on-site paths connect to the wider landscape, including the nature reserves.
- [76] That response is substantive and the Council is entitled to accept it if the evidence supports doing so. However, because the RSPB has expressly raised the need for mitigation beyond the tariff, the final Appropriate Assessment should explain why the project-specific package is sufficient rather than treating payment of the standard contribution as conclusive by itself.
- [77] The assessment should also explain the recreational logic of the footpath network. If on-site green space is relied upon to draw recreation away from the SPA/Ramsar, the Council should consider whether routes connecting residents to the nature reserves undermine, complement or have no material bearing on that mitigation function, and whether signage, resident information, access management or other measures are required.
- [78] Any SAMMS contribution relied upon should be secured before occupation and calculated for the final net residential increase. The legal agreement should identify the calculation, trigger, indexation, recipient and mitigation purpose with sufficient certainty.

5.8 SAMMS/Bird Wise efficacy and the Richard Buxton correspondence

- [79] The application HRA relies materially on the North Kent Strategic Access Management and Monitoring Strategy (SAMMS), delivered through Bird Wise, together with the proposed on-site open space and green-infrastructure package, to conclude that recreational effects can be mitigated and that there will be no adverse in-combination effect on site integrity.
- [80] The attached Richard Buxton letter to Medway Council examines the emerging Local Plan HRA’s reliance on the same SAMMS/Bird Wise mechanism. It argues that the HRA relies on the existence and funding structure of SAMMS/Bird Wise without adequately answering the application-relevant question: what current evidence demonstrates that the delivered measures are sufficiently effective to neutralise the additional recreational pressure relied upon in the integrity conclusion?¹⁴

¹⁴ Richard Buxton Solicitors, letter to Medway Council Planning Policy, 6 July 2026, especially paras 8-25 (SAMMS/Bird Wise efficacy,

- [81] The letter identifies the Kent Wildlife Trust 2022 disturbance study as the principal monitoring evidence cited by the Local Plan HRA and notes that the study itself says periodic snapshot surveys eleven years apart cannot attribute changes in waterbird numbers or distribution specifically to anthropogenic disturbance without a longer-term monitoring programme. It also reproduces WeBS trend data showing declines in a number of qualifying features. Those declines are not relied upon here as proof that SAMMS caused them or that SAMMS has failed; their relevance is that the evidence cited does not itself demonstrate mitigation efficacy or resolve causation.
- [82] The correspondence further says that recommendations for sector-level analysis, more frequent monitoring and a dedicated Brent Goose study do not appear in the Local Plan HRA evidence cited, and criticises reliance on future monitoring as though it were present proof of efficacy. The shorter letter to the Local Plan Inspectors summarises the same concern and alerts them to the alleged scientific lacuna.
- [83] Those letters were prepared in relation to the emerging Local Plan HRA and are not, by themselves, an application-specific ecological assessment or a legal opinion addressed to MC/26/0194. They are nevertheless directly relevant evidence for scrutiny because this application relies on the same SAMMS/Bird Wise mechanism and because the applicant's own HRA has already crossed the Appropriate Assessment threshold.
- [84] Medway Council's final Appropriate Assessment should therefore identify the current monitoring dataset, delivery outputs, visitor and disturbance evidence, relevant trends in qualifying features and the scientific basis for concluding that the funded measures will avoid the additional recreational effects attributable to up to 100 dwellings, alone and in combination. Population trends are not, by themselves, a complete test of causation or mitigation efficacy, but neither should material evidence gaps be bypassed by simply stating that the tariff is established policy.
- [85] If Medway Council concludes that SAMMS/Bird Wise remains effective and sufficient for this proposal despite the matters raised, it should explain why by reference to current evidence. If the evidence supports only partial or uncertain efficacy for this particularly sensitive location, approximately 10m from the SPA/Ramsar site, the Council should identify whatever additional or bespoke mitigation is required and demonstrate that it will be secured before the recreational effect arises.

5.9 Natural England consultation under regulation 63(3)

- [86] Natural England is the appropriate nature conservation body for the purposes of regulation 63. Its formal response dated 20 February 2026 says it was not able to provide specific advice on the application, had no comment on its details and had not been able to assess the potential impacts on statutory nature conservation sites or protected landscapes.
- [87] The same letter tells Medway Council that, where likely significant effects cannot be ruled out, an Appropriate Assessment is required and that mitigation should be formally checked and confirmed by Medway Council as competent authority. It expressly says that non-detailed advice does not imply there are no impacts on the natural environment

Kent Wildlife Trust 2022 monitoring evidence and asserted scientific lacunae); accompanying letter to the Local Plan Inspectors, 6 July 2026, paras 5-9.

and invites Medway Council to identify significant risks on which specific advice is required.

[88] The applicant's later Update Cover Letter says "Natural England has confirmed 'no objection' in its response." That is an over-simplified description of the formal letter and should not be treated by the decision-maker as evidence that Natural England carried out an application-specific assessment or endorsed the final integrity conclusion.

[89] There is evidence of subsequent technical engagement because the Construction Noise Assessment says the 25m worst-case location and maximum-event assessment were undertaken following Natural England's advice or request. This representation therefore does not allege that Natural England had no further involvement.

[90] The procedural issue is that the public document schedule reviewed for this representation identifies the two Natural England entries dated 20 February but no later formal Natural England representation. The officer report should identify what correspondence or meeting record exists, what material Natural England saw, and what constituted consultation "for the purposes of" Medway Council's Appropriate Assessment.¹⁵

[91] If the Council proposes to rely on the 20 February generic response alone as sufficient consultation under regulation 63(3), it should explain why. If later application-specific advice was obtained, that advice and Medway Council's response to it should form part of the decision record. If targeted consultation on the final AA and mitigation package has not yet occurred, it should occur before determination.

5.10 In-combination assessment and enforceable mitigation

[92] The HRA says there will be no adverse in-combination recreational effect because cumulative residential developments within the zone of influence will be required to make contributions. That conclusion should be supported by an intelligible schedule of the materially relevant plans and projects, their scale, timing and the assumptions used.

[93] The nearby approved development MC/22/0254 is relevant to the local cumulative context and is also relied upon in the highway material for cycle connectivity. The competent authority should make clear how committed development and other reasonably relevant projects were treated in the Habitats assessment.

[94] Every mitigation measure relied upon in the integrity conclusion must be certain in its nature, timing and legal delivery. Measures which remain aspirational, "where possible", "where practicable" or subject to later agreement cannot carry the integrity conclusion unless the permission itself contains an objective backstop which guarantees the required ecological outcome.

[95] The Council should distinguish statutory mitigation from ordinary planning benefit. SAMMS, a 60m buffer, dark corridors, construction-noise restrictions or other measures required to avoid adverse effects are not discretionary benefits to be double-counted positively in the planning balance; they are the minimum measures necessary to make

15 Medway Council Public Access, MC/26/0194 documents tab, including statutory-consultee responses and submitted technical documents:
<https://publicaccess1.medway.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T9Z9VGKNGJ600>

authorisation lawful.

6. Statutory heritage duties

6.1 Section 66(1) and the Grade II* Rectory House

- [96] The applicant's Built Heritage Statement identifies The Rectory House (Old Rectory), NHLE 1204092, as a Grade II* listed building. The Cliffe and Cliffe Woods Neighbourhood Plan also records The Rectory House as Grade II*, confirming its recognised significance in the local development-plan evidence.
- [97] At paragraphs 5.6-5.7 the Built Heritage Statement assesses the immediate sylvan setting as making a strong positive contribution to significance. It concludes that the wider agricultural setting would be altered to developed land, that the building would become less secluded historically, and that the proposal would cause an "extremely negligible level of less than substantial harm" to The Rectory House.
- [98] At paragraphs 6.2-6.3 the same report repeats that the Grade II* Rectory House has potential to be affected through alteration of its setting and that the proposal would cause extremely negligible less-than-substantial harm to its setting and significance.
- [99] The Council is not bound by the applicant's calibration of harm and may lawfully reach its own conclusion. It cannot, however, simply treat the impact as legally neutral without explaining the basis for doing so where the applicant's own heritage professional identifies setting harm.
- [100] Section 66(1) applies at outline stage. The officer report should demonstrate in substance that special regard has been given to preserving the listed building and its setting. The NPPF separately requires great weight to the conservation of designated heritage assets, with greater weight for more important assets, irrespective of whether the identified harm is substantial or less than substantial.
- [101] Where building heights, development envelopes, open-space separation, vegetation or landscape parameters are relied upon to limit the heritage effect, those parameters should be binding on reserved matters to the extent necessary to support the Council's section 66 conclusion.

6.2 Historic England notification

- [102] Government Planning Practice Guidance states that development which would affect the setting of a Grade I or Grade II* listed building falls within the Regulation 5A(3) Historic England consultation/notification requirement.
- [103] No Historic England consultation response has been identified among the 213 documents currently listed on the MC/26/0194 public schedule. That does not prove that notification was omitted; Historic England may have been notified and chosen not to comment, or correspondence may be recorded elsewhere.
- [104] The committee report should therefore state whether Medway Council considers that the proposal affects the setting of The Rectory House. If it does, the report should identify the date and material sent to Historic England, any response and the expiry of the relevant period. If notification has not occurred despite Medway Council finding that the setting is affected, the application should not be determined until the required procedure

has been completed.

[105] If Medway Council instead concludes that the setting is not affected, the report should explain why its assessment differs from the applicant's own finding of setting harm. That is not an invitation to adopt the applicant's view automatically; it is a request for transparent application of the statutory trigger.

7. Material access parameters are for determination at outline stage

7.1 The statutory definition of access

[106] The application description reserves appearance, landscaping, layout and scale. Access is not listed as a reserved matter and is therefore for determination as part of the outline application.

[107] For reserved-matters purposes, the DMPO definition of access includes accessibility to and within the site for vehicles, cycles and pedestrians, including the positioning and treatment of access and circulation routes and their fit with the surrounding network. The final decision should therefore make clear what external access arrangement has been approved.

[108] The detailed internal layout may remain reserved. That does not mean that materially different external access points or emergency-access arrangements can be chosen later without being within the permission now granted.

7.2 Evolution of the access package and emergency access

[109] The highway material has evolved during the application. The May Highways Response Note works from an updated P06 access drawing and, at paragraph 2.2.19, says "No secondary emergency vehicle access is proposed." It explains that the development is not considered of a scale to warrant an emergency-only secondary access.

[110] The later Proposed Site Access drawing P07, published in the July highway package, expressly identifies a footway/cycleway as a dual-purpose emergency access. The public register also lists, on 2 July 2026, both a "POTENTIAL SITE ACCESS" drawing and a "PROPOSED SITE ACCESS" drawing, together with emergency-vehicle swept paths and proposed off-site works.

[111] There is nothing procedurally improper about amending an access proposal during the application. The vulnerability arises only if the final permission leaves uncertainty as to which option is approved or allows the reserved-matters process to select between materially different external access arrangements.

7.3 Precision of the final permission and delivery of off-site works

[112] The decision notice should identify the governing access drawing and expressly state the status of the "Potential Site Access", earlier P05/P06 material and the P07 emergency arrangement. Superseded access drawings should not remain capable of enlarging or confusing the permission.

[113] The May Highways Response says the proposed off-site works on identified drawings are accepted to be delivered before occupation, secured by condition and a section 278 process. The final report should identify which off-site works are necessary to make the access acceptable, the trigger for their completion and the reasonable prospect of their

delivery.

[114] Where a Traffic Regulation Order, third-party consent or other separate highway process is relevant, the Council should distinguish that separate statutory process from the planning permission and should not give decisive weight to an outcome whose delivery is uncertain unless an appropriate condition or obligation lawfully secures the necessary result.

8. Environmental Impact Assessment screening

[115] Medway Council issued an EIA screening opinion under reference MC/25/2388 for outline residential development on Land South of Higham Road, Cliffe. The Council's register records the decision "EIA not required" issued on 14 January 2026.¹⁶

[116] The existence of that screening opinion means this representation does not allege that the current application is unlawful merely because no Environmental Statement accompanies it. The EIA point is one of continuing audit rather than a present failure to screen.

[117] The MC/25/2388 document schedule identifies a Case Officer Report, a decision notice headed "Screening Opinion EIA Not Required", the applicant's EIA Screening Report, Parameter Plan and Site Location Plan. Those reasons should be available to the decision-maker for the planning application.

[118] Before determination Medway Council should record that it has considered whether the project now before it remains materially within the project screened in January 2026, including the final access arrangements, development parameters and cumulative context. If materially different environmental information has arisen which bears on the screening judgment, the Council should address it rather than assume the earlier conclusion is immutable.

[119] On the material presently reviewed, the core 25m construction-noise assessment was part of the original application evidence and is not relied upon here as a later July discovery requiring EIA screening to be reopened. The EIA safeguard requested is therefore deliberately limited and proportionate.

9. Amendments, consultation and the final evidence base

[120] The public register records a further neighbour consultation beginning 6 July 2026 and a standard consultation running from 15 July to 5 August 2026, after the July highway documents and the later Construction and Commercial Noise Assessment were published. That is an important procedural safeguard and this representation does not advance a general claim that the public had no opportunity to comment on the amended material.¹⁷

[121] The narrower requirement is that the final officer report must assess the final project consistently. It should identify the amendments, mark superseded plans, explain which

16 Medway Council Public Access, EIA screening opinion MC/25/2388, decision "EIA not required", issued 14 January 2026:

<https://publicaccess1.medway.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=T6YLHYKN04M00>

17 Medway Council Public Access, MC/26/0194 important dates, including further neighbour consultation from 6 July 2026 and standard consultation from 15 July to 5 August 2026:

technical reports remain applicable, and ensure that any statutory consultee whose legal remit is materially affected by the final package has been consulted as required.

[122] Particular care is required where a document prepared at one stage uses a mitigation assumption which later drawings or conditions do not make binding. The decision record should resolve such internal tensions rather than simply list every document as if they were mutually consistent.

[123] The final public file and committee report should contain a definitive approved-document schedule distinguishing: approved access drawings; approved parameter plans; illustrative masterplans; technical evidence; superseded plans; and documents whose recommendations are implemented through conditions or obligations.

10. Conditions, obligations and precision of the permission

[124] The Council may use planning conditions and obligations to make otherwise unacceptable development acceptable, but those controls must satisfy the ordinary legal tests and must be drafted with particular care where they carry a statutory Habitats conclusion.

[125] A condition should not postpone the central integrity question. A lawful condition may settle detailed implementation within an already established environmental envelope; it should not merely require a future consultant to assess whether an adverse effect exists after outline permission has conferred development rights.

[126] The HRA-related conditions should, as applicable, secure the construction-noise envelope, ecological construction management, western buffer, tree protection, lighting/dark corridors, drainage and pollution prevention, recreational mitigation, monitoring, reporting and corrective action. Any section 106 obligation should secure SAMMS before the recreational effect arises.

[127] Conditions should use objective wording where ecological certainty depends upon compliance. Qualifiers such as “where practicable” may remain appropriate for subsidiary good-practice measures, but a mandatory ecological outcome relied upon for regulation 63 should not depend solely on an unenforceable aspiration.

[128] The section 106 agreement need not necessarily be executed before a committee meeting, but Members should have sufficiently precise heads of terms to understand every obligation material to the statutory assessment and planning balance. Any resolution to grant should limit delegated completion to those approved terms.

[129] If the final legal agreement or condition package changes materially after Committee in a way that affects the Habitats integrity conclusion, heritage assessment, access acceptability or planning balance, the matter should return to Members rather than be altered under an over-broad delegation.

11. The role of the Monitoring Officer and Planning Committee

[130] If the application is reported to Planning Committee, Members are the decision-makers and must be able to identify the statutory questions they are answering. The absence of

an objection from one consultee does not establish compliance with a different statutory regime, and a consultant's conclusion does not transfer the competent-authority duty away from Medway Council.

[131] The officer report should contain a discrete "Legal and statutory duties" section addressing regulation 63, regulation 70(3), Natural England consultation, section 66(1), Historic England notification, the non-reserved access matter and the status of the EIA screening opinion.

[132] Members should be given the actual environmental limits on which the Habitats conclusion depends. If they cannot identify the construction-noise control, 60m buffer, tree-retention requirement, dark-corridor/lighting performance or recreation mitigation during the meeting, they should not assume that a later reserved-matters application can cure the uncertainty.

[133] I ask the Monitoring Officer, or an appropriately qualified external planning-law adviser, to review the final Appropriate Assessment, officer report, conditions, obligations and resolution as a governance safeguard. A meaningful summary of the legal position should be available to Members so far as this can be done without disclosing genuinely privileged advice.

[134] If any statutory assessment, required consultation or essential legal control remains incomplete when the application is presented for determination, the proper course is deferral or refusal as the circumstances require, not a permission which assumes that the missing legal work can be repaired afterwards.

12. Conclusion

[135] MC/26/0194 is an outline residential proposal in a legally sensitive location immediately beside internationally protected estuarine interests and within the setting context of a Grade II* listed building. The legal duties are correspondingly exacting.

[136] The Habitats Regulations provide the clearest statutory gateway. The applicant itself concludes that Appropriate Assessment is required. Medway Council must therefore make its own identifiable assessment and, because the permission is outline, satisfy regulation 70(3) that no development capable of adversely affecting site integrity could be carried out under the permission before or after reserved matters.

[137] The construction-noise evidence requires an express answer. The same technical package contains a recommended 65-67 dBA range and worst-case unmitigated predictions of 70 and 76 dBA at the SPA/Ramsar edge, while also presenting centre-of-site modelling and existing HGV noise as evidence of acceptability. The Council must reconcile those propositions and translate whatever environmental limit it relies upon into enforceable permission terms.

[138] The claimed 60m western ecological buffer, western tree line, planting and dark corridors are also central. If those features are mitigation necessary to the integrity conclusion, the final permission must identify them spatially and functionally; a general green-infrastructure designation allowing retained natural assets only "where possible" cannot be assumed to perform the same legal function without further control.

- [139] Recreational mitigation now also requires an express evidential answer. The Richard Buxton correspondence does not establish that SAMMS/Bird Wise is ineffective, but it identifies a material challenge to the assumption that the scheme's efficacy may simply be taken for granted. If Medway Council relies on the tariff to support its integrity conclusion, the final Appropriate Assessment should identify the current evidence which demonstrates that the strategic mitigation, together with the site-specific measures, is sufficiently effective for MC/26/0194.
- [140] Natural England's formal response was generic rather than an application-specific endorsement, although later technical engagement is evident from the noise report. The final decision record should therefore identify the regulation 63 consultation process, the material provided and the representations taken into account. The RSPB objection and its view that additional mitigation is likely to be required must also be addressed in Medway Council's ecological reasoning.
- [141] The heritage issue is independent. The applicant identifies less-than-substantial setting harm to the Grade II* Rectory House. Medway Council must apply section 66(1) and resolve the Historic England notification question. If it finds that the setting is affected, the Regulation 5A(3) process should be verified before determination.
- [142] Access is for determination now. The P06/P07 evolution and the change from "no secondary emergency access" to a dual-purpose emergency connection are capable of straightforward resolution, but the final permission must contain a clear approved-plan hierarchy and must not leave alternative external access schemes floating for later selection.
- [143] The existing negative EIA screening opinion is a relevant safeguard and is not challenged merely because no Environmental Statement accompanies MC/26/0194. Medway Council should simply record why the screening remains applicable to the final project and cumulative evidence.
- [144] I oppose the proposed development and consider that planning permission should be refused on the wider planning merits addressed separately. Independently of that wider case, the Council should not grant outline permission unless the statutory requirements and the safeguards in Schedule 1, or equivalent robust controls, have been demonstrably completed. If the Habitats integrity test cannot be passed, permission must be withheld. If the necessary work is capable of completion but is incomplete, determination should be deferred rather than permission granted prematurely.

13. Source and reference methodology

- [145] This representation has been prepared by reference to the live Medway Council Public Access register, the submitted technical documents and statutory-consultee responses supplied for MC/26/0194, the adopted Medway Council Local Plan 2003, the Cliffe and Cliffe Woods Neighbourhood Plan 2023, the December 2024 NPPF as amended in February 2025, and the legislation, case law and government guidance identified in Schedule 2.
- [146] Application-document references use the titles shown on Medway Council's register and, where useful, the internal paragraph or PDF page. Particular reliance is placed on:

HRA-6636966; Construction Noise Assessment RP01-25257-R4; Technical Ecology Note-6676035; EcIA-6636965; Parameter Plan-6636981; Lighting Assessment-6636959; Natural England response dated 20 February 2026; RSPB response dated 5 March 2026; Built Heritage Statement amended 20 January 2026; Highways Response Note-6680390; Proposed Site Access P07-6700609; and the two Richard Buxton Solicitors letters dated 6 July 2026 submitted as attachments.¹⁸

[147] Where this representation says that a consultation response or document has not been identified, it means that it was not identified in the application documents and public document schedule reviewed. The Council may hold additional correspondence. If such material bears materially on the statutory issues raised here, it should be placed before the decision-maker and, where appropriate, on the public file.

[148] This representation deliberately distinguishes established statutory requirements from matters requiring verification on the final record. It does not allege a failure to undertake EIA screening, a flood-risk procedural defect, an ownership-certificate defect or an absence of any Natural England involvement, because the evidence reviewed does not support those allegations.

18 Medway Council Public Access, MC/26/0194 documents tab:
<https://publicaccess1.medway.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T9Z9VGKNGJ600>

SCHEDULE 1

14. Minimum legal and procedural safeguards requested

[149] The following safeguards are requested as minimum protections. Some are direct statutory requirements; others are prudent procedural or governance measures intended to make the decision record robust. They do not imply that permission becomes acceptable merely because the procedure is corrected.

No.	Safeguard	Minimum requirement
1	Council Appropriate Assessment	Prepare and expressly adopt an identifiable, reasoned Appropriate Assessment of the final proposal before the planning balance and decision.
2	Regulation 70(3)	Record express satisfaction that no development likely adversely to affect European-site integrity could be carried out under the outline permission before or after reserved matters.
3	Construction-noise reconciliation	Explain the relationship between the HRA assumption that noise remains in line with existing levels and the 65-67 / 70 / 76 dBA construction-noise evidence.
4	Objective noise envelope	Secure the receptor, metric, threshold, averaging period, hours, monitoring methodology, spatial/seasonal controls, barriers and corrective/cessation mechanism relied upon.
5	60m western buffer	Identify and make binding the spatial extent and ecological function of the 60m western buffer if relied upon by the integrity assessment.
6	Western tree line	Secure retention and protection of the western tree line where necessary; do not rely solely on “where possible” wording.
7	Dark corridors and lighting	Secure western/southern dark corridors and any maximum ecological spill, luminaire, column-height, orientation or curfew parameters needed for the integrity conclusion.
8	Recreational mitigation	Secure SAMMS before occupation and provide a reasoned response to the RSPB view that additional mitigation is likely to be required.
9	SAMMS/Bird Wise efficacy evidence	Identify the current monitoring, visitor, disturbance and ecological evidence relied upon to demonstrate that SAMMS/Bird Wise is sufficiently effective for this proposal, alone and in combination; secure additional or bespoke mitigation if necessary.
10	In-combination schedule	Identify the materially relevant plans/projects and sufficient scale, timing and occupancy assumptions to make the cumulative reasoning intelligible.

11	Natural England consultation	Identify consultation undertaken for the purposes of the final Appropriate Assessment, the material supplied, representations received and how they were taken into account.
12	Section 66 report	Apply section 66(1) to the Grade II* Rectory House and demonstrate the statutory preservation duty in the decision record.
13	Historic England	Record whether the setting is considered affected and, if so, verify Regulation 5A(3) notification, response or expiry of the relevant period.
14	Approved access package	Identify the final approved access drawing, emergency arrangement, pedestrian/cycle connections and necessary off-site works; mark all superseded alternatives.
15	EIA audit	Place the MC/25/2388 screening reasons before the decision-maker and record why they remain applicable to the final proposal.
16	Final document schedule	Distinguish approved parameter/access plans, illustrative plans, technical evidence and superseded documents.
17	Conditions and obligations	Ensure all HRA mitigation and other essential controls are precise, enforceable and triggered before the impact they mitigate.
18	Legal review	Seek Monitoring Officer or external planning-law review of the final statutory assessment, conditions, obligations and resolution as a governance safeguard.

SCHEDULE 2

15. Principal legal authorities

[150] The schedule identifies the principal authorities relied upon for scrutiny. It is not a substitute for legal advice on the complete facts and final documents.

Authority	Relevant principle
Planning and Compulsory Purchase Act 2004, s.38(6); Town and Country Planning Act 1990, s.70(2)	Plan-led determination and consideration of material considerations.
Conservation of Habitats and Species Regulations 2017, reg.63	Appropriate Assessment, consultation with Natural England and prior ascertainment of no adverse effect on integrity.
Conservation of Habitats and Species Regulations 2017, reg.70(3)	Outline permission must not be granted where the assessment provisions apply unless no development likely adversely to affect European-site integrity could be carried out under the permission.
C G Fry & Son Ltd v Secretary of State [2025] UKSC 35	Habitats assessment can apply at later approval stages; outline permission creates development rights and later reserved-matters powers are constrained by what was reserved.

Case C-127/02 Waddenzee	Precautionary integrity test: authorisation only where reasonable scientific doubt as to adverse effects is removed.
Case C-323/17 People Over Wind	Mitigation intended to avoid or reduce harmful effects is not taken into account at screening and is assessed at Appropriate Assessment stage.
Government guidance: Appropriate assessment / HRA protecting a European site	Assessment must be complete and definitive; mitigation must be secured and likely to work; later construction parameters require conditions strict enough to guarantee no adverse effect.
Planning (Listed Buildings and Conservation Areas) Act 1990, s.66(1)	Special regard to the desirability of preserving a listed building or its setting.
Barnwell Manor Wind Energy Ltd v East Northamptonshire DC [2014] EWCA Civ 137	Considerable importance and weight must be given to the desirability of preservation when applying the section 66 duty.
Planning (Listed Buildings and Conservation Areas) Regulations 1990, reg.5A(3)	Historic England notification where the local planning authority considers development would affect the setting of a Grade I or Grade II* listed building.
Town and Country Planning (Development Management Procedure) (England) Order 2015, art.2	Definition of access includes vehicles, cycles and pedestrians and the positioning, treatment and network fit of access/circulation routes.
Town and Country Planning (Environmental Impact Assessment) Regulations 2017	Screening of Schedule 2 development and consideration of whether a negative screening opinion remains applicable to the project before the authority.
National Planning Policy Framework, December 2024 (as amended February 2025), paras 2, 57, 195 and 212	Statutory duties remain applicable; conditions must be precise/enforceable; habitats-site integrity controls the presumption; great weight is given to designated heritage conservation.

SCHEDULE 3

16. Questions which should be answered before determination

[151] Where is Medway Council's own identifiable Appropriate Assessment of the final proposal, and by whom and when is it adopted for the decision?

[152] What conservation objectives and impact pathways does Medway Council's assessment address?

[153] How does the Council satisfy Regulation 70(3) in relation to this outline permission?

[154] How does the assessment reconcile the HRA statement that construction noise is likely to remain in line with existing levels with the Construction Noise Assessment recommendation of 65-67 dBA and worst-case 70/76 dBA predictions?

[155] Is 65-67 dBA being treated as a binding ecological control range? If not, what construction-noise threshold is relied upon and why?

[156] If 70/76 dBA remains physically and legally possible at the closest construction area, why is that compatible with the conservation objectives and site-integrity test?

[157] If Medway Council concludes that the 25m worst case cannot occur, what binding permission term makes that conclusion certain?

[158] What monitoring, averaging period, receptor location, construction hours, seasonal/spatial controls, barriers and corrective/cessation measures will apply?

[159] What does the HRA commitment to monitor noise "in line with existing levels" mean

numerically?

- [160] Which approved plan or condition fixes the claimed 60m western ecological buffer?
- [161] What uses or infrastructure may occur within that 60m area without undermining its mitigation function?
- [162] How is retention and protection of the western tree line guaranteed despite the Parameter Plan wording “where possible”?
- [163] What objective ecological lighting limit applies at the western and southern dark corridors and the SPA/Ramsar-sensitive boundary?
- [164] How can reserved layout and landscaping be approved later without eroding the ecological parameters relied upon now?
- [165] Which plans and projects are included in the in-combination assessment and what scale/timing assumptions are used?
- [166] Why are SAMMS and the proposed on-site measures sufficient in light of the RSPB view that additional mitigation is likely to be required?
- [167] How do footpath links towards the nature reserves operate in the recreational-mitigation strategy?
- [168] What current monitoring, visitor, disturbance and ecological evidence does Medway Council rely upon to demonstrate that SAMMS/Bird Wise is sufficiently effective to neutralise the incremental recreational effects of MC/26/0194, alone and in combination?
- [169] How has Medway Council addressed the Richard Buxton correspondence dated 6 July 2026 and, if the efficacy evidence remains incomplete or uncertain for this location, what additional or bespoke mitigation will be secured before occupation?
- [170] What material was provided to Natural England for the purposes of the final Appropriate Assessment?
- [171] What later technical engagement with Natural England occurred after its generic 20 February response, and where is it recorded?
- [172] Does Medway Council regard the 20 February response as sufficient consultation for the final Appropriate Assessment; if so, why?
- [173] Does Medway Council consider that the proposal affects the setting of Grade II* The Rectory House?
- [174] If yes, when was Historic England notified under Regulation 5A(3), what was supplied and what response was received? If no, why does Medway Council depart from the applicant’s own finding of setting harm?
- [175] How does the officer report apply section 66(1) to the Grade II* asset?
- [176] Which access drawing governs the permission and which earlier/alternative drawings are expressly superseded?
- [177] What is the status of the “Potential Site Access” drawing and of the P07 dual-purpose emergency access?

- [178] Which off-site highway works are necessary to make the access acceptable and what trigger secures their delivery?
- [179] What project parameters and cumulative assumptions were assessed under MC/25/2388 and why does that screening opinion remain applicable?
- [180] Are the final proposed conditions and section 106 heads of terms available before Members perform the statutory assessments and planning balance?
- [181] Has the Monitoring Officer or an appropriately qualified planning-law adviser reviewed the final Appropriate Assessment, officer report, conditions, obligations and resolution?
- [182] Will the application be deferred if any statutory assessment, consultation or essential legal control identified above remains incomplete?

Yours faithfully,

Councillor Michael Pearce

Councillor Michael Pearce

Planning Spokesman for The Independent Group (TIG) on Medway Council

Dated: 12 August 2026

THE INDEPENDENT GROUP

ON MEDWAY COUNCIL

To: Local Planning Authority (Medway Council)
For attention of: The Chief Planning Officer, Case Officer, and
Members of the Planning Committee
Re: Planning application MC/26/0194 - Land to the Left Eternal Lake
Nature Reserve, South of Higham Road and East of Buckland Road,
Cliffe, Rochester, Kent, ME3 7RT

Date: 12 August 2026
Our ref:
TIG/MC260194/MERITSREP/AUG2026
Attachments: None

Dear Sir or Madam,

FORMAL PLANNING MERITS REPRESENTATION ON PLANNING APPLICATION MC/26/0194

**Conflict with the development plan, ecology and Nightingale urbanisation effects,
best and most versatile agricultural land, sustainable transport and accessibility,
landscape and rural character, infrastructure, design, archaeology, noise and the
planning balance**

I submit this formal representation in my capacity as Planning Spokesman for The Independent Group (TIG) on Medway Council for consideration in full before application MC/26/0194 is determined. I have written and adopted it personally in an advocacy and scrutiny capacity. For the avoidance of doubt, I oppose the proposed development and ask the Council to refuse planning permission. This document addresses the planning merits and the planning balance. It should be read alongside my separate planning-law and procedural representation concerning MC/26/0194, which addresses the statutory and legal safeguards that must be satisfied before any lawful decision could be made.

COUNCILLOR MICHAEL PEARCE

Planning Spokesman for The Independent Group (TIG) on Medway Council

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1. Formal status and scope of this submission

- [1] This document is a formal planning representation on the substantive merits of application MC/26/0194. It should be placed on the public file, assessed in the officer report and supplied in full to every Member who may determine the application.
- [2] I am a planning-trained member of Medway Council's Planning Committee and the Planning Spokesman for The Independent Group (TIG). I have written and submitted this representation in an advocacy and scrutiny capacity. Having made a substantive representation on this application, I do not intend to participate in its determination as a member or substitute member of the Planning Committee.¹
- [3] The description "in my capacity as Planning Spokesman for The Independent Group (TIG)" identifies my spokesman role only. This representation has been authored and adopted by me. It is not a collective voting instruction and does not mean that every other TIG member has prepared, signed or adopted each conclusion.
- [4] Other TIG members retain their individual rights either to make their own representations or, where lawfully eligible, to participate in the Planning Committee. Each participating member must comply with the Members' Planning Code of Good Practice, declare relevant interests and approach the decision with an open mind. My opposition to the proposal is not an instruction as to how any other member should vote.²
- [5] The live proposal is an outline application, with appearance, landscaping, layout and scale reserved, for up to 100 residential dwellings including affordable housing, vehicular, pedestrian and cycle access from Higham Road, public open space, sustainable urban drainage, landscaping, infrastructure and earthworks on approximately 5.18 hectares of land at Higham Road, Cliffe. The applicant proposes 25% affordable housing, equivalent to up to 25 dwellings.³
- [6] This representation complements, and does not replace, my separate planning-law and procedural representation concerning MC/26/0194. The present document addresses the planning merits, development-plan conflict and the planning balance. It does not seek to duplicate the separate legal analysis of statutory environmental gateways or procedural safeguards.
- [7] The merits case is deliberately calibrated. It acknowledges the serious housing-supply shortfall and gives significant positive weight to the overall delivery of up to 100 homes. It also gives real additional weight to the proposed affordable housing. The conclusion of refusal is reached only after those benefits are weighed against the site-specific harms evidenced by the application and consultation material.

1 Localism Act 2011, section 25: <https://www.legislation.gov.uk/ukpga/2011/20/section/25>; Medway Council, Members' Planning Code of Good Practice, July 2024, especially paras 4.15.4-4.16, 4.21.5, 5.1 and 6.1: https://www.medway.gov.uk/download/downloads/id/9405/502_members_planning_code_of_good_practice.pdf.

2 Localism Act 2011, section 25: <https://www.legislation.gov.uk/ukpga/2011/20/section/25>; Medway Council, Members' Planning Code of Good Practice, July 2024, especially paras 4.15.4-4.16, 4.21.5, 5.1 and 6.1: https://www.medway.gov.uk/download/downloads/id/9405/502_members_planning_code_of_good_practice.pdf.

3 Marrons, Planning Statement, Land at Higham Road, Cliffe, January 2026, paras 1.1-1.3, 2.1-2.17, 3.10-3.18, 5.9-5.11 and 5.27-5.33; Land Use Parameter Plan 31145B_200_E; Illustrative Masterplan 31145B_110_L. Application MC/26/0194 documents.

2. Executive summary

- [8] The statutory starting point is conflict with the adopted development plan. The applicant accepts that the site lies outside the defined settlement boundary of Cliffe, in the countryside, and that the proposal conflicts with Medway Council Local Plan Policies S1, S2, H11 and BNE25. The scheme is neither an allocated housing site nor minor development within the village confines.⁴⁵
- [9] The recent Cliffe and Cliffe Woods Neighbourhood Plan does not seek to prevent the Parish from contributing to housing supply. It does, however, set a locally specific framework for major greenfield housing: Policy H1 encourages non-housing uses appropriate to the scale and location of the site so that supporting services and potential employment can reduce the need to travel; Policy SUSDEV5 requires an Infrastructure Sufficiency Statement; Policies H6-H8 require rural-context design, locally appropriate housing mix and, as far as possible, no more than 30 dwellings per hectare on greenfield land.⁶
- [10] The ecological objection is the most serious unresolved site-specific matter. The RSPB objects to the application as it stands because of recreational and urbanisation impacts on surrounding designated areas and wildlife. It identifies an important Nightingale population at Cliffe Pools and adjacent areas and advises locating new residential development more than 400 metres from important Nightingale habitat to help avoid effects from disturbance, domestic cats, noise, artificial light and uncontrolled fires.⁷
- [11] The applicant proposes a 60 metre buffer along the western boundary. Its rebuttal relies partly on the proposition that existing public access and industrial activity mean that some degree of habituation is "likely" among birds including Nightingales. That is an inference, not demonstrated evidence that a new permanent residential population at the proposed separation will avoid material urbanisation effects. The gap between the RSPB's >400m advice and the applicant's 60m buffer remains substantial.
- [12] Natural England's response does not remove that concern. Natural England expressly states that it was not able to provide specific advice, had not assessed the potential impacts on statutory nature-conservation sites or protected landscapes, and that its non-detailed response does not imply there are no environmental impacts. It should not

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- 4 Marrons, Planning Statement, Land at Higham Road, Cliffe, January 2026, paras 1.1-1.3, 2.1-2.17, 3.10-3.18, 5.9-5.11 and 5.27-5.33; Land Use Parameter Plan 31145B_200_E; Illustrative Masterplan 31145B_110_L. Application MC/26/0194 documents.
- 5 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.
- 6 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.
- 7 RSPB, consultation response MC/26/0194, 5 March 2026, pp.1-2; The Ecology Partnership, Technical Note - RSPB Ecology Response, 19 March 2026, pp.1-3; Natural England, consultation response ref. 540872, 20 February 2026, pp.1-2.
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be described as an affirmative "no objection" to the ecological effects of the scheme.⁸

- [13] The agricultural evidence is equally clear. The detailed ALC survey records 5.1 hectares - 100% of the surveyed agricultural land - as Subgrade 3a good-quality land and therefore best and most versatile agricultural land. Policy BNE48 says considerable weight should be afforded to protecting BMV land and permits its loss only exceptionally. Neighbourhood Plan Policy ECON&EMP1 goes further locally: loss of Grades 1-3 agricultural land will not be supported unless the benefits of sustainable development far outweigh the loss of food-growing space and its contribution to national food security.⁹¹⁰
- [14] The loss is smaller in absolute area than some large strategic schemes, but it is complete in proportional terms: the entire agricultural development site is BMV. It is permanent and cannot be restored by landscaping or conditions. I therefore give the loss substantial adverse planning weight. That is a weighting judgment, not a claim that the physical area is equivalent to every larger BMV loss elsewhere.
- [15] Sustainable transport, accessibility and car dependence are a significant adverse consideration. The applicant's own provisional Travel Plan uses a 2011 Census-based journey-to-work benchmark of 80% car driver and 5% car passenger, with only 3% bus, 1% cycle and 4% walking. Final targets will not be fixed until an initial travel survey at 80% occupation. The scheme now proposes a continuous footway connection towards the southbound bus stop and the applicant is prepared to discuss bus-support contributions, which are genuine improvements. They do not alter the structural position identified in the adopted Neighbourhood Plan: movement is dominated by the car, most residents travel outside the area for employment, and higher-order destinations remain beyond realistic everyday walking distance.¹¹¹²
- [16] The Neighbourhood Plan itself describes the settlements as currently unsustainable from economic, environmental and social perspectives, says movement is dominated by cars and HGVs, and describes public transport as a "serious impediment" to village sustainability. Its 2021 Census evidence records that only 5.9% of households have no car or van, while 39.6% have two and 21.5% have three or more. This is recent, adopted and locally specific evidence. It bears directly on NPPF paragraph 110, which requires

8 RSPB, consultation response MC/26/0194, 5 March 2026, pp.1-2; The Ecology Partnership, Technical Note - RSPB Ecology Response, 19 March 2026, pp.1-3; Natural England, consultation response ref. 540872, 20 February 2026, pp.1-2.

9 Reading Agricultural Consultants Ltd, Agricultural Land Classification and Soil Resources, Land at Higham Road, Cliffe, November 2025, paras 1-3 and Table 2: the site extends to approximately 5.18 ha of agricultural land and 5.1 ha/100% is Subgrade 3a.

10 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

11 Markides Associates, Residential Travel Plan, Land at Higham Road, Cliffe, January 2026, paras 2.3.1-2.3.5, 2.6.1-2.6.2 and 5.1.3-5.1.5; Markides Associates, Highways Response Note, 15 May 2026, paras 2.2.21-2.2.33 and 2.4.1-2.4.6; Gleeson Land/Marrons, Response to Consultation Comments, 15 May 2026, Highways and Access section.

12 Cliffe and Cliffe Woods Neighbourhood Plan, May 2023, Policy SUSDEV5 and Infrastructure chapter: major development must demonstrate infrastructure sufficiency across waste, water, health, education and transport; the Plan describes public transport as a serious impediment to village sustainability. Southern Water, consultation response MC/26/0194, February 2026, records adequate local sewerage capacity for foul flow and states water supply can be facilitated, subject to connection requirements.

significant development to be focused on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of modes, and on the sustainable-location policies to which paragraph 11(d)(ii) requires particular regard.¹³

- [17] Landscape effects are real but should not be overstated. The applicant's LVIA assesses the character of the site as Major/Moderate adverse at Year 1, reducing to Moderate adverse at Year 15. Users of PRoW RS58A experience the same Major/Moderate to Moderate adverse progression. I therefore give the permanent residual landscape and rural-character effect moderate adverse weight, rather than seeking to characterise it as substantial.¹⁴
- [18] Design and housing mix raise further, lesser concerns. The indicative density is about 31 dwellings per hectare against Neighbourhood Plan Policy H8's "as far as possible" ceiling of 30 dwellings per hectare. The indicative mix is weighted towards three- and four-bedroom homes, while the Neighbourhood Plan records particular local need for bungalows and smaller homes. Layout, scale and appearance remain reserved, so the Council must ensure that any conclusion of acceptability rests on binding parameters rather than an illustrative masterplan alone.¹⁵¹⁶
- [19] KCC Archaeology disagrees with parts of the applicant's desk-based assessment, identifies moderate potential for several periods and says archaeology of regional or even national importance cannot yet be ruled out. It nevertheless recommends a phased evaluation before reserved matters and says that approach can be secured by condition. Archaeology is therefore a material uncertainty, not presently the strongest stand-alone refusal ground.¹⁷
- [20] The latest commercial-noise assessment did not capture one of the Cliffe Men's Social Club's live-music events. It identifies approximately 7-10 events per year and proposes a further breakout survey at reserved-matters stage. Given NPPF paragraph 200's agent-of-change principle, the issue should be secured properly, but on current evidence it carries limited adverse uncertainty rather than decisive weight.¹⁸

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- 13 Cliffe and Cliffe Woods Neighbourhood Plan, May 2023, Policy SUSDEV5 and Infrastructure chapter: major development must demonstrate infrastructure sufficiency across waste, water, health, education and transport; the Plan describes public transport as a serious impediment to village sustainability. Southern Water, consultation response MC/26/0194, February 2026, records adequate local sewerage capacity for foul flow and states water supply can be facilitated, subject to connection requirements.
- 14 Tyler Grange, Landscape and Visual Impact Assessment, Land at Higham Road, Cliffe, January 2026, Appendix 6 and Appendix 7: site character Major/Moderate adverse at Year 1 reducing to Moderate adverse at Year 15; users of PRoW RS58A Major/Moderate adverse at Year 1 reducing to Moderate adverse at Year 15.
- 15 Marrons, Planning Statement, Land at Higham Road, Cliffe, January 2026, paras 1.1-1.3, 2.1-2.17, 3.10-3.18, 5.9-5.11 and 5.27-5.33; Land Use Parameter Plan 31145B_200_E; Illustrative Masterplan 31145B_110_L. Application MC/26/0194 documents.
- 16 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.
- 17 Kent County Council Heritage Conservation, archaeological consultation response MC/26/0194, 9 February 2026, pp.1-3: moderate potential for several periods, disagreement with parts of the applicant's assessment, and regional or even national importance not yet ruled out; phased evaluation recommended before reserved matters.
- 18 Cass Allen, Construction and Commercial Noise Assessment, RP01-25257-R7, 10 July 2026, section 3 and conclusions: the survey did not capture an infrequent live-music event; approximately 7-10 such events per year were identified; a further noise breakout survey is proposed to inform reserved matters. NPPF para 200 concerns the agent-of-change prin-

- [21] There are also matters which weigh in the applicant's favour or are essentially neutral. National Highways raises no strategic-road-network objection subject to a construction traffic condition; Active Travel England issued standing advice rather than a site-specific objection; Southern Water records adequate foul sewerage capacity and an ability to facilitate water supply subject to connection requirements; and the site is in Flood Zone 1.^{19,20,21}
- [22] The proposal would deliver a claimed 12.01% area-habitat gain and 33.89% hedgerow gain. Those outcomes are potentially positive if secured for the statutory management period, but the mandatory 10% baseline and habitat measures necessary to mitigate the scheme are not discretionary benefits. Only genuinely additional, secured gain should receive separate positive weight.²²
- [23] Medway Council's current published five-year housing land supply is 3.1 years and the latest published Housing Delivery Test result remains 72%. Paragraph 11(d) of the NPPF is therefore engaged. I give significant positive weight to the overall delivery of up to 100 homes. I give limited positive weight to the proposed 25% affordable-housing contribution, equivalent to up to 25 homes. If provision is increased to 30% (up to 30 affordable homes) and fully secured through the section 106 agreement, I would give that affordable-housing contribution moderate positive weight.²³
- [24] Even assuming, for the purpose of this merits representation, that paragraph 11(d)(i) does not independently determine the application, the paragraph 11(d)(ii) balance still points to refusal. The unresolved ecological risk and permanent BMV loss each carry substantial adverse weight; the development-plan conflict carries significant adverse weight; and the transport, landscape, infrastructure and design concerns add further cumulative harm. In my planning judgment those adverse impacts significantly and demonstrably outweigh the benefits when the NPPF is read as a whole.

ciple for existing community facilities.

- 19 National Highways, response NH/26/14928, 2 March 2026: no objection from the strategic road network perspective subject to a Construction Traffic Management Plan condition.
- 20 Active Travel England, standing advice response ATE/26/00263/OUT, 9 February 2026. ATE issued standing advice rather than a site-specific objection or refusal recommendation.
- 21 Cliffe and Cliffe Woods Neighbourhood Plan, May 2023, Policy SUSDEV5 and Infrastructure chapter: major development must demonstrate infrastructure sufficiency across waste, water, health, education and transport; the Plan describes public transport as a serious impediment to village sustainability. Southern Water, consultation response MC/26/0194, February 2026, records adequate local sewerage capacity for foul flow and states water supply can be facilitated, subject to connection requirements.
- 22 The Ecology Partnership, Higham Road, Cliffe - Biodiversity Net Gain Assessment, January 2026, paras 4.1-4.5: on-site area habitat units +12.01%, hedgerow units +33.89%, with a 30-year Habitat Management and Maintenance Plan required. Town and Country Planning Act 1990, Schedule 7A establishes the statutory biodiversity gain condition/minimum 10% baseline.
- 23 National Planning Policy Framework, December 2024 as amended February 2025, paras 2, 11-12, 48, 61, 63-66 and footnotes 8-9: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>. Medway Council, 5 year housing land supply: 3.1 years, annual requirement 1,636 dwellings and total supply 6,159 dwellings: https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/6. Medway Council, Housing Delivery Test Action Plan page: latest published result 72%: https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/3. Medway Council Planning Committee Performance Report, 29 July 2026, para 7.6, confirming newer HDT results had not yet been published.
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Principal issue	Evidence before the Council	Planning consequence
Ecology / Nightingale	RSPB objection; important Nightingale population; >400m separation advised; applicant proposes 60m and relies partly on likely habituation.	Substantial adverse weight unless resolved by robust evidence and secured mitigation.
BMV agricultural land	Detailed ALC: 5.1 ha, 100% Subgrade 3a good-quality agricultural land.	Substantial adverse weight under BNE48 and NP ECON&EMP1; permanent and irreversible loss.
Spatial strategy	Unallocated countryside site outside Cliffe boundary; applicant accepts conflict with S1, S2, H11 and BNE25.	Significant adverse development-plan conflict, tempered by housing-supply position but not erased.
Sustainable transport	Travel Plan benchmark 85% car-based for work trips; NP calls public transport a serious impediment; off-site footway/bus measures proposed.	Significant adverse weight: local access improvements do not remove structural car dependence or reliance on external higher-order destinations.
Landscape / rural character	LVIA residual Moderate adverse effects for site character and PRoW RS58A at Year 15.	Moderate adverse weight; permanent local change to orchard/rural edge.
Housing / affordable housing	Up to 100 homes; applicant proposes 25% affordable housing.	Significant positive overall housing; limited positive weight for the proposed 25% affordable provision, rising to moderate if 30% is secured.
Archaeology / noise	KCC requires pre-reserved-matters evaluation; live-music event not captured by noise survey.	Secondary uncertainties capable of control if permission otherwise acceptable.
Overall paragraph 11(d)(ii) balance	3.1-year supply and 72% HDT engage tilted balance.	Refusal: cumulative adverse impacts significantly and demonstrably outweigh benefits.

3. The decision requested

[25] I ask Medway Council to refuse planning permission. The strongest grounds are not a general objection to housing in Cliffe. They are the site-specific ecological and agricultural consequences of placing a 100-dwelling estate on an unallocated, entirely Subgrade 3a agricultural site immediately beside an exceptionally sensitive ecological environment, coupled with the scheme's limited response to the Neighbourhood Plan's model for sustainable major greenfield development.

[26] The Council should give full credit to the housing benefits. A refusal which understates the housing crisis would be less robust. The correct question is whether these particular homes, on this particular site and in this particular form, are justified once the RSPB objection, BMV loss, development-plan conflict, car dependence and residual landscape effects are put into the same balance.

[27] If officers consider that the ecology objection, infrastructure sufficiency or design parameters can be resolved by further information or amendments, the application should be deferred until that material is available and can be assessed. Members should not be asked to assume that an unresolved Nightingale issue, an unspecified future housing mix, or later reserved matters will cure matters going to the acceptability of the maximum development envelope.

[28] Schedule 1 provides draft reasons for refusal. They are intended to assist rather than constrain the Council and should be refined against the final evidence and any completed section 106 agreement. The reasons should remain focused on planning merits and should not duplicate the statutory-law issues addressed separately.

4. Development plan, national policy and the applicable balance

4.1 The statutory starting point

[29] Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration, but it does not displace that statutory starting point. NPPF paragraph 12 expressly preserves the status of the development plan.²⁴²⁵

[30] For this site the adopted development plan includes the saved policies of the Medway Council Local Plan 2003 and the Cliffe and Cliffe Woods Neighbourhood Plan 2023. The latter is particularly important because it is recent, parish-specific and was prepared expressly to shape development in the two villages and their rural setting.

[31] The age of the Medway Council Local Plan is relevant to weight. It would be wrong to treat every restrictive housing policy in a 2003 plan as if nothing had changed. It would be equally wrong to treat age as deleting policies on countryside character, BMV soils, biodiversity, safe pedestrian access or good design where those objectives remain consistent with the current NPPF.

[32] The applicant expressly acknowledges conflict with Policies S1, S2, H11 and BNE25. That concession matters. The issue is the weight and planning consequence of the conflict under the current housing-supply position, not whether the proposal accords with the adopted settlement boundary.

4.2 Housing supply and the tilted balance

[33] The Council's current published position is a 3.1-year supply. Its annual requirement is 1,636 dwellings; the five-year requirement is 8,180; the requirement with the 20% buffer is 9,816; and the identified supply is 6,159. The latest published HDT result remains 72%, and the Council reported in July 2026 that a newer result had not yet been published.²⁶

24 National Planning Policy Framework, December 2024 as amended February 2025, paras 2, 11-12, 48, 61, 63-66 and footnotes 8-9: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>. Medway Council, 5 year housing land supply: 3.1 years, annual requirement 1,636 dwellings and total supply 6,159 dwellings: https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/6. Medway Council, Housing Delivery Test Action Plan page: latest published result 72%: https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/3. Medway Council Planning Committee Performance Report, 29 July 2026, para 7.6, confirming newer HDT results had not yet been published.

25 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

26 National Planning Policy Framework, December 2024 as amended February 2025, paras 2, 11-12, 48, 61, 63-66 and footnotes 8-9: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>. Medway Council, 5 year housing land supply: 3.1 years, annual requirement 1,636 dwellings and total supply 6,159 dwellings:

- [34] Those are serious deficiencies. They engage paragraph 11(d) for housing applications and are an important material consideration in favour of delivery. This representation does not attempt to minimise them.
- [35] Paragraph 11(d)(ii), however, is not an instruction to approve every housing scheme. It asks whether adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, with particular regard to the key policies for sustainable locations, effective use of land, well-designed places and affordable homes.
- [36] That formulation cuts both ways. Paragraph 66 supports affordable housing and gives the proposed 25 affordable homes real importance. Paragraphs 110 and 115 make sustainable location and access central. Paragraphs 135 and 139 require context-led design. Paragraph 129 supports efficient use of land but also requires the environmental quality and accessibility of the location to be considered.
- [37] For the merits balance I therefore assume that the tilted balance applies and ask whether the application survives it. I do not rely on the mere existence of an old settlement boundary as a veto. Nor do I assume that housing need automatically answers an RSPB objection or the permanent loss of an entire BMV agricultural site.

5. Principle of development and the spatial strategy

5.1 An unallocated countryside site outside Cliffe

- [38] The site adjoins but lies outside the defined settlement boundary of Cliffe. Under BNE25 it is countryside. Under H11, absent an allocation or exceptional justification, housing in the rural area is restricted to minor development within the defined confines of Cliffe. One hundred dwellings on 5.18 hectares are neither minor nor within those confines.²⁷²⁸
- [39] Policy S1 prioritises reinvestment in the urban fabric and integration of land use with walking, cycling and public transport. Policy S2 seeks a sustainable location and mix of development with local facilities and transport measures. The applicant's concession of conflict with S1 and S2 reflects the fact that this is a greenfield extension rather than the form of development those policies ordinarily direct.
- [40] Policy BNE25 adds three relevant dimensions: countryside character and functioning must be maintained and wherever possible enhanced; a realistic chance of access by a range of modes is required; and the development must fall within one of the listed countryside categories. A 100-home estate does not fall within those listed categories.

https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/6. Medway Council, Housing Delivery Test Action Plan page: latest published result 72%:

https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/3. Medway Council Planning Committee Performance Report, 29 July 2026, para 7.6, confirming newer HDT results had not yet been published.

27 Marrons, Planning Statement, Land at Higham Road, Cliffe, January 2026, paras 1.1-1.3, 2.1-2.17, 3.10-3.18, 5.9-5.11 and 5.27-5.33; Land Use Parameter Plan 31145B_200_E; Illustrative Masterplan 31145B_110_L. Application MC/26/0194 documents.

28 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

[41] I recognise that the weight of H11 and BNE25 as housing-restraint policies is affected by current housing supply and previous appeal decisions. The enduring importance of their countryside, access and settlement-form objectives is nevertheless reinforced by the 2023 Neighbourhood Plan and by NPPF paragraphs 110, 135 and 187.

5.2 The 2023 Neighbourhood Plan changes the merits analysis

[42] The Neighbourhood Plan takes a balanced position. It recognises the need for Cliffe and Cliffe Woods to contribute to Medway Council's housing needs and anticipates that applications may be approved. Its response is not a blanket prohibition: it seeks development which is sustainable, locally appropriate and supported by infrastructure.²⁹

[43] Policy H1 is therefore important. It encourages major housing proposals on greenfield sites to contribute to sustainable development by including uses other than housing appropriate to the scale and location of the site. The supporting text is explicit that such sites should include other land uses, not simply housing or mitigation through planning obligations, so as to provide supporting services and potential employment and reduce the need to travel.

[44] The present scheme is essentially residential. Public open space, SuDS, landscaping and highways works are necessary and potentially beneficial components, but they do not amount to the community or employment use contemplated by H1. That does not create an automatic policy refusal because H1 is framed as encouragement, but it weakens the case that this greenfield extension responds positively to the neighbourhood strategy.

[45] Policy SUSDEV5 is firmer. All major development must be supported by a statement demonstrating infrastructure sufficiency, including waste, water, health, education and transport, with recent technical studies and engagement with strategic providers. I have not identified a discrete Infrastructure Sufficiency Statement. If the Council considers that the separate technical documents collectively satisfy SUSDEV5, the officer report should demonstrate compliance against each limb rather than assume it.

[46] Policy H8 says that greenfield housing should, as far as possible, be no more than 30 dwellings per hectare. The applicant's indicative density is about 31 dwellings per hectare. The numerical difference is small and does not justify refusal by itself, but it is another reason why the final density and rural-edge design should not be treated as an unconstrained reserved matter.

[47] Policy H7 also asks new housing to reflect local need, particularly bungalows and small family accommodation. The applicant's current indicative mix is 10 one-bedroom, 22 two-bedroom, 42 three-bedroom and 26 four-bedroom homes. No bungalow commitment is fixed. Because the application is outline, the Council cannot assume that the locally identified mix will be delivered unless appropriate controls are secured.

[48] The result is a significant, multi-dimensional development-plan conflict: location outside the village boundary, countryside development, incomplete response to the

29 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6:
https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

neighbourhood strategy for major greenfield sites, and uncertainty over infrastructure sufficiency and locally targeted housing mix. Housing need reduces the force of the spatial restraint but does not eliminate these site-specific policy considerations.

6. Ecology, Nightingales and urbanisation effects

6.1 An exceptionally sensitive receiving environment

[49] The site sits at the edge of Cliffe beside Buckland Road and in immediate proximity to Eternal Lakes and the wider Cliffe Pools / Thames Estuary and Marshes ecological complex. The planning significance of that location is not created by objection rhetoric; it is reflected in the statutory designations and in the RSPB's specialist response.

[50] Policy BNE35 gives long-term protection to SPAs, Ramsar sites, SSSIs and other international or national nature-conservation sites and resists development which would materially harm their scientific or wildlife interest directly or indirectly. Policies BNE37 and BNE39 separately protect important habitats and protected species. Neighbourhood Plan Policy E&H2 expects development to protect and enhance biodiversity.³⁰

[51] NPPF paragraph 187 requires impacts on biodiversity to be minimised and net gains provided, while paragraph 193 says significant biodiversity harm which cannot be avoided, adequately mitigated or, as a last resort, compensated should lead to refusal. It also provides a strong policy test where development is likely to have an adverse effect on an SSSI.

6.2 The RSPB objection

[52] The RSPB objects to MC/26/0194 "as it stands" because of recreational and urbanisation impacts on surrounding designated areas and wildlife. It identifies recreational disturbance to RSPB Cliffe Pools as a concern and says that Bird Wise SAMMS contributions are a minimum, with additional mitigation likely to be required because of the proximity and scale of housing.³¹

[53] The RSPB separately identifies Cliffe Pools and adjacent areas as holding an important Nightingale population. It describes Nightingale as a vulnerable Red-listed Bird of Conservation Concern with a Kent stronghold and identifies the species as particularly vulnerable to recreational disturbance and urbanisation effects including predation by pet cats, noise, artificial light and uncontrolled fires.

[54] Its practical advice is clear: locating new residential development more than 400 metres from important Nightingale habitat is advised to help avoid those impacts. That advice is not a statutory exclusion zone and should not be misrepresented as one. It is nevertheless specialist ecological evidence directed precisely at the form of development proposed here.

30 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6:
https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

31 RSPB, consultation response MC/26/0194, 5 March 2026, pp.1-2; The Ecology Partnership, Technical Note - RSPB Ecology Response, 19 March 2026, pp.1-3; Natural England, consultation response ref. 540872, 20 February 2026, pp.1-2.

6.3 The applicant's 60m buffer and habituation case

- [55] The applicant's Technical Note responds by proposing a 60 metre buffer along the western boundary, with Buckland Road as physical separation and new scrub, tree planting and habitat-edge features. Those are relevant mitigation measures and should be credited.
- [56] The difficulty is that 60 metres is only a fraction of the >400 metre separation advised by the RSPB. The Technical Note does not provide a site-specific empirical study demonstrating why that large reduction is nevertheless sufficient for the important Nightingale population. Instead, part of the reasoning is that the reserves already accommodate public access and an aggregate depot creates noise and HGV movements, so some degree of habituation is "likely".
- [57] That is not the same evidential proposition as demonstrating that a permanent residential population, domestic cats, night-time lighting, garden activity, dog walking and other urbanisation pressures at the proposed distance will have acceptable effects. Existing disturbance can be relevant to sensitivity, but it cannot simply be converted into proof of tolerance to a materially different source and duration of disturbance.
- [58] The Technical Note also relies on only a single Nightingale being recorded adjacent to but outside the application site during the applicant's breeding-bird survey. The RSPB objection, however, concerns the important population at Cliffe Pools and adjacent areas and the effects of bringing a residential edge materially closer to its habitat. A count at the red-line edge does not by itself answer the wider urbanisation pathway.
- [59] The proposed open space and internal paths can help absorb some recreation. They can also introduce more people into the western part of the site. The Council therefore needs a clear management logic: whether the western green infrastructure is intended principally as an ecological buffer, recreation space, SuDS land or a combination, and how those functions remain compatible over the lifetime of the development.

6.4 Natural England does not remove the objection

- [60] The applicant's May response letter describes Natural England as having confirmed "no objection". That characterisation is not supported by Natural England's actual letter. Natural England says it was not able to provide specific advice and had not assessed potential impacts on statutory nature-conservation sites or protected landscapes. It expressly warns that non-detailed advice does not imply there are no impacts.³²
- [61] The Council should therefore assess the RSPB objection on its merits and should not treat Natural England's capacity-based standing response as affirmative evidence that the Nightingale or urbanisation issues have been resolved.

6.5 Weight in the merits balance

- [62] I do not state in this merits representation that significant ecological harm has already been scientifically proved. The separate legal representation addresses the statutory environmental tests. My merits point is narrower: a specialist conservation body has

32 RSPB, consultation response MC/26/0194, 5 March 2026, pp.1-2; The Ecology Partnership, Technical Note - RSPB Ecology Response, 19 March 2026, pp.1-3; Natural England, consultation response ref. 540872, 20 February 2026, pp.1-2.

identified a material, species-specific risk; the mitigation departs markedly from its separation advice; and the applicant's response relies on assumptions which have not yet displaced that concern.

- [63] If that position remains at determination, I give the unresolved ecological and Nightingale urbanisation issue substantial adverse planning weight. If robust additional evidence and secured mitigation later satisfy the RSPB concern, that weight would need to be revisited. The Council should not, however, assume resolution in advance.

7. Loss of best and most versatile agricultural land

- [64] The Agricultural Land Classification report provides unusually clear evidence. The site contains approximately 5.18 hectares of agricultural land used for top fruit. Detailed survey concludes that soil droughtiness limits the land to Subgrade 3a and Table 2 records 5.1 hectares - 100% of the surveyed agricultural area - as Subgrade 3a good-quality land.³³
- [65] Subgrade 3a is best and most versatile agricultural land. The proposal would convert that productive land to housing, roads, drainage, open space and associated infrastructure. Reuse of topsoil within landscaping may conserve some soil material, but it does not retain the land as an agricultural unit capable of future food production.
- [66] Policy BNE48 is strong. Its reasoned justification says considerable weight should be given to protecting BMV agricultural land, describes it as a national resource for future generations and says only exceptionally should it be developed. The policy itself says BMV loss will not be permitted except where the overriding-need and alternatives criteria are met.³⁴
- [67] Neighbourhood Plan Policy ECON&EMP1 adds a recent local judgment. Development that results in the loss of agricultural Grades 1-3 will not be supported unless there is a proven need for sustainable development whose benefits far outweigh the loss of food-growing space in the Neighbourhood Plan area and its contribution to national food security.
- [68] The wording "far outweigh" matters. The Neighbourhood Plan deliberately sets a demanding local planning balance for the loss of agricultural land. Housing need is capable of satisfying that test in an appropriate case, but it does not make the test disappear.
- [69] NPPF paragraph 187 reinforces rather than undermines the underlying objective by requiring recognition of the economic and other benefits of BMV agricultural land. Footnote 65 to paragraph 188 also states that where significant development of agricultural land is demonstrated to be necessary, poorer-quality land should be preferred

33 Reading Agricultural Consultants Ltd, Agricultural Land Classification and Soil Resources, Land at Higham Road, Cliffe, November 2025, paras 1-3 and Table 2: the site extends to approximately 5.18 ha of agricultural land and 5.1 ha/100% is Subgrade 3a.

34 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

to higher-quality land.

- [70] The applicant points to the acute housing shortage and to the 2023 Church Street appeal, where the Inspector found that housing need outweighed agricultural loss on the evidence in that case. That decision is relevant and must be acknowledged. It is not, however, a standing finding that every future BMV site around Cliffe is acceptable.³⁵
- [71] The earlier scheme involved a different site, a materially larger mixed proposal including a community hub and community facilities, and a different overall balance. The current application must be assessed against its own 5.1 hectares of 100% Subgrade 3a land, its own benefits and its own ecological and infrastructure constraints.
- [72] The applicant has not demonstrated through an application-level alternatives exercise that the exceptional sequence in BNE48 is satisfied for this particular site. District-wide housing need is powerful evidence of need for housing; it is not the same as demonstrating why this complete BMV orchard is the land that must be permanently lost.
- [73] I therefore give the BMV loss substantial adverse planning weight. The reason is the combination of permanence, 100% BMV composition and the unusually strong wording of both BNE48 and the 2023 Neighbourhood Plan. This is a weight assigned in the planning balance, not use of the heritage-law phrase "substantial harm" and not a claim that 5.1 hectares equals the physical scale of larger agricultural losses elsewhere.

8. Sustainable transport, accessibility and car dependence

8.1 The local accessibility context

- [74] Cliffe has a range of important village facilities and is not an isolated settlement. The applicant identifies a primary school, shop, medical provision, community facilities and bus services. Those are genuine positives and distinguish the site from an isolated rural hamlet.
- [75] The Neighbourhood Plan records the structural limitation candidly. It describes the settlements as currently unsustainable from economic, environmental and social perspectives; says movement of people and goods is dominated by cars and HGVs; and identifies public transport as a serious impediment to sustainability. Its 2021 Census evidence is consistent with that assessment: only 5.9% of households have no car or van, while 39.6% have two and 21.5% have three or more. The nearest rail stations are at Higham and Strood, and the Plan explains the circular problem of residents having to use cars where no public transport option is available.³⁶
- [76] That recent local evidence is reinforced by the applicant's own Travel Plan. Its provisional journey-to-work benchmark is based on 2011 Census data for the relevant super-output area: 80% driving a car or van, 5% car passenger, 7% train, 3% bus, 1%

35 Marrons, Planning Statement, January 2026, paras 2.16-2.17, summarising the 28 November 2023 appeal decision APP/A2280/W/22/3313673 for MC/22/0254: up to 250 dwellings and a mixed-use community hub, with the Inspector finding the proposal acceptable on the evidence and balance in that case.

36 Cliffe and Cliffe Woods Neighbourhood Plan, May 2023, Policy SUSDEV5 and Infrastructure chapter: major development must demonstrate infrastructure sufficiency across waste, water, health, education and transport; the Plan describes public transport as a serious impediment to village sustainability. Southern Water, consultation response MC/26/0194, February 2026, records adequate local sewerage capacity for foul flow and states water supply can be facilitated, subject to connection requirements.

bicycle and 4% on foot. It is therefore the applicant's own 85% car-based provisional benchmark for work journeys, rather than a current measured 2026 modal split.³⁷

- [77] The Travel Plan objective is to reduce single-occupancy vehicle trips by 10%, but the final targets are not to be set until the initial travel survey at 80% occupation. That approach is conventional for a framework Travel Plan, but the decision-maker is therefore being asked to grant the principle of 100 homes before the scheme has a fixed, measurable post-development modal-share outcome capable of being weighed as though already achieved.

8.2 Walking and bus improvements

- [78] The highways package has improved during the application. The applicant now proposes a continuous footway connection towards the southbound bus stop via Higham Road, changes around the Church Street bus stop, and funds for a Traffic Regulation Order if required. It is also willing to discuss financial contributions towards local bus services. Those measures should be acknowledged, not ignored.³⁸
- [79] The proposed measures do not, however, change the wider geography or the range of destinations which residents must reach outside Cliffe. The principal higher-order destinations for secondary education, much employment, rail travel and broader shopping remain beyond realistic everyday walking distance. The applicant itself relies on bus and cycle connections for many such trips.
- [80] The Highways Response Note also records that the current Route 133 frequency is understood to be supported by developer contributions and says the applicant is prepared to discuss further revenue support. If the Council relies on that service to find the location sustainable, the frequency, destinations, duration of support, trigger, operator arrangements and contingency if funding ends should be clear and secured. A time-limited revenue contribution cannot by itself demonstrate a durable change to the long-term accessibility of the site.
- [81] NPPF paragraph 110 does not require rural places to perform like city centres. It expressly recognises that sustainable-transport opportunities vary between urban and rural areas. It nevertheless requires significant development to be focused on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of modes.
- [82] Policy T3 requires attractive and safe pedestrian access and maintenance or improvement of routes related to the site. T4 requires appropriate cycle facilities and routes. T6 expects development of sufficient scale to make provision for public transport. The off-site package improves compliance with those policies but does not eliminate the residual issue of a heavily car-dominated travel pattern or demonstrate that the development will offer a genuine long-term choice of modes for access to higher-order daily needs.

37 Markides Associates, Residential Travel Plan, Land at Higham Road, Cliffe, January 2026, paras 2.3.1-2.3.5, 2.6.1-2.6.2 and 5.1.3-5.1.5; Markides Associates, Highways Response Note, 15 May 2026, paras 2.2.21-2.2.33 and 2.4.1-2.4.6; Gleeson Land/Marrons, Response to Consultation Comments, 15 May 2026, Highways and Access section.

38 Markides Associates, Residential Travel Plan, Land at Higham Road, Cliffe, January 2026, paras 2.3.1-2.3.5, 2.6.1-2.6.2 and 5.1.3-5.1.5; Markides Associates, Highways Response Note, 15 May 2026, paras 2.2.21-2.2.33 and 2.4.1-2.4.6; Gleeson Land/Marrons, Response to Consultation Comments, 15 May 2026, Highways and Access section.

8.3 Highway capacity is a separate question

- [83] National Highways raises no objection from the strategic-road-network perspective subject to a Construction Traffic Management Plan. The applicant's junction modelling also indicates spare capacity at the local junctions tested. Those are favourable technical conclusions.³⁹
- [84] Neither conclusion is synonymous with sustainable location. A highway can have capacity for additional cars while a development remains highly dependent on them. NPPF paragraphs 110 and 115 address modal choice and sustainable access as well as network capacity and safety.
- [85] Active Travel England issued standing advice rather than a site-specific objection. I therefore do not attach the substantial transport weight used in cases where ATE itself recommends refusal. The correct weight here is significant adverse: the scheme makes useful pedestrian and bus interventions, but it adds 100 homes in a place whose adopted Neighbourhood Plan identifies a present sustainability deficit, exceptionally high household car ownership and structural public-transport limitations. The applicant's own Travel Plan starts from an 85% car-based 2011 Census benchmark, final modal targets are deferred until 80% occupation, and the mitigation does not relocate secondary education, rail access, higher-order services or much employment. Because these matters bear directly on the sustainable-location policies to which NPPF paragraph 11(d)(ii) requires particular regard, the residual accessibility and car-dependence harm attracts significant adverse weight.⁴⁰

9. Landscape, visual effects and rural character

9.1 Existing character and policy context

- [86] The site is a commercial pear orchard rather than an untouched or nationally designated landscape. That distinction matters. It is nevertheless greenfield countryside and forms part of the transition between the built edge of Cliffe, agricultural land and the wetland/nature-reserve landscape to the west.
- [87] Neighbourhood Plan Policy SUSDEV4 requires new development, particularly on greenfield land, to be sensitive to the landscape and to demonstrate how it conserves, enhances or strengthens the character and distinctive features of the area. Policy H6 similarly requires housing to respect the rural character and immediate context.⁴¹
- [88] NPPF paragraph 187 requires recognition of the intrinsic character and beauty of the countryside. It does not confine that consideration to nationally designated landscapes. The weight must nevertheless reflect the actual significance and extent of effects, not simply the greenfield status of the land.

39 National Highways, response NH/26/14928, 2 March 2026: no objection from the strategic road network perspective subject to a Construction Traffic Management Plan condition.

40 Active Travel England, standing advice response ATE/26/00263/OUT, 9 February 2026. ATE issued standing advice rather than a site-specific objection or refusal recommendation.

41 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

9.2 The applicant's own residual findings

- [89] The strongest landscape evidence is the applicant's own LVIA. For the character of the site it records a Large magnitude and Major/Moderate adverse effect at Year 1, reducing after planting to a Medium magnitude and Moderate adverse residual effect at Year 15.⁴²
- [90] For users of PRoW RS58A at the eastern edge of and within the site, the LVIA similarly records Major/Moderate adverse effects at Year 1 reducing to Moderate adverse at Year 15. It describes the change as long-term and permanent for the affected section of the route.
- [91] The wider landscape effects are materially lower, reducing to Minor/Negligible adverse at Year 15 in the wider study area. That is why I do not characterise landscape harm as substantial. The effect is principally local to the site, its immediate edge and the public-right-of-way experience.
- [92] The proposed western open space, retained shelterbelts, hedgerow reinforcement and tree planting will soften the scheme. The residual assessment already assumes those measures and still records Moderate adverse effects at Year 15. It would therefore be wrong to describe landscaping as removing the harm entirely.
- [93] The permanent change from productive orchard to a suburban residential edge should receive moderate adverse weight, reinforced by SUSDEV4 and H6. That is a proportionate calibration which accepts both the localised nature of the effect and its acknowledged persistence after mitigation.

10. Design, density, housing mix and the rural edge

- [94] The application is outline, with layout, scale, appearance and landscaping reserved. That is procedurally normal, but it means the Council must be satisfied that the maximum envelope of 100 dwellings can achieve an acceptable rural edge and cannot rely on illustrative details which are not secured.
- [95] The parameter plan places development principally in the central and eastern part of the site, leaving the western part as green infrastructure. That response is important to ecology and landscape. If the Council relies on the depth of the western buffer, location of development, green corridors or retained vegetation to reach acceptability, those elements should be binding parameters.
- [96] The applicant gives an indicative net density of about 31 dwellings per hectare. Neighbourhood Plan H8 says greenfield housing should, as far as possible, be no more than 30 dwellings per hectare to maintain rural character, sustainability and residential quality. The difference is modest, but it means the Council should not allow density to increase further at reserved matters without fresh scrutiny.
- [97] The housing mix is also only indicative. The current schedule proposes 68% three- and four-bedroom dwellings and no fixed bungalow provision. Policy H7 and the Neighbourhood Plan evidence identify a particular need for bungalows, small family

42 Tyler Grange, Landscape and Visual Impact Assessment, Land at Higham Road, Cliffe, January 2026, Appendix 6 and Appendix 7: site character Major/Moderate adverse at Year 1 reducing to Moderate adverse at Year 15; users of PRoW RS58A Major/Moderate adverse at Year 1 reducing to Moderate adverse at Year 15.

accommodation and homes suitable for older households and downsizers. Delivering 100 homes is a significant benefit; delivering the right homes is also material.

[98] I therefore give design, density and housing-mix uncertainty limited-to-moderate adverse weight. It is capable of being reduced by binding parameters and a secured mix strategy, but it should not be treated as already resolved by an illustrative masterplan.

11. Infrastructure, services and social sustainability

[99] Policy SUSDEV5 was written because the Neighbourhood Plan identifies infrastructure as a central constraint on growth. It requires major proposals to demonstrate sufficiency across waste, water, health, education and transport and to engage with strategic infrastructure commissioners and providers.⁴³

[100] There is positive evidence on utilities. Southern Water states that there is currently adequate capacity in the local sewerage network to accommodate foul flow from the development and that water supply can be facilitated, subject to formal connection requirements. It would be wrong to construct a sewerage-capacity refusal ground in the face of that response.

[101] The remaining infrastructure question is broader. The application does not deliver a school, health facility, employment space or mixed-use community hub. Its social-sustainability case therefore depends on existing facilities, transport connections, open space and any section 106 contributions.

[102] I have not identified a discrete SUSDEV5 statement that draws together current capacity and accessibility for health, education and transport in the policy's required form. The Council should identify the evidence on which it is satisfied that existing and committed services can absorb the additional population, and what contributions are necessary to make the scheme acceptable.

[103] Contributions necessary to mitigate the development should not be counted again as independent public benefits. If a contribution is required because 100 new homes create additional demand for education, health, highways or public transport, its primary function is mitigation.

[104] The lack of a non-residential community or employment use is also relevant to H1. The adjacent 250-home appeal scheme cited by the applicant included a mixed-use community hub and community facilities. The current proposal does not. That does not make it unacceptable automatically, but it is a legitimate distinction when assessing the sustainability contribution of this separate greenfield site.

[105] On the present material I give infrastructure and social-sustainability uncertainty limited-to-moderate adverse weight, substantially overlapping with the transport assessment and not to be double counted numerically. If the final officer evidence demonstrates full capacity and durable mitigation, that weight can reduce.

43 Cliffe and Cliffe Woods Neighbourhood Plan, May 2023, Policy SUSDEV5 and Infrastructure chapter: major development must demonstrate infrastructure sufficiency across waste, water, health, education and transport; the Plan describes public transport as a serious impediment to village sustainability. Southern Water, consultation response MC/26/0194, February 2026, records adequate local sewerage capacity for foul flow and states water supply can be facilitated, subject to connection requirements.

12. Archaeology, built heritage and the Social Club

12.1 Archaeology

[106] KCC Heritage Conservation considers the applicant's desk-based assessment generally useful but disagrees with important conclusions. It says the assessment did not adequately consider Palaeolithic potential, notes a substantial dissolution feature which may act as a capture point, and considers the potential for Anglo-Saxon and medieval archaeology to be moderate rather than low or nil.⁴⁴

[107] KCC also disagrees with the proposition that any archaeology present would necessarily be only local in significance. It states that archaeology of regional or even national importance cannot yet be ruled out, although the likelihood of nationally significant remains is not considered high.

[108] The recommended solution is a phased programme of archaeological and geoarchaeological evaluation, including specialist Palaeolithic work, before any reserved-matters application, so that important remains can influence detailed layout and be preserved in situ where necessary. KCC expressly says this can be secured by condition.

[109] I therefore do not rely on archaeology as a principal reason for refusal. It carries limited adverse uncertainty until the evaluation is done; if KCC's full pre-reserved-matters evaluation condition is imposed, I would treat the residual planning effect as essentially neutral unless the evaluation identifies a constraint requiring a different judgment.

12.2 Built heritage

[110] The applicant's built-heritage assessment identifies extremely negligible less-than-substantial harm to the Grade II* Rectory House and the Grade II Granary and Barn at Buckland Farm, with extremely negligible harm to Oast Cottage and no harm to Irvine Terrace.⁴⁵

[111] The statutory and NPPF heritage duties must still be applied and great weight given to conservation of designated heritage assets. On the applicant's own calibration, however, built heritage is not a central merits objection. I give great weight to the conservation of the designated assets, but because the identified harm is extremely slight I treat its overall adverse effect in the planning balance as limited. I do not seek to inflate "extremely negligible" effects into a major refusal case.

12.3 Cliffe Men's Social Club and agent of change

[112] The latest noise assessment considers the relationship with Cliffe Men's Social Club. The monitoring period recorded relatively low patron noise, but the consultant acknowledges that no infrequent live-music event was advertised or captured during the survey. The report identifies around 7-10 such events per year and proposes a further

44 Kent County Council Heritage Conservation, archaeological consultation response MC/26/0194, 9 February 2026, pp.1-3: moderate potential for several periods, disagreement with parts of the applicant's assessment, and regional or even national importance not yet ruled out; phased evaluation recommended before reserved matters.

45 Tetra Tech, Built Heritage Statement - Land at Higham Road, Cliffe, amended January 2026, paras 5.9-5.13 and 6.2-6.6: extremely negligible less-than-substantial harm assessed to the Grade II* Rectory House and Grade II Granary and Barn at Buckland Farm, and extremely negligible harm to Oast Cottage; no harm to Irvine Terrace.

breakout survey to inform reserved matters.⁴⁶

[113] NPPF paragraph 200 requires new development to integrate effectively with existing community facilities and places the mitigation burden on the new development as the agent of change where an existing facility could significantly affect it. The Council should therefore avoid creating a future pressure for unreasonable restrictions on an established Social Club.

[114] This is capable of being addressed through layout, orientation, façade specification and a robust condition requiring event-noise assessment before sensitive reserved-matters design is fixed. On current evidence I give it limited adverse uncertainty, not substantial weight.

13. Matters which do not overcome the central objections

[115] The 2023 appeal decision for land east and west of Church Street is an important material consideration. The Inspector found that proposal was not in an unsustainable or unsuitable location and concluded that its benefits outweighed its harms. The present representation does not ignore that decision.⁴⁷

[116] It does not establish a planning precedent that every greenfield site at Cliffe is acceptable. The appeal related to a different site, up to 250 dwellings and a mixed-use community hub, extensive open space and replacement community/sports facilities, and the evidence then before the Inspector. MC/26/0194 must be determined on its own red line, ecological relationships, BMV composition, mitigation and benefits.

[117] The earlier Inspector also concluded that housing need outweighed agricultural loss in that case. That conclusion deserves weight. It does not disapply BNE48 or ECON&EMP1 from a later site. The present decision-maker still has to ask whether the benefits of this scheme justify permanent loss of an entire 5.1-hectare Subgrade 3a agricultural site, especially when the same proposal also carries an unresolved RSPB objection.

[118] The absence of a National Highways objection does not establish that the site offers a genuine choice of transport modes. National Highways addresses the strategic road network. The sustainable-location issue is broader and is informed by the Travel Plan, local walking conditions, bus durability and the Neighbourhood Plan's own evidence.

[119] Likewise, the fact that Active Travel England issued standing advice rather than an objection is favourable but not determinative. It simply means this case does not have the additional specialist refusal recommendation present in some other applications.

[120] The site is in Flood Zone 1 and Southern Water has not identified a foul-capacity barrier. Those matters reduce the case for refusal on flood and utility grounds. Compliance with drainage and connection requirements is expected mitigation; it does

46 Cass Allen, Construction and Commercial Noise Assessment, RP01-25257-R7, 10 July 2026, section 3 and conclusions: the survey did not capture an infrequent live-music event; approximately 7-10 such events per year were identified; a further noise breakout survey is proposed to inform reserved matters. NPPF para 200 concerns the agent-of-change principle for existing community facilities.

47 Marrons, Planning Statement, January 2026, paras 2.16-2.17, summarising the 28 November 2023 appeal decision APP/A2280/W/22/3313673 for MC/22/0254: up to 250 dwellings and a mixed-use community hub, with the Inspector

not outweigh the separate ecological and agricultural harms.

[121] The BNG calculation is positive but must be treated carefully. The 10% statutory baseline is a legal requirement. Habitat replacement and measures needed to avoid ecological harm are mitigation. Only the uplift that is genuinely additional to those obligations, realistically deliverable and secured for the required period should receive separate planning-benefit weight.

[122] The proposal also includes public open space and play space. These provide health and placemaking value, but a substantial part is necessary to serve the development itself and to mitigate landscape, drainage and recreation effects. The planning balance should credit the net public benefit rather than count every hectare of required green infrastructure as an independent benefit.

[123] Construction jobs, supply-chain expenditure and increased local spending are positive. Their weight is limited to moderate because construction effects are temporary and there is no guarantee that all jobs or expenditure will be local.

[124] Technical feasibility is not equivalent to planning acceptability. It may be possible to engineer access, drainage, utilities, landscaping and ecological management. The decision remains whether the site should be urbanised for 100 homes once the adopted policy framework and residual effects are weighed together.

14. Claimed benefits and the weight they should receive

[125] The first and strongest benefit is housing supply. Up to 100 homes would make a meaningful contribution in an authority with only a 3.1-year published supply and a 72% HDT result. Subject to a credible delivery trajectory, I give the overall housing contribution significant positive weight.⁴⁸

[126] The second important benefit is affordable housing. The applicant proposes 25%, equivalent to up to 25 homes, to be secured through a section 106 agreement. The Neighbourhood Plan records local affordability problems and a 2017 local survey identifying need for affordable homes, smaller homes and accommodation suitable for older households.⁴⁹

[127] I give the proposed 25% affordable-housing component limited positive weight. Twenty-five homes are a useful contribution, but modest in absolute terms and form part of the 100-home total. If provision is increased to 30% (up to 30 affordable homes) and the full amount, appropriate tenure mix, phasing and long-term affordability are secured

finding the proposal acceptable on the evidence and balance in that case.

48 National Planning Policy Framework, December 2024 as amended February 2025, paras 2, 11-12, 48, 61, 63-66 and footnotes 8-9: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>. Medway Council, 5 year housing land supply: 3.1 years, annual requirement 1,636 dwellings and total supply 6,159 dwellings: https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/6. Medway Council, Housing Delivery Test Action Plan page: latest published result 72%: https://www.medway.gov.uk/info/200149/planning_policy/597/local_development_scheme_and_monitoring/3. Medway Council Planning Committee Performance Report, 29 July 2026, para 7.6, confirming newer HDT results had not yet been published.

49 Medway Local Plan, adopted 14 May 2003, Policies S1, S2, BNE1, BNE25, BNE35, BNE37, BNE39, BNE48, H3, H10, H11, T1, T3, T4 and T6: https://www.medway.gov.uk/download/downloads/id/2400/medway_local_plan_2003.pdf. Cliffe and Cliffe Woods Neighbourhood Plan, Adoption Version May 2023, including Policies SUSDEV4, SUSDEV5, H1, H6-H8, E&H2 and ECON&EMP1.

without a mechanism capable of material reduction, I would give the affordable-housing contribution moderate positive weight. The Council should identify the current affordable-housing percentage applicable to this site before describing 25% as policy compliant.

[128] The 25 affordable homes form part of the 100-home total. The additional weighting reflects their tenure and social value; it is not a second count of 25 extra dwellings. That distinction should be maintained in the officer balance.

[129] Housing mix can affect the quality of the benefit. The current indicative mix is heavily family-housing oriented and does not fix bungalows. If reserved-matters controls secure smaller homes, accessible housing and bungalow provision aligned with Policy H7, the social benefit would be stronger.

[130] Construction employment and local expenditure merit limited positive weight. They are useful economic effects but partly temporary and not all will accrue within Cliffe or the Medway Council area.

[131] Public open space, play, footway improvements and bus-stop works merit limited positive weight only to the extent they exceed what is necessary to mitigate the scheme. Required transport or open-space provision should not be double counted.

[132] The claimed BNG merits limited positive weight above the mandatory baseline if the metric remains valid at reserved matters and the gains are legally secured and managed. The 33.89% hedgerow uplift is potentially valuable, while the 12.01% area-habitat gain is only modestly above the statutory 10% requirement.⁵⁰

[133] The benefits are therefore real and significant enough to engage a serious planning balance. The representation should not depend on denying them. Its case is that significant housing benefits do not, on this particular evidence, outweigh the combination of substantial ecological uncertainty, substantial BMV loss and the other adverse effects.

15. Overall planning balance

[134] The proposal conflicts with the adopted development plan. The applicant accepts conflict with S1, S2, H11 and BNE25. Additional relevant tension arises with BNE35, BNE37 and BNE39 while the RSPB objection remains unresolved; BNE48 and Neighbourhood Plan ECON&EMP1 because all surveyed agricultural land is Subgrade 3a; SUSDEV4 and H6 because of residual rural-character effects; SUSDEV5 because infrastructure sufficiency must be demonstrated; and H1, H7 and H8 in relation to mixed use, local housing needs and greenfield density.

[135] Because of the housing-supply position, those conflicts do not end the matter. I apply paragraph 11(d)(ii) on the assumption that the merits balance is required. I give significant positive weight to the delivery of up to 100 homes.

[136] I give limited positive weight to the proposed 25% affordable-housing contribution. If

50 The Ecology Partnership, Higham Road, Cliffe - Biodiversity Net Gain Assessment, January 2026, paras 4.1-4.5: on-site area habitat units +12.01%, hedgerow units +33.89%, with a 30-year Habitat Management and Maintenance Plan required. Town and Country Planning Act 1990, Schedule 7A establishes the statutory biodiversity gain condition/minimum 10% baseline.

30% (up to 30 homes) is fully secured, I would give that contribution moderate positive weight. I give limited positive weight to construction/local expenditure and to secured open-space/access improvements only where they are genuinely additional, and limited positive weight to genuinely additional BNG.

[137] Against those benefits, I give substantial adverse weight to the unresolved Nightingale and ecological urbanisation issue. That weight reflects the RSPB's site-specific objection, its >400m separation advice, the proposed 60m buffer and the applicant's reliance in part on assumed habituation rather than demonstrated site-specific tolerance.

[138] I give substantial adverse weight to the permanent loss of 5.1 hectares of BMV agricultural land. The entire surveyed agricultural site is Subgrade 3a. BNE48 assigns considerable protection and an exceptional test, while the 2023 Neighbourhood Plan requires benefits to far outweigh the loss of food-growing space and contribution to food security.

[139] I give significant adverse weight to the development-plan and spatial conflict taken as a whole. That weighting is lower than it would be if Medway Council had a five-year supply and fully up-to-date strategic housing policies, but it remains material because the recent Neighbourhood Plan supplies a current local framework for major greenfield development.

[140] I give significant adverse weight to sustainable-transport, accessibility and car-dependence effects. The footway and possible bus support are improvements, but the adopted Neighbourhood Plan identifies the settlements as currently unsustainable, records exceptionally high car ownership and structural public-transport limitations, and the applicant's own Travel Plan starts from an 85% car-based 2011 Census benchmark with final targets deferred until 80% occupation. The measures proposed do not overcome the continuing need to travel outside Cliffe for a range of higher-order destinations.

[141] I give moderate adverse weight to residual landscape and rural-character effects. The applicant's own LVIA retains Moderate adverse effects at Year 15 for site character and users of PRow RS58A after mitigation has matured.

[142] I give limited-to-moderate adverse weight to design and housing-mix uncertainty, limited adverse uncertainty to the Social Club issue, and limited adverse uncertainty to archaeology, the latter capable of becoming neutral if KCC's full evaluation condition is imposed and no material constraint emerges. I give great weight to heritage conservation but only limited overall adverse effect to the extremely slight harm identified by the applicant. I do not rely on flood risk, strategic-road capacity or foul sewer capacity as adverse reasons on the present evidence.

[143] The harms are not wholly separate. The greenfield site choice creates the BMV loss; the location and lack of non-residential uses reinforce travel dependence; the development envelope creates the rural-character change; and the westward urban edge creates the Nightingale/urbanisation concern. Care must be taken not to double count, but the interactions explain why the site performs poorly against several strands of sustainable development at once.

[144] The NPPF key policies identified by paragraph 11(d)(ii) produce a mixed result. Affordable-housing policy supports the scheme. Sustainable-location policy is materially less favourable. Effective use of land cannot be divorced from the environmental value of the land being consumed. The design policies require a context-led rural edge and appropriate density/mix, matters which remain partly reserved.

[145] The decisive question is not whether 100 homes are beneficial; they are. It is whether those benefits are sufficient to justify an unresolved specialist ecology objection and permanent development of 100% BMV land, alongside the acknowledged policy, transport and landscape harms. In my planning judgment they are not.

[146] Accordingly, even applying the tilted balance and giving the housing benefits the positive weight they deserve, the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole. Planning permission should be refused.

16. Conclusion

[147] MC/26/0194 would deliver useful market and affordable housing at a time of serious undersupply. That is a significant public-interest consideration and has been expressly recognised throughout this representation.

[148] The planning system is nevertheless required to assess where and how housing is delivered. The site is unallocated countryside outside the Cliffe boundary and is entirely Subgrade 3a agricultural land. The 2023 Neighbourhood Plan expects major greenfield growth to respond to rural character, local housing needs, infrastructure sufficiency and opportunities for non-housing uses that reduce the need to travel.

[149] The RSPB objection is especially important. It identifies an important Nightingale population and advises >400m separation from important habitat to help avoid urbanisation effects. The applicant proposes 60m and relies partly on likely habituation. Natural England has not undertaken the site-specific assessment that the applicant's description of its response might imply.

[150] The agricultural loss is equally certain: 5.1 hectares, 100% Subgrade 3a. Unlike a temporary construction effect, that loss is permanent. Policies BNE48 and ECON&EMP1 deliberately give it strong protection.

[151] The transport evidence adds a significant adverse consideration, while the landscape evidence adds a moderate one. The applicant's Travel Plan begins from an 85% car-based 2011 Census work-trip benchmark and defers final targets until 80% occupation, while the LVIA retains Moderate adverse effects at Year 15. Archaeology, housing mix and Social Club noise remain lesser matters requiring robust controls.

[152] The Council should therefore refuse permission for the reasons in Schedule 1 or equivalent reasons based on the final officer assessment. A refusal on this evidence would not deny the need for housing in the Medway Council area on sustainable sites. It would distinguish between the genuine benefit of housing and the acceptability of this particular greenfield site.

[153] For the avoidance of doubt, this conclusion is my personal planning judgment and

representation in my advocacy and scrutiny capacity. It is not a collective instruction to any other member of TIG.

17. Source and reference methodology

- [154] This representation has been prepared from the submitted application documents and revised technical material for MC/26/0194, the statutory and non-statutory consultation responses, the adopted Medway Council Local Plan 2003, the adopted Cliffe and Cliffe Woods Neighbourhood Plan 2023, the December 2024 NPPF as amended in February 2025, Medway Council's June 2026 Developer Contributions and Obligations Guide, and the Council's current published housing-supply and HDT material.
- [155] Application evidence is identified by the document title and date used. Particular reliance is placed on the applicant's Planning Statement, ALC report, LVIA, Travel Plan, BNG Assessment, Built Heritage Statement, July 2026 noise assessment and March 2026 ecology response to the RSPB.
- [156] Where specialist consultees disagree with the applicant, this representation identifies the disagreement rather than presenting one side as uncontested. The RSPB/Nightingale issue, KCC archaeology advice and Natural England's non-detailed response are examples.
- [157] Where this representation assigns planning weight - substantial, significant, moderate, limited or positive - that is an advocacy judgment for the decision-maker to consider. It does not purport to replace the Council's officer assessment. The draft reasons for refusal should be checked against the final plans, conditions and section 106 terms at the date of determination.

SCHEDULE 1

18. Draft reasons for refusal

[158] The following draft reasons are offered for consideration. They are deliberately separated by subject so that the Council can refine, combine or omit them according to its final evidence. The ecology and BMV reasons are the strongest. The transport and landscape reasons should be retained only if the final officer assessment confirms the residual shortcomings identified below.

No.	Draft reason for refusal
1 - Ecology / Nightingale urbanisation effects	The application fails to demonstrate that the urbanisation effects associated with up to 100 dwellings, including recreational disturbance, domestic-cat predation, noise, artificial lighting and fire risk, would be adequately avoided or mitigated in relation to the important Nightingale population and the highly sensitive ecological environment adjoining the site. The RSPB objects to the application and advises locating new residential development more than 400m from important Nightingale habitat; the proposal relies on a 60m buffer and partly on an unproven assumption of habituation. In the absence of sufficiently robust site-specific evidence and secured mitigation resolving that objection, the proposal conflicts with Policies BNE35, BNE37 and BNE39 of the Medway Council Local Plan 2003, Policy E&H2 of the Cliffe and Cliffe Woods Neighbourhood Plan 2023 and paragraphs 187 and 193 of the NPPF.
2 - Best and most versatile agricultural land	The development would cause the permanent loss of approximately 5.1 hectares of Subgrade 3a best and most versatile agricultural land, representing 100% of the surveyed agricultural site. The application has not demonstrated the exceptional circumstances and alternatives sequence required by Policy BNE48, nor that the benefits of sustainable development far outweigh the loss of food-growing space and its contribution to national food security as required by Policy ECON&EMP1 of the Cliffe and Cliffe Woods Neighbourhood Plan 2023. The proposal is contrary to Policy BNE48 of the Medway Council Local Plan 2003, Policy ECON&EMP1 and paragraph 187 of the NPPF.
3 - Unsustainable pattern of greenfield development / development-plan conflict	The proposal would introduce up to 100 dwellings on unallocated countryside outside the defined Cliffe settlement boundary and would not provide a material non-residential community, service or employment use to address the sustainability objectives for major greenfield housing in the Neighbourhood Plan. Taken with the unresolved infrastructure-sufficiency position and the site's dependence on external services, the development would represent an inappropriate pattern of greenfield expansion contrary to Policies S1, S2, BNE25 and H11 of the Medway Council Local Plan 2003 and Policies H1 and SUSDEV5 of the Cliffe and Cliffe Woods Neighbourhood Plan 2023, having regard to paragraphs 11 and 110 of the NPPF.

4 - Sustainable transport and pedestrian accessibility	The development would reinforce a significantly car-dependent pattern of growth and has not demonstrated that its scale can be accommodated with a durable and genuine choice of transport modes. The adopted Neighbourhood Plan describes the settlements as currently unsustainable, identifies movement as car dominated and records exceptionally high household car ownership. The applicant's own Travel Plan uses an 85% car-based 2011 Census work-trip benchmark and leaves final modal targets until 80% occupation. Although the proposed footway and bus-stop works are beneficial, and bus support may be offered, those measures do not overcome the need to travel outside Cliffe for a range of higher-order destinations or demonstrate a durable long-term public-transport solution. The proposal therefore conflicts with Policies T3, T4 and T6 of the Medway Council Local Plan 2003, the infrastructure objectives of the Cliffe and Cliffe Woods Neighbourhood Plan 2023 and paragraphs 110, 115 and 117 of the NPPF.
5 - Landscape, rural character and outline parameters	The proposal would permanently replace a commercial orchard at the rural edge of Cliffe with residential development. The applicant's own LVIA identifies residual Moderate adverse effects at Year 15 on the character of the site and users of PRow RS58A. In combination with an indicative density of approximately 31 dwellings per hectare and the outline status of layout, scale and landscaping, the application has not demonstrated that the maximum development can conserve or strengthen the rural character and distinctive landscape features required by Policies SUSDEV4, H6 and H8 of the Cliffe and Cliffe Woods Neighbourhood Plan 2023 and Policies BNE1 and BNE25 of the Medway Council Local Plan 2003, having regard to paragraphs 135, 139 and 187 of the NPPF.

SCHEDULE 2

19. Development plan and NPPF conflict matrix

Policy	Requirement of direct relevance	Conflict / issue identified
S1	Prioritise reinvestment in urban fabric and integrate land use and transport.	Greenfield countryside extension; significant housing benefit but weak relationship with non-car access to higher-order needs.
S2	Sustainable location and mix, local facilities and transport measures.	Residential-led scheme without a material service/employment use; reliance on existing/external facilities.
BNE25	Maintain/enhance countryside; realistic chance of access by a range of modes; listed countryside categories.	100 dwellings outside settlement boundary; residual rural-character change and heavy car reliance; not a listed countryside use.
BNE35	Long-term protection of international/national nature sites; no material direct/indirect harm.	RSPB objects on recreational and urbanisation pathways in immediate sensitive context.
BNE37 / BNE39	Protect important wildlife habitats and protected species/habitats.	Nightingale urbanisation effects and adequacy of 60m buffer remain unresolved.
BNE48	BMV loss only exceptionally, with overriding need and alternatives criteria.	5.1 ha / 100% Subgrade 3a; no site-specific alternatives sequence demonstrated.
H11	Housing in rural settlements restricted to minor development within confines unless allocated/exceptionally justified.	100 dwellings outside Cliffe boundary; applicant accepts conflict.
T3 / T4 / T6	Safe pedestrian access, cycle facilities and public-transport provision.	Off-site improvements help, but adopted local evidence shows structural car dependence; the Travel Plan uses an 85% car-based 2011 Census benchmark and durable public-transport support remains unresolved.
NP SUSDEV4	Greenfield development sensitive to landscape; conserve/enhance/strengthen character.	Applicant LVIA retains Moderate adverse residual site and PRoW effects.
NP SUSDEV5	All major development supported by an Infrastructure Sufficiency Statement.	No discrete statement identified; Council must demonstrate waste/water/health/education/transport sufficiency.
NP H1	Major greenfield housing encouraged to include appropriate non-housing uses.	Scheme is essentially housing plus mitigation/open space; no material community/service/employment use.
NP H6 / H7 / H8	Rural-context design; local-needs mix; greenfield density as far as possible ≤ 30 dph.	Approx. 31 dph; mix remains indicative and no bungalow commitment is fixed.
NP E&H2	Protect/enhance biodiversity and deliver measurable BNG.	BNG positive, but RSPB's species-specific urbanisation concern remains distinct.
NP ECON&EMP1	Loss of Grades 1-3 only where benefits far outweigh food-growing and food-security loss.	Entire surveyed agricultural site is Subgrade 3a; demanding local balance not satisfied in this representation's judgment.

NPPF 110 / 115 / 117	Sustainable location, genuine modal choice, safe access and priority to walking/cycling/public transport.	Useful access works do not remove structural car dependence, exceptionally high local car ownership or distance to higher-order destinations.
NPPF 135 / 139	Context-led, attractive, functional and well-designed places.	Key rural-edge, density and housing-mix details remain reserved; illustrative material must not substitute for binding parameters.
NPPF 187 / 193	Protect soils/countryside; recognise BMV benefits; minimise biodiversity impact and refuse unmitigated significant harm.	Permanent 100% BMV loss and unresolved specialist ecology objection weigh strongly against the scheme.
NPPF 66	Major housing should meet identified local affordable-housing needs.	Supports the proposal: up to 25 affordable homes are a material benefit if secured.

SCHEDULE 3

20. Planning balance summary

Matter	Suggested weight	Reason
Overall delivery of up to 100 homes	Significant positive	Serious 3.1-year supply shortfall and 72% HDT; useful quantum.
Up to 25 affordable homes	Limited positive at 25%; moderate if 30% is fully secured	Twenty-five units are a modest contribution; moderate weight would be justified if 30% (30 units), appropriate tenure, phasing and long-term affordability are fully secured.
Construction and local expenditure	Limited positive	Useful but partly temporary and not all benefits will be local.
Open space / pedestrian and bus-stop improvements	Limited positive where additional	Positive health/access value; much is necessary mitigation for the development.
BNG above statutory baseline	Limited positive if secured	12.01% area habitat and 33.89% hedgerow claimed; mandatory 10% and mitigation are not free-standing benefits.
Ecology / Nightingale urbanisation effects	Substantial adverse	RSPB objection, important population, >400m advice versus 60m buffer and assumed habituation.
BMV agricultural land loss	Substantial adverse	5.1 ha and 100% Subgrade 3a; permanent; strong BNE48 and NP ECON&EMP1 wording.
Development-plan / spatial conflict	Significant adverse	Outside Cliffe boundary, unallocated countryside; current NP greenfield/infrastructure strategy not fully met.
Sustainable transport / car dependence	Significant adverse	Adopted local evidence shows structural car dependence and exceptionally high car ownership; applicant uses an 85% car-based 2011 Census benchmark and final targets are deferred despite proposed access works.
Landscape / rural character	Moderate adverse	Applicant retains Moderate adverse Year-15 effects on site character and PRow RS58A.
Infrastructure / social sustainability	Limited-to-moderate adverse uncertainty, overlapping transport	SUSDEV5 requires integrated sufficiency evidence; no material non-residential supporting use.
Design / density / housing mix	Limited-to-moderate adverse	31 dph against qualified 30 dph policy; local-needs mix and rural edge remain reserved.
Archaeology	Limited adverse uncertainty; neutral if full KCC condition imposed	KCC says regional/national importance not ruled out, but phased pre-RM evaluation can be conditioned.
Social Club / agent of change	Limited adverse uncertainty	Live event not monitored; further breakout survey proposed.
Built heritage	Great weight to conservation; limited overall adverse effect	Applicant assesses only extremely negligible less-than-substantial harm.
Flood, strategic road capacity, foul sewer capacity	Neutral subject to controls	No current evidence supporting refusal on these matters.

Overall NPPF paragraph 11(d)(ii) balance	Refusal	Cumulative harms significantly and demonstrably outweigh acknowledged benefits.
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SCHEDULE 4

21. Questions which should be answered before determination

- [159] Which adopted development-plan policies does the Council regard as most important for determination, and what weight is given to each after accounting for the current housing-supply position?
- [160] How does the officer report apply NPPF paragraph 11(d)(ii) with particular regard to sustainable locations, effective use of land, well-designed places and affordable homes, rather than treating housing shortfall as a freestanding presumption?
- [161] What exceptional justification is relied upon for 100 dwellings outside the Cliffe boundary under H11, and how is the countryside/access test in BNE25 addressed?
- [162] How does the proposal respond to Neighbourhood Plan H1's objective that major greenfield housing include appropriate non-housing uses to provide services/employment and reduce the need to travel?
- [163] Where is compliance with SUSDEV5 demonstrated in a single assessment of waste, water, health, education and transport capacity, accessibility and provider engagement?
- [164] What is the Council's reasoned response to the RSPB objection to MC/26/0194?
- [165] What evidence justifies reducing the RSPB's advised >400m separation from important Nightingale habitat to the proposed 60m buffer?
- [166] What site-specific evidence demonstrates that the important Nightingale population is sufficiently habituated to the additional and different urbanisation pressures generated by 100 permanent dwellings?
- [167] How will domestic-cat predation, artificial lighting, noise, fires and recreational disturbance be controlled for the lifetime of the development?
- [168] How is the western green infrastructure to function simultaneously as ecological buffer, recreation space and SuDS land without its ecological purpose being undermined?
- [169] Has Natural England's response been accurately characterised, given that Natural England expressly states that it did not assess potential impacts on statutory nature-conservation sites and that non-detailed advice does not imply no impact?
- [170] What weight is given to the fact that 5.1 hectares / 100% of the agricultural site is Subgrade 3a BMV land?
- [171] How are each of the exceptional criteria in BNE48 addressed, including the need for an application-level alternatives analysis?
- [172] How does the proposal satisfy Neighbourhood Plan ECON&EMP1's requirement that benefits far outweigh loss of food-growing space and contribution to national food security?
- [173] How has the Council distinguished the site-specific BMV balance in the 2023 Church Street appeal from the different red line, ecology and benefit package in MC/26/0194?
- [174] What final Travel Plan mode-share targets will be secured, given that the submitted benchmark is 80% car driver and 5% car passenger and final targets are proposed only

after 80% occupation?

- [175] What bus frequency, destinations, funding duration, trigger and contingency are secured if public transport is relied upon to make the site sustainable?
- [176] Are the proposed continuous Higham Road footway, bus-stop works and TRO funding all deliverable within highway or controlled land and secured before relevant occupation?
- [177] How is the inability to provide a direct western pedestrian/cycle connection towards Eternal Lakes weighed in the accessibility assessment?
- [178] What weight is given to the LVIA's residual Moderate adverse Year-15 effects on site character and users of PRoW RS58A?
- [179] Which landscape buffers, retained shelterbelts, green corridors and development limits are binding parameters rather than illustrative features?
- [180] Why is approximately 31 dwellings per hectare considered the lowest appropriate density if H8 says greenfield development should, as far as possible, be no more than 30 dwellings per hectare?
- [181] How will the final housing mix respond to H7 and the locally identified need for bungalows, smaller homes, downsizer housing and accommodation for older people?
- [182] What education and healthcare capacity evidence supports the population increase, and what mitigation is necessary rather than merely desirable?
- [183] Will KCC's archaeological condition require evaluation, including specialist Palaeolithic work, before any reserved-matters application so that important remains can change the layout if necessary?
- [184] How will the agent-of-change principle be satisfied in relation to Cliffe Men's Social Club when no live-music event was captured by the noise monitoring?
- [185] What exact proportion of the claimed BNG is mandatory, mitigatory and genuinely additional, and how will the final gains be secured and managed for at least 30 years?
- [186] What affordable-housing percentage does the Council consider applicable to this site at determination; why should the proposed 25% receive more than limited positive weight; and, if 30% is secured, what section 106 terms fix all 30 homes, their tenure, phasing and long-term affordability without a mechanism capable of reducing that provision?
- [187] What delivery trajectory supports significant positive weight to the 100-home contribution?
- [188] Having assigned weights transparently and avoided double counting, why would the ecological, BMV, spatial, transport and landscape harms not significantly and demonstrably outweigh the benefits?

Yours faithfully,

Councillor Michael Pearce

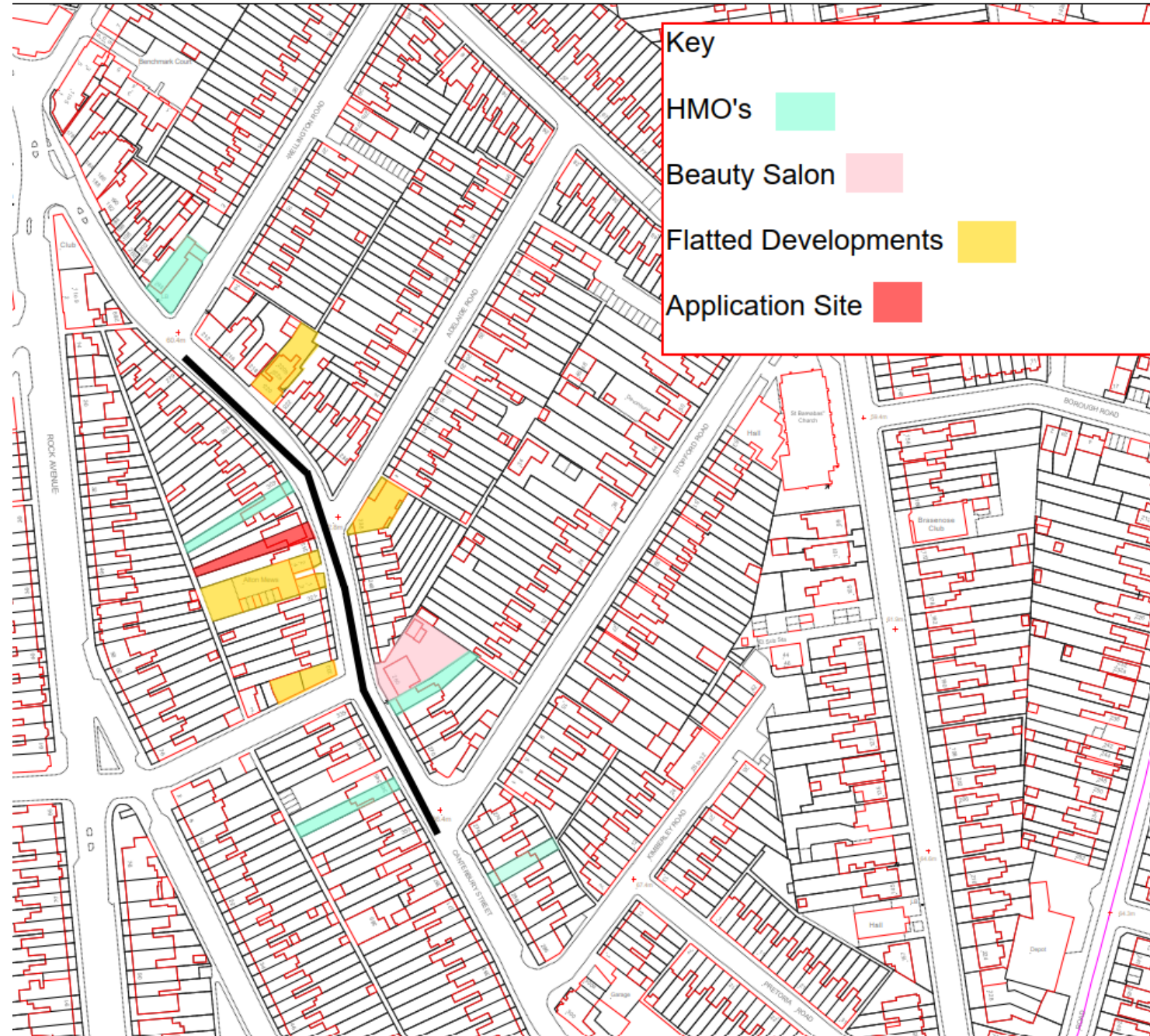
Councillor Michael Pearce

Planning Spokesman for The Independent Group (TIG) on Medway Council

Dated: 12 August 2026

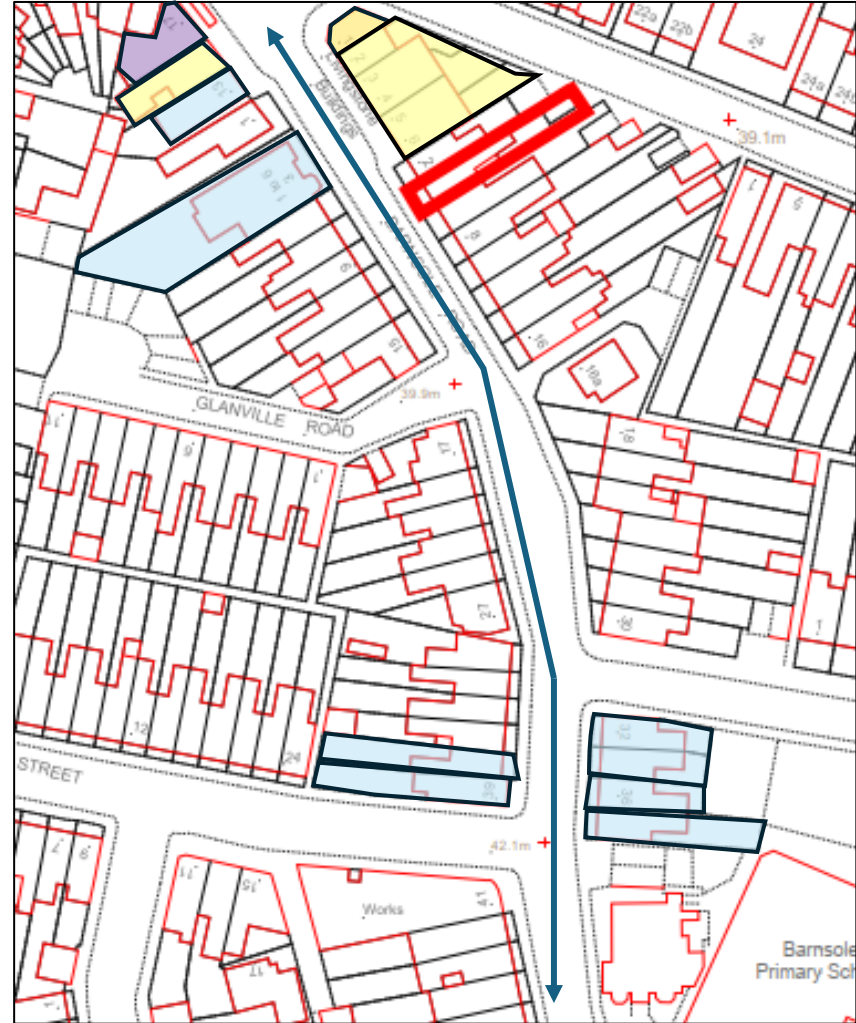
Land Use Map 200m

MC/26/0717 - 311 Canterbury
Street, Gillingham, Kent, ME7 4DJ



4 Barnsole Road - Land Uses Map

-  Commercial w
flats above
-  HMO
-  Subdivided Flat
-  Application Site

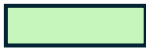


Uses Map - MC/26/1149 53 Shakespeare Road, Gillingham ME7 5QL

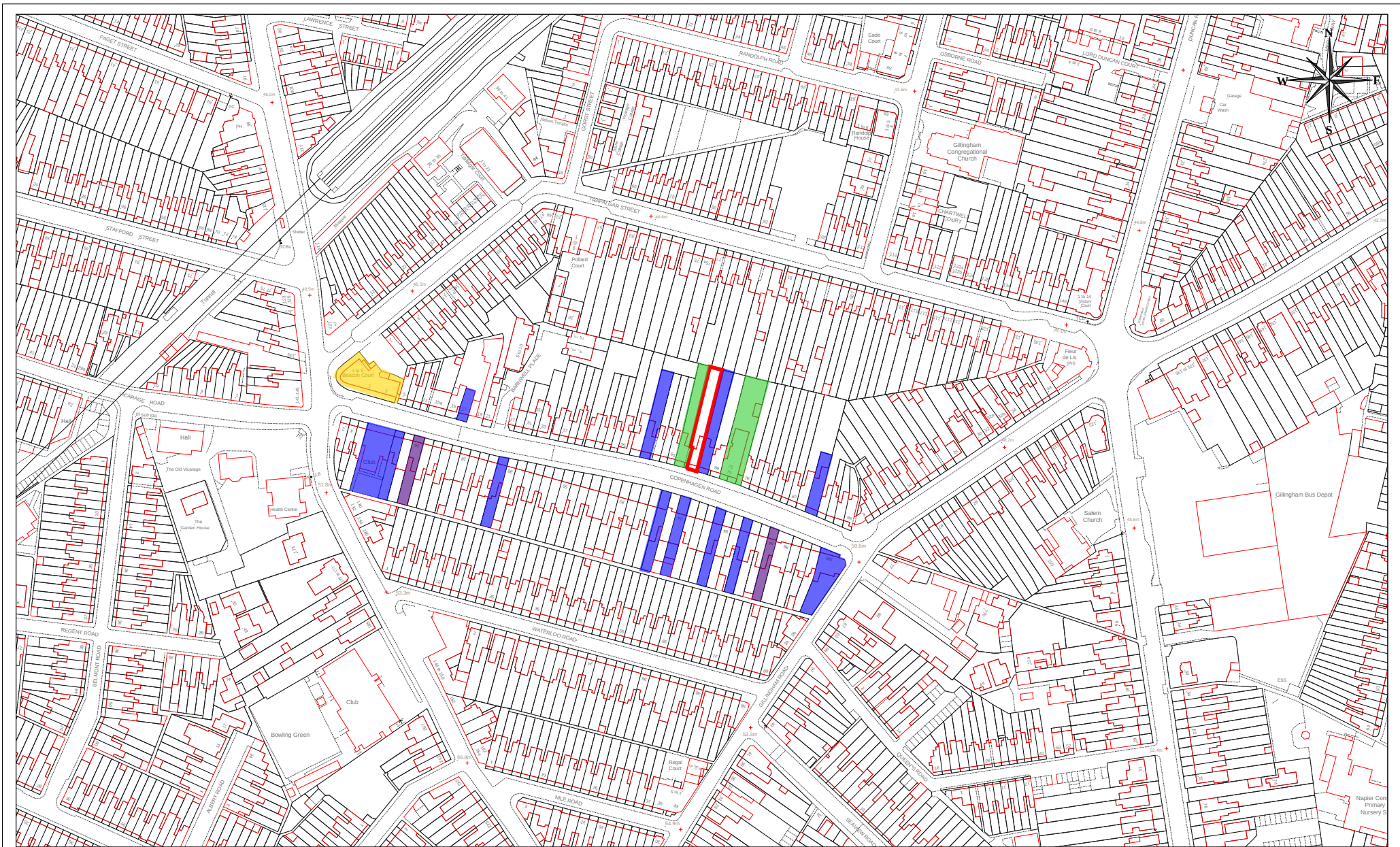
-  Purpose Built Flat
-  HMO
-  Subdivided Flat
-  Application Site



MC/26/1271 - 63 Copenhagen - Uses Map

-  Purpose Built Flat
-  HMO
-  Subdivided Flat
-  Application Site
-  Current HMO application





MC/26/1272 - 65 Copenhagen Road, Gillingham, ME7 4RU



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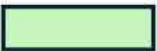
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Uses map - MC/26/0639 1 Bleinheim Avenue, Chatham, ME4 6UU

-  Purpose Built Flat
-  HMO
-  Subdivided Flat
-  Application Site
-  Current HMO application

