



## PLANNING COMMITTEE

Notice of a Meeting, to be held in the Council Chamber - Ashford Borough Council on Wednesday, 8th December, 2021 at 7.00 pm.

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The Members of the Planning Committee are:-

Councillor Burgess (Chairman)  
Councillor Blanford (Vice-Chairman)

Cllrs. Anckorn, Bell (ex-Officio, non-voting), Chilton, Clokie, Harman, Howard, Howard-Smith, Iliffe, Meaden, Mulholland, Ovenden, Shorter and Sparks

If any member of the public, Councillor or organisation wishes to submit any written, pictorial or diagrammatic material to the Planning Committee relating to any item on this Agenda, this must be **concise** and must be **received by the Contact Officer specified at the end of the relevant report**, and also copied to [Planning.help@ashford.gov.uk](mailto:Planning.help@ashford.gov.uk), **before 3.00 pm on the second working day before the Meeting** so that it can be included or summarised in the Update Report at the Meeting, in the interests of transparency and fairness. Otherwise, the material cannot be made available to the Committee. Material should be submitted as above at the earliest opportunity and you should check that it has been received.

### IMPORTANT INFORMATION FOR THE PUBLIC ABOUT THIS MEETING

Subject to Coronavirus risk assessments and procedures, a very small number of members of the Press and public can register to attend and observe the Meeting in person (without speaking at it), on a first-come, first served basis.

To register to attend and observe the Meeting on this basis, please email [membersservices@ashford.gov.uk](mailto:membersservices@ashford.gov.uk). You will be sent details of the procedures established by the Council in order to manage the risk of COVID-19 at the Meeting, which may include requirements such as to wear face coverings, and to not attend the Meeting if you are affected by any relevant circumstances relating to COVID-19. You will be expected to confirm your agreement to these requirements prior to attendance. However, instead of attending and observing in person, **the Council encourages everyone to take advantage of the opportunity to watch and listen to the proceedings at the Meeting via a weblink, which will be publicised on the Council's website at [www.ashford.gov.uk](http://www.ashford.gov.uk) about 24 hours before the Meeting.**

### Agenda

Page Nos..

1. **Apologies/Substitutes**

To receive Notification of Substitutes in accordance with Procedure Rule 1.2(c) and Appendix 4

## 2. **Declarations of Interest**

1 - 2

To declare any interests which fall under the following categories, as explained on the attached document:

- a) Disclosable Pecuniary Interests (DPI)
- b) Other Significant Interests (OSI)
- c) Voluntary Announcements of Other Interests

See Agenda Item 2 for further details

## 3. **Public Participation**

3 - 4

### **Summary of Public Participation for Planning Committee Meetings after 6 May 2021**

In line with legal requirements, and subject to Coronavirus risk assessments and procedures:-

- A small number of members of the Press and public can register to attend and **observe** the meeting in person;
- In addition, seats in the meeting room are provided for those who register to **speak** on each item<sup>1</sup>, by following the procedure below:
  1. **Written notice of a wish to speak at the meeting** (by means of the procedure below) **must be given, either to [membersservices@ashford.gov.uk](mailto:membersservices@ashford.gov.uk) or on the Council's website at <https://secure.ashford.gov.uk/committeesystem/haveyoursay.aspx>, by 15:00 hours on the second working day before the meeting.**

Hence, for example, for meetings of the Planning Committee on Wednesdays:-

- (i) If there is no Bank Holiday on the Monday preceding the meeting, written notice must be given by 15:00 hours on the Monday.
  - (ii) If there is a Bank Holiday on the Monday preceding the meeting, written notice must be given by 15:00 hours on the preceding Friday.
  - (iii) If the meeting immediately follows the Easter Weekend, written notice must be given by 15:00 hours on Maundy Thursday.
2. **Registering to speak at the meeting confers the right to submit (and, if desired, make in person) a speech** as follows:-
    - (i) on a first-come, first-served basis, **one speech in support of**, and **one speech against**, an item for decision, or
    - (ii) as a duly-authorized representative of the Parish Council<sup>2</sup> or Community Forum affected by an item for decision.
  3. **All those registered to speak must submit to**

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<sup>1</sup> Speakers may be asked to wait elsewhere until the item on which they are to speak is called.

<sup>2</sup> The term "Parish Council" includes Town Councils and Community Councils.

[membersservices@ashford.gov.uk](mailto:membersservices@ashford.gov.uk), by **10:00 hours on the day of the meeting**, a copy of their speech in written, legible English.

Speeches must be no longer than 400 words, printed in 12-point non-italic sans-serif font (e.g. Arial); any text above 400 words will not be read out. No speech should contain personal data about individuals, other than the speaker's name and (if relevant) postal address.

Any registered speakers who do not submit their speeches as above are not permitted to speak at the meeting (even if present in person).

4. **At the meeting:-**

- (i) Speakers who are **present in person** may read their previously-submitted speeches when called to do so, but may not read any other material;
- (ii) If speakers are **not present in person**, their previously-submitted speeches will be read to the meeting by a competent Officer for and on behalf of the speakers, at the normal times and in the normal order (subject to the Chairman's normal discretion).

**IMPORTANT:**

An Officer reading any speech on behalf of any speaker shall have discretion to omit/edit out any inappropriate language, information or statements.

If any defamation, insult, personal or confidential information, etc. is contained in any speech received from any speaker, and/or is read to the meeting by an Officer, each speaker accepts by submitting the speech to be fully responsible for all consequences thereof and to indemnify the Officer and the Council accordingly.

4. **Officers' Deferral/Withdrawal of Reports**

5. **Minutes**

To approve the Minutes of the Meeting of this Committee held on 10th November 2021:

[\(Public Pack\)Minutes Document for Planning Committee, 10/11/2021 19:00 \(moderngov.co.uk\)](#)

6. **Schedule of Applications**

**Note to Members of the Committee: The cut-off time for the meeting will normally be at the conclusion of the item being considered at 10.30pm.** However this is subject to an appropriate motion being passed following the conclusion of that item, as follows: "To conclude the meeting and defer outstanding items of business to the start of the next scheduled Meeting of the Committee".

- |     |   |           |
|-----|---|-----------|
| (a) | <b>20/00711/AS - Swanton House, Elwick Road, Ashford, Kent, TN23 1NN</b>  | 5 - 124   |
|     | Demolition of existing building and erection of two buildings comprising 34 apartments with associated access, parking and landscaping. |           |
| (b) | <b>21/00306/AS - Former Goods Yard, Bramble Lane, Wye, Kent</b>   | 125 - 146 |
|     | Erection of 9 houses  |           |
| (c) | <b>21/00973/AS - Greenluck Farm, Harris Lane, High Halden TN26 3HN</b>  | 147 - 158 |
|     | Creation of an access track   |           |
| (d) | <b>21/01173/AS - Land north of Stumble Holme, Kingsford Street, Mersham, Kent</b>   | 159 - 176 |
|     | Erection of 5 no residential dwellings with associated access, parking, landscaping and amenity space.                                  |           |

**Note for each Application:**

- (a) Private representations (number of consultation letters sent/number of representations received)
- (b) The Parish/Town/Community Council's views
- (c) The Views of Statutory Consultees and Amenity Societies (abbreviation for consultee/society stated)

Supports 'S', objects 'R', no objections/no comments 'X', still awaited '+', not applicable/none received '-'

**Note on Votes at Planning Committee Meetings:**

At the end of the debate on an item, the Chairman will call for a vote. If more than one motion has been proposed and seconded, the motion that was seconded first will be voted on first. When a motion is carried, the Committee has made its determination in relation to that item of business and will move on to the next item on the agenda. If there are any other motions on the item which have not been voted on, those other motions fall away and will not be voted on.

If a motion to approve an application is lost, the application is not refused as a result. The only way for an application to be refused is for a motion for refusal to be carried in a vote. Equally, if a motion to refuse is lost, the application is not permitted. A motion for approval must be carried in order to permit an application.

DS

30 November 2021

Queries concerning this agenda? Please contact [membersservices@ashford.gov.uk](mailto:membersservices@ashford.gov.uk)  
Agendas, Reports and Minutes are available on: [www.ashford.gov.uk/committees](http://www.ashford.gov.uk/committees)

## Declarations of Interest (see also “Advice to Members” below)

- (a) **Disclosable Pecuniary Interests (DPI)** under the Localism Act 2011, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares a DPI in relation to any item will need to leave the meeting for that item (unless a Dispensation has been granted in advance, to speak and/or vote).

- (b) **Other Significant Interests (OSI)** under the Kent Code of Conduct relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares an OSI in relation to any item will need to leave the meeting before the debate and vote on that item (unless a Dispensation has been granted in advance, to participate in discussion and/or vote). However, prior to leaving, the Member may address the Committee in the same way that a member of the public may do so.

- (c) **Voluntary Announcements of Other Interests** not required to be disclosed under (a) and (b), i.e. announcements made for transparency or good governance reasons, such as:

- Membership of amenity societies, Town/Community/Parish Councils, residents’ groups or other outside bodies that have expressed views or made representations, but the Member was not involved in compiling or making those views/representations, or
- Where a Member knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position.

Note: Where an item would be likely to affect the financial position of a Member, relative, close associate, employer, etc.; OR where an item is an application made by a Member, relative, close associate, employer, etc., there is likely to be an OSI or in some cases a DPI. ALSO, holding a committee position/office within an amenity society or other outside body, OR having any involvement in compiling/making views/representations by such a body, may give rise to a perception of bias (similar to that arising when a Member has made his/her views known in advance of the meeting), and require the Member to take no part in any motion or vote.

### **Advice to Members on Declarations of Interest:**

- (a) Government Guidance on DPI is available in DCLG’s Guide for Councillors, at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5962/2193362.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5962/2193362.pdf)
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, and a copy can be found in the Constitution alongside the Council’s Good Practice Protocol for Councillors dealing with Planning Matters. See <https://www.ashford.gov.uk/media/2098/z-word5-democratic-services-constitution-2019-constitution-of-abc-may-2019-part-5.pdf>
- (c) Where a Member declares a committee position or office within, or membership of, an outside body that has expressed views or made representations, this will be taken as a statement that the Member was not involved in compiling or making them and has retained an open mind on the item(s) in question. If this is not the case, the situation must be explained.

**If in doubt about any matters that they may need to declare, Members should seek advice from the Corporate Director (Law and Governance) and Monitoring Officer, the Deputy**

**Monitoring Officer, or other Solicitors in Legal and Democracy as early as possible, and in advance of the Meeting.**

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# Agenda Item 6a

Ashford Borough Council - Report of the Head of Planning and Development  
Planning Committee 8<sup>th</sup> December 2021

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<b>Application Number</b>	<b>20/00711/AS</b>
<b>Location</b>	<b>Swanton House, Elwick Road, Ashford, Kent, TN23 1NN</b>
<b>Parish Council</b>	<b>Central Ashford</b>
<b>Ward</b>	<b>Victoria</b>
<b>Application Description</b>	<b>Demolition of existing building and erection of two buildings comprising 34 apartments with associated access, parking and landscaping.</b>
<b>Applicant</b>	<b>A Better Choice for Property Development Ltd c/o agent</b>
<b>Agent</b>	<b>Mrs Emma Hawkes, DHA Planning, Eclipse House, Sittingbourne Road, Maidstone, ME14 3EN</b>
<b>Site Area</b>	<b>0.26ha</b>

(a) / 15 R                      (b) CACF R                      (c) Ashford Access X, Env Prot. X, Street scene X, Culture X, UKPN X, NR X, Kent Fire X, Ashford College X, HE X, KCC Ecol X, KCC Dev Contribs X, KCC Flooding X, KCC Heritage X, KH&T X, K.Pol X, NHS X, Baby Memorial Charity X, Boyer Planning R,

(a) Amends 1  
/ 1 X                      (b) CACF R                      (c) ABC EP X, ABC Cultural X, Ashford College X, KCC Flooding X, KCC Ecol X, Kent Fire X, HS1 X,

## Introduction

1. This application was first reported to the 14<sup>th</sup> July 2021 Planning Committee because although it involves major development of a scale that would now fall within the scope of Officer delegation, in my opinion, it was 'sensitive' due to the applicant being the Council's property development company, 'A Better Choice for Property Development Limited'.
2. A number of matters (typos/ deletions / insertions / clarifications) were the subject of the Update Report circulated in advance of the 14<sup>th</sup> July Committee with additional officer oral updates provided at the introduction of the item. **Attached as Annex 1 is the previous 14<sup>th</sup> July Committee report which, for the purposes of clarity, I have further updated to deal with these matters. I have used underlined text in the Assessment section in order to help bring out the more substantive changes from the previous iteration.**
3. The decision reached by the Committee at the 14<sup>th</sup> July meeting was;-  
  
**'To defer for the applicant to amend the application to achieve a design that would be more in keeping with, and would enhance, the character of the area, with the amended application to be presented back to the Committee no sooner than 3 months from the date of deferral.'**
4. The applicant submitted amended plans and supporting documentation in the latter half of October and this has been the subject of a full reconsultation.
5. As I detail further below, the fundamentals of development quantum, access, site layout and spatial distribution of built form remain unchanged from the previous scheme. The approach that I have taken in this report is to cross reference to the previous report where it is appropriate to do so and concentrate on the assessment of the design changes that have been made.
6. Members should be aware that on the 24/11/2021 I received an e-mail from the applicant's agent that also addressed to the Planning Inspectorate which stated;-

*'Please take this email as the 10 working day notification of the intent of A Better Choice for Property Development Ltd to appeal the above application.'*

*This appeal will be made by A Better Choice for Property Development Ltd against the non-determination of the above application by Ashford Borough Council if the application is not determined at the Planning Committee*

*Meeting scheduled for the 8th December 2021.'*

## Site and Surroundings

7. No change: please refer to paragraphs 2 to 8 of the updated July 14<sup>th</sup> 2021 report that is attached as **Annex 1**.

## Proposal

8. The amended proposal remains for the demolition of Swanton House and the creation of 34 apartments taking the form of two new blocks.
9. **Figure 1** below shows the frontage of Swanton House to Elwick Road. Figure 2 shows the rear of the building with part of the existing hard surface car park in the foreground.



**Figure 1:** Frontage of Swanton House to Elwick Road



**Figure 2:** Rear of Swanton House

10. To recap, the CGIs below show the proposed design as reported to the 14<sup>th</sup> July Committee: the southernmost block of the two new blocks fronting Elwick Road is shown as **Figure 3** with the north facing elevation of the northernmost block towards the Memorial Gardens shown as **Figure 4**.



**Figure 3:** Block facing Elwick Road



**Figure 4:** Block facing towards Memorial Gardens

11. The amended design is shown in the CGIs forming Figures 5 and 6 below that are taken from similar viewpoints.



**Figure 5:** view of apartment block facing Elwick Road



**Figure 6:** view of apartment block facing Memorial Gardens

12. Figures 5 and 6 are reproduced in larger format as **Annexes 2 & 3** to this report.
13. In support of the amended scheme the applicant makes the following points via planning agent covering letter and an Addendum to the Design and Access Statement;-
  - (i) **principle:** the majority of Committee Members supported the principle of redevelopment of this derelict site at the 14<sup>th</sup> July meeting.

(ii) **design steer:** the references made during the debate at that meeting suggest that in terms of pursuing an amended design (that should, as the Committee decided, be more ‘in keeping with’ the character of the area), a design approach more stylistically ‘representative of / reverential to’ the form and character of buildings of the end Victorian/early Edwardian period in the immediate locality would be the most appropriate design response rather than a more modernist architectural style.

(iii) **design evolution - ‘contemporary twist’:** the original design approach was contemporary in both form and shape. Following the deferral and subsequent assessment of the Committee’s deliberations, initial design proposal sketches were produced and were issued for comment. The two sketches that were issued are shown in **Figure 7** below.



**Figure 7:** sketches

The applicant’s D& A addendum identifies that at this stage of design evolution the intention was to incorporate prominent gable ends into the proposed scheme and ensure that the internal structuring grid organising the layout of the building did not then become a visually prominent feature of the elevations.

The subsequently amended design approach is shown as Figures 5 & 6 above and Annexes 2 & 3 to this report.

The applicant considers this to encapsulate the comments made at officer level and Members as well as *'blending the positive features of the previous scheme to create a positive architectural design that both reflect the ever changing street scape of Elwick Road and the surrounding context as well as appreciating the local conservation architecture that the previous Swanton House proudly emphasised'*.

Viewed as a whole, the proposal is considered a 'contemporary twist' on the pitched roof vernacular and would relate the development better to both buildings in the Conservation Area and the modernist architecture within the vicinity. The applicant considers a great deal of care has been taken on the detailing of the buildings using traditional materials appropriate to the conservation area location.

(iv) **gabled roofs**: the amended proposal is indicated as being a clear reflection of the prominent roof form of the existing buildings with a strong pair of gabled roof features facing Elwick Road (reference Figure 1 above). A symmetrical pair would be provided on the northern and southern elevations to each apartment block. They would be metal clad and this cladding would wrap around the gables into the side elevations as **Figure 8** below illustrates. The metal cladding to the gable features would continue to the ground level as an elevational feature: the cladding would also be provided on the side elevation as a verge (as Figure 8 below shows).



**Figure 8:** metal clad gable and wrap to side elevations and metal verge detail

The applicant considers that this approach would represent a modern take on the traditional gable form found in the existing building and that the metal cladding would create a striking contrast with the proposed light buff facing brickwork. It is suggested that this would allow the gable features to assert a similar dominance to the Elwick Road street scene with strong similarities to the existing building.

(v) **roofs:** Traditional 'slate tiles' would be used for the gabled pair of pitched roofs for each apartment block. The top storey of each apartment block would contain a flat roofed element between the gabled roofs. On the elevations facing into the site interior parking court, this element would be facing brick and on the elevations facing towards both the Elwick Road and the Memorial Gardens this would alter and be metal clad with the flat roofed area recessed from the elevation in order to give an open balcony/terrace. **Figure 8** below shows this metal clad detailing on the Elwick Road frontage and **Figure 9** below shows the brick detailing for this apartment block facing into the parking court.



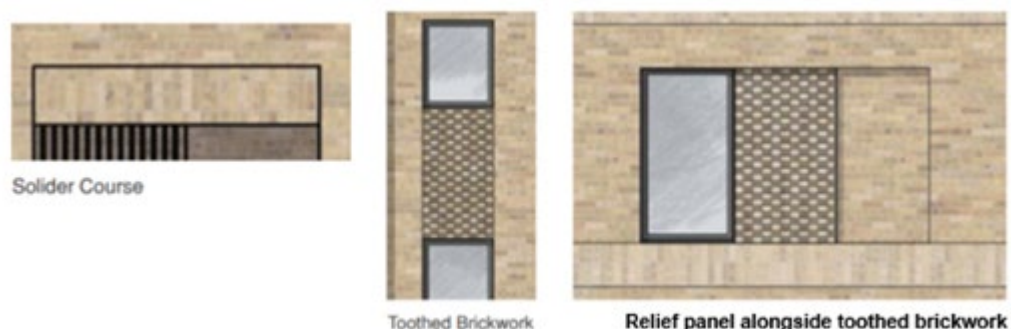
**Figure 8:** southernmost block - recessed balcony terrace and metal clad elevation to flat roof between the gable features



**Figure 9:** southernmost block – facing brick detailing between the gable features



(vi) **elevations:** these would be finished in a mixture of facing brickwork and feature brickwork (recessed / vertical and projecting 'toothed' panels as per **Figure 10** below) that is considered by the applicant paramount to include given the 'arts & crafts' cornicing brickwork that wraps around the existing Swanton House building and the eclectic Victorian architecture that runs through the streetscape of Elwick Road.



**Figure 10:** varied types of feature brickwork

(vii) **stone panels and varied brick palette:** the applicant considers that the use of grey buff brick would add to an eclectic materials palette with arrangement within the recessed balconies to emphasise the depth of field within the elevations. Stone panels would be carried forward from the previous design to clad the balcony footings: these are considered to add a both



**Figure 11:** alternate brick colours to recessed areas and stone panels

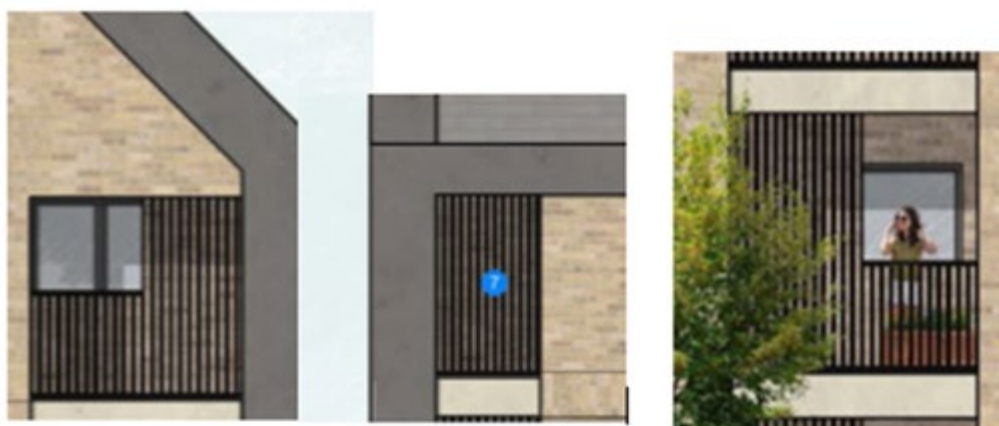
(viii) **varied balcony forms and sizes** a variety of balcony forms are incorporated into the design including the aforementioned recessed open balcony terraces at roof level and enclosed balconies of varying sizes. **Figure 12** below illustrates these - I have used different colours (red/yellow/green/blue) to bring these differences out.

This approach is considered by the applicant to add visual richness to the proposed new buildings. Furthermore and in relation to comments made at the Committee concerning balconies, comment is made that they are a necessary private amenity space that is sought by the Council pursuant to Policy HOU15 of the ALP 2030.



**Figure 12:** varied balconies – size and form

(ix) **balcony detailing:** in the light of the debate at the 14<sup>th</sup> July Committee in terms of that which can be placed on balconies and its visual consequence, the amended design incorporates full height privacy screens in the form of vertical balcony balustrades on the balconies at the ends of both apartment buildings as well as to the central section of the larger block facing Elwick Road. **Figure 13** below shows the varying details including balconies wrapping around corners and Figure 11 above shows the central section below the roof terrace / balcony. The applicant wishes to emphasise that what will be allowed on balconies will be very strongly safeguarded through a strictly enforced tenancy agreement.



**Figure 13:** balcony details with use of full height privacy screens

(x) **Active EV chargers for parked cars:** consideration has been given to improving the proposal in order to assist with both sustainability and climate change impacts within the context of a scheme that does not meet a necessary level of viability to allow it to mitigate impacts through the normally expected level of s.106 contributions. All 25 spaces within the central parking area between the two apartment blocks would be fitted with 7KW EV chargers.

14. For completeness, prior to the submission of the amended plans, the applicant's Commercial Development Manager responded on the following items below that I had raised;-

(i) solar glazing – response: 'will be used where it is required to prevent overheating'

(ii) communal lounge – response: 'would only be viable on a much larger scheme such as Victoria Point'

(iii) previous history – response: 'subject to Board Approval, we might consider naming the front block as Forsyth House and the rear block as Frederick House. We might also consider putting a plaque on the front block acknowledging the use of the previous buildings as a temporary military hospital in WW1'.

(iv) sustainability / carbon reduction – response: 'we are looking at this again to see if there is anything further we can do particularly around the heating and hot water systems'.

## Planning History

15. No change: please refer to paragraphs 53 to 56 of the updated 14<sup>th</sup> July Committee Report attached as **Annex 1**.

## Consultations

The application has been the subject of reconsultation on the design changes received. Only limited responses have been received at the time of finalising this report. Given the limited nature of the changes made to the proposal – i.e. the design of the buildings rather than any other changes to development quantum or different site layout – this is perhaps not unexpected. Any further representations received will be set out in the Update Report in the usual manner.

Should Members accept my Recommendation then there is the likelihood that some of the requests needing to be worked into the recommended deferred contributions s.106 approach may need to be amended in due course. For example, the comments from KCC make clear that requests are valid for only a limited time period

before needing to be updated. Such matters would fall within the scope of the delegation to officers forming part of the formal Recommendation.

The responses detailed below should be taken into account alongside the responses in the updated July 14<sup>th</sup> Planning Committee report that is attached as Annex 1.

**Ward Members:** No representation received from Cllr Charles Suddards or Cllr Dara Farrell.

**ABC Environmental Protection:** No objection subject to conditions

**ABC Cultural Services:** Identify no additional comments to make.

**Ashford College:** Raise the same points as per the previous submission in terms of no objection but seek assurances that access and egress will not be impeded during construction and the access road maintained to a safe standard free of hazards for pedestrians, staff, students and delivery vehicles to the College site.

(SS&DM note: These matters were previously dealt with in paragraphs 90 – 91 of the 14<sup>th</sup> July Committee report attached as Annex 1 where I identified the role of a Construction management Plan and liaison both with the College as well as the EKBM Gardens Charity)

**KCC Flooding:** No further comments.

**Kent Fire & Rescue:** No objection

**KCC Ecology:** No further comments: previous comments remain.

**HS1:** no comments.

**Central Ashford Community Forum:** make comments that I take to be an objection as follows;-

'We have read and discussed this addendum in Forum. We are disappointed to read that although "The new proposed design encapsulates the design comments from both the planning officer and committee members", the 20-odd objections from members of the public were not mentioned.

We note that there have been alterations, of which we approve, in brickwork detail, native planting, EV charging, archaeology, and heritage.

#### INFRASTRUCTURE

North Street was closed for a month because flat development overused an inadequate sewage system. Council must examine these plans to ensure this does not happen here. This has not been addressed in the addendum.

(SS&DM note: as per the previous report, no objection has been raised)

No detail is given about the power supply to the EV chargers. Will the specified power supply be able to manage all vehicles charging at once? This has not been addressed in the addendum. As this is being written, COP26 is taking place. Is the power supply specification sufficiently future-proofed (gas/electricity/heat pump) and in accordance with ABC's Carbon Neutrality policies?

(SS&DM note: Active EV chargers: the applicant's proposal to the local planning authority is for installation of 25 active chargers to parking within the court between the two apartment blocks. If Members wish to permit the application then this can be subject to a planning condition requiring provision of this quantum of active chargers prior to first occupation. The matter of power supply upgrades and associated costs involved will be a matter for the developer to ensure can be delivered in order to avoid a breach of such a worded planning condition. The fact that this offer has been made by the applicant as part of the formal proposal is one that I consider indicates that the applicant is confident that (i) it can be funded and (ii) it can be delivered).

The application, as amended, does not give any information in respect of heat pumps or the use of gas boilers for heating /hot water.

(SS& DM note: Heating & HW - As per my comments further above, prior to the submission of the amended plans the Commercial Development Manager indicated that such matters were being looked into. There is, however, no commentary on this area in the deposited plans or the planning agent's covering letter. My assumption is therefore that the proposal remains as I set out in paragraph 133 of the 14<sup>th</sup> July Committee Report i.e. an 'energy efficient building approach' including, amongst other approaches, use of highly efficient combi boilers. I have, however, asked for clarification from the applicant and at the time of drafting this report none has been received. I will provide an Update as necessary at the meeting.)

### CARBON NEUTRALITY

ABC has a Carbon Neutrality policy quoted below:

- Support the aim to achieve carbon neutrality within the council's own estate and operations by 2030.
- Reducing what you waste is a great way to reduce your carbon footprint. If it is to be demolished, some thought should be given to reclaiming, re-using or selling internal features and to sustainably re-use the material.

Please note your phrase "*within the Council's own estate*".

(SS & DM Note: There are 2 key points to make here: (1) there is no current NPPF or adopted Development Plan policy requirement for the buildings subject of the application to be designed to be carbon neutral and so it cannot be insisted upon &

(2) while the reference made by the CACF is to Ashford Borough Council the planning application is not actually made by the Council. The carbon pledge that is quoted relates to the Council's own estate and this site does not fall within that.)

### APPEARANCE

We see that the buildings have been altered. We are unconvinced:

- The metal cladding for the gables is an eccentric addition, as if the architects do not agree with the guidance from the Officers and Members.
- The Western part of the building looks like an oversight, an add-on to the main block.
- The choice of yellow bricks is strange, not at all within the palette of the Conservation Area. Why not red, like the buildings around it and the central pillar of the College? Why not cream or white render, to blend with buildings further along?
- We understand the reasons for balconies, but many in the town centre are only used for dumping unwanted items. Will there be a concierge system on site with authority to stop this?
- This amended project does not produce a building fit for the Conservation Area.

### TOWN CENTRE ACTION PLAN

Swanton Villa belongs to the Borough but conserving it has been dismissed. This contravenes Ashford Town Centre Area Action Plan 2010 Policy TC6. This is in the Conservation Area. Do you really see this building enhancing the Conservation Area?

(SS&DM Note: The ATCAAP is superseded and no longer part of the Development Plan).

### GENERAL

We repeat our earlier comments: This is a very worrying application. The council has policies which are directly contravened in this application, yet the applicant is Ashford Borough Council.'

**Residents:** 1 representation received that I take to be no objection. The main points raised are as follows:-

-The amended plans shows some of the issues raised have been considered.

-The application is not clear but the charging points are assumed to be 'smart' and would drop off the system if supply reaches overload.

(SS& DM Note: I have asked for clarification on this technical point from the applicant and will include any response in my Update Report.)

-No mention is made of solar or rain-water storage – the Council should be leading on such green issues.

-Heating assumed to be gas. Ground and air source heat pumps for apartments will be likely to raise a lot of issues and so apartments may be difficult in respect of assisting carbon neutrality.

-Is the ratio between flats and conventional housing known?

## Planning Policy

16. The Development Plan for Ashford Borough comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019), the Boughton Aluph & Eastwell Parishes Neighbourhood Plan (2021) and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020).
17. Not part of the Development Plan but noteworthy are (i) the Egerton Neighbourhood Plan that is currently at 'Regulation 16' (Examination) stage and (ii) the Tenterden Neighbourhood Plan that, although it has been out to consultation is at an earlier 'Regulation 14' stage in the process towards adoption.
18. The relevant policies from the Local Plan relating to this application are as follows:-

### Vision for Ashford Borough

SP1	Strategic objectives
SP2	The strategic approach to housing development
SP5	Ashford Town Centre
SP6	Promoting high quality design
HOU1	Affordable Housing
HOU12	Residential space standard internal.
HOU14	Accessibility standards

HOU15	Private External Open Space
HOU18	Providing a range and mix of dwelling types and sizes
EMP6	Fibre to the Premises
TRA3a	Parking standards for residential development.
TRA6	Provision for cycling.
TRA7	The road network and development.
TRA8	Travel plans, assessment and statements
ENV1	Biodiversity
ENV6	Flood Risk.
ENV7	Water efficiency
ENV8	Water quality, supply and treatment.
ENV9	Sustainable drainage
ENV11	Sustainable Design and Construction
ENV12	Air Quality
ENV13	Conservation and enhancement of heritage assets
ENV14	Conservation areas
ENV15	Archaeology
COM1	Meeting community needs
COM2	Recreation, Sport, Play and Open Spaces
COM 3 & 4	Allotments and Cemeteries
IMP1	Infrastructure provision
IMP2	Flexibility, viability and deferred contributions
IMP4	Governance of public community space and facilities



19. The following are also material considerations to the determination of this application:-

**Supplementary Planning Guidance/Documents**

Affordable Housing SPD 2009

Residential Parking and Design Guidance SPD 2010

Sustainable Drainage SPD 2010

Residential Space and Layout SPD 2011(now external space only)

Sustainable Design and Construction SPD 2012

Public Green Spaces and Water Environment SPD 2012

Fibre to the Premises SPD 2020

**Informal Design Guidance**

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

**Government Advice**

National Planning Policy Framework (NPPF) 2019

20. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF.
21. The following sections of the NPPF are relevant to this application:-
22. The following sections of the NPPF are relevant to this application:-
- Paragraph 11 - Presumption in favour of sustainable development.
- Paragraph 47 - Determination in accordance with the development plan.

Paragraph 59 - 76 - Delivering a sufficient supply of homes.

Paragraphs 91 - 95 - Promoting healthy and safe communities.

Paragraphs 102 - 107 - Promoting sustainable transport.

Paragraphs 117 - 121 - Making effective use of land.

Paragraphs 124 - 132 - Achieving well-designed places.

Paragraphs 148 - 165 - Meeting the challenge of climate change and flooding

Paragraphs 170 - 177 - Conserving and enhancing the natural environment.

Paragraphs 174 - 177 - Habitats and biodiversity.

Paragraphs 178 - 183 - Ground conditions and pollution.

Paragraphs 190-196 – Heritage assets

### National Planning Policy Guidance (NPPG)

Viability and decision taking

## **Assessment**

23. The key areas for consideration are as follows;-
- (a) The principle of a creating new homes at the site and the approach to affordable housing & housing mix
  - (b) The quality of the proposed design including relationships to other land
  - (c) Amenity and privacy impacts including Memorial Gardens
  - (d) Impact on the proposal on the conservation area
  - (e) Local highways impacts, potential for bus patronage and planning for pedestrians
  - (f) Levels of on-site parking (vehicles and cycles)

- (g) Contamination, flooding, surface water drainage, ecology, biodiversity, water consumption, relationship to air quality and responding to climate change
  - (h) Habitats Regulations
  - (i) Mitigation the needs arising from the development through s.106 obligations: the policy compliant requests
  - (j) The applicant’s viability case and the conclusion thereof,
  - (k) Whether the planning benefits of the application would outweigh accepting sub-optimal mitigation through s.106 obligations and the implications of the Council’s housing land supply on the required balance
- (a) The principle of a creating new homes at the site and the approach to affordable housing & housing mix

24. Please refer to paragraphs 63 to 69 the report attached as **Annex 1**.The housing mix remains the same as previously proposed i.e.:-

	<u>Number</u>	<u>%</u>
(i) 1-bed apartment	4	12%
(ii) 2-bed apartment	24	70%
(iii) 3-bed apartment	6	18%
	-----	----
Total	34	100%

25. The proposal does not deliver any affordable homes but, as apartment development in Ashford Town Centre, it is not required to deliver such pursuant to Policy HOU1. Subject to the development being considered acceptable against policies concerning design & place-making, conservation areas and liveability then the principle of the development would be acceptable assessed against ‘The Vision’ and Policy SP1 of the ALP 2030.

(b) The quality of the proposed design including relationships to other land

26. Paragraphs 70 – 77 of the updated 14<sup>th</sup> July Committee Report remain relevant as it contains my analysis of the previous design which is shown, for reference, in Figures 3 and 4 of this report.

27. The architectural style remains modernist albeit with a ‘contemporary twist’ through the overt referencing of pitched roofs found in the surrounding 19<sup>th</sup> and early 20<sup>th</sup> century architecture of nearby buildings as well as the gable end features on Swanton House. Consider that this approach

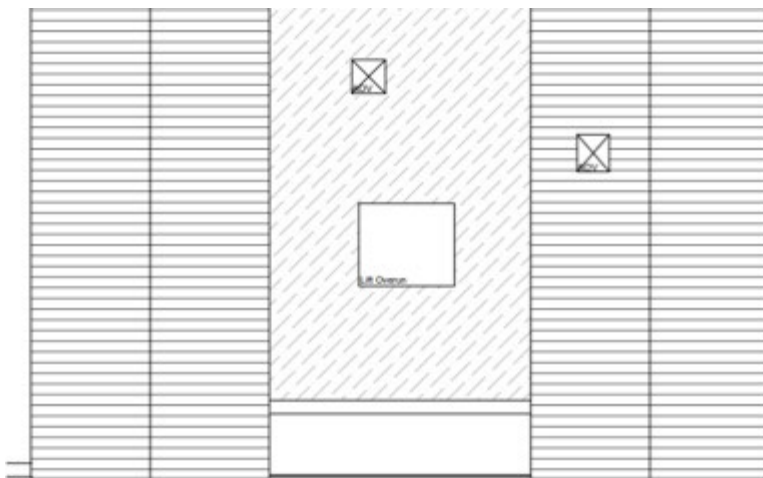
represents a reasonable response to the Committee's grounds of deferral for amended design that would be 'more in keeping with and which would enhance the character of the area'.

28. The key components of the amended design are set out in the proposal section of this report. The external aesthetic of the 2 apartment blocks is less overtly 'grid like' than the previous scheme notwithstanding the fact that an apartment block design typically involves the stacking of homes in a regularised plan form and so lends itself to the regular placement of fenestration, balconies and other elements.
29. I have no objection to the use of a symmetrical pair of pitched roofs to both blocks as a strong reference 'nod' to the dominance of the existing pair of gables in Swanton House. I have no objection to the central flat roofed portion between the pair of gables as its visual subservience allows the gable ended features to dominate at roof level. The proposed elevations show metal cladding on one side of the flat roofed area for each Block only. My design preference would have been for the same approach to be followed on the elevations facing into the site interior although the lack of a roof terrace on the elevations concerned does not provide for a terrace and a recess in the elevations assisting a practical and visual junction between different materials.
30. The Addendum to the Design and Access Statement does not indicate the precise detail of the metal cladding. However, the elevation and the image of this material in the Statement infer a standing seam 'rolled joint' typical of zinc roofing as per **Figure 14** below. I consider this would be visually appropriate.



**Figure 14:** rolled joint metal cladding

31. The roof plans to both buildings identify the presence of a lift overrun (**Figure 15** of Block 1 below) but the visual impact of this is not actually picked up in the submitted elevations.



**Figure 15:** lift overrun

32. Given the design attention given to the gabled roof roofs in the amended proposal, any lift overrun must be able to be satisfactorily visually accommodated. It might be that the central flat roofed section of roof needs raising by a modest amount, possibly perhaps as part of a metal clad roof mansard roof approach that gives the necessary additional volume within which to contain an overrun. I have asked the applicant to clarify the position and the extent of projection of the overrun and how this would be treated visually. I will update Members at the meeting.
33. As before, the proposal seeks to provide articulation, visual interest and richness interest to the façade through detailing as well as ‘good manners’ by a reduction in scale stepping down in scale to Sunnyside located on the western side of the site.
34. The amended plans propose a change to a light buff facing brick. I agree with the applicant’s Design and Access Statement position that with the darker metal wrapped gable features this lighter colour tone would work as a strong contrast. In the previous scheme the change from grey brick to red brick in the ‘stepped down’ element to Sunnyside worked visually, in my opinion, alongside the reduction in scale as a way of creating that street scene transition. With the introduction of the strong gable end motifs to elevations there is an arguable case - which I am willing to accept - that a change in brick colour would be unnecessary and would work against the coherence of this altered scheme.
35. Figures 8 to 13 in the Proposal section of this report illustrate the key elements to the amended design. I consider that the continued architectural approach to decoration in the form of brick detailing and feature brickwork together with a secondary darker grey colour to balcony recesses would combine to create buildings with the visual richness that would be appropriate

given the detailing of Swanton House and its visual contribution to the conservation area and street scene.

36. The change in vertical scale to Block 1 in the area closest to Sunnyside remains an acceptable approach in my opinion helping to create an acceptable relationship with that adjacent commercial building in terms of sunlight and daylight and avoiding a discordant and jarring change in height between buildings from different eras. Block 2, closest to the Memorial Gardens, remains pulled eastwards which I consider would help create a similarly reasonable relationship with nearby Stoke House.
37. I set out my consideration of amenity and privacy impacts further below but my conclusion on the amended design is that in terms of modern architectural design the proposals do pay due regard to relationships with their surroundings and do acknowledge the elements of visual richness found in different architectural eras through detailing, decoration and colour palette.
38. The use of full height glazing to rooms has strong potential to create attractive bright living spaces within the building. The predominant use of apartments with a dual aspect is supported in creating cross ventilation for the larger 2-bedroom apartments. The design elements cited in broad response to moves towards sustainability are welcomed given that there is no Development Plan or NPPF material consideration dictating a zero carbon approach.
39. Homes have adopted Policy HOU15 compliant balcony / terraces that would provide a private amenity resource for residents with larger green public open spaces within a reasonable walk. The privacy screen adjustments to the design for a number of balconies will assist balance the passage of sunlight and daylight into homes whilst managing sense of privacy in use and an additional level of screening viewed from external areas and the public realm. This is one instance – the top floor Block 1 facing Elwick Road - where a further design adjustment needs active consideration in order to prevent a potential inter-looking problem between a balcony amenity space and the neighbour's bedroom as per Figure 16 below. I have raised this with the applicant and propose in my Recommendation (A) that design resolution – potentially a privacy screen - is delegated back to officers.



**Figure 16:** potential inter-looking issue

40. As before, I acknowledge and agree with the Design Panel's comment about the consequential impacts of maximising on-site parking in response to Policy TRA3(a): it does create a development without a significant green landscaping perimeter on all sides and within the site interior. While the soft landscaping beds and proposed replacement feature trees are welcomed, overall, I consider it fair to conclude that the redevelopment leads to a site with relatively hard qualities. That mentioned, the context is urban/central and I acknowledge that the existing rear of the site is one of a large tarmac car park where the current sense of greenery is one that also stems from historic vacancy of the site.
41. In conclusion, although I appreciate that the architectural style of the amended scheme will not meet with some tastes, the approach is one that I consider is acceptable and would comply with the design approach set out in Policy SP1, SP2 and SP6 of the ALP 2030.
42. The applicant's suggestion of a naming and acknowledgement strategy referencing the history of the site is welcomed. This can form a planning condition. Whether the external strategy should go beyond an information plaque can be explored as part of this process: there could, for example, be scope for celebration via public art that is visible to the public realm, particularly on the Elwick Road frontage. The submitted plans identify that the buildings have entrance lobbies containing post-delivery boxes for occupiers and there could be scope for walls within these areas to be actively used to bring the identified site history to life.
43. I deal with the acceptability of the approach in terms of conservation area impact further below. In terms of the objection from Boyer Planning, the stated emerging pre-application scheme has not been progressed: I do not give any weight to the stated development aspirations but assess impacts of the proposal on that and adjacent plots below.

(c) Amenity and privacy impacts including Memorial Gardens

44. The applicant has supplied an updated daylight and sun lighting assessment that takes into account the built form changes. The overall conclusion set out at paragraph 1.5.1 remains that the numerical values of Building Research Establishment guidance are generally met with any shortfalls few in number and minor in nature including the context of more intense urban development situations. My position on this matter in terms of impacts on occupiers and adjacent buildings therefore remains the same as in the previous report i.e. the proposals are acceptable.
45. The use of full height privacy screens to the homes facing towards Memorial Gardens would, in my opinion, help improve the sense of privacy in the EKBM area of the Memorial Gardens and so is supported.
46. There are no other changes to the analysis set out in paragraphs 78 to 92 of the updated July 14<sup>th</sup> Committee Report attached as **Annex 1**. Please refer to that report.

Impact on the proposal on the conservation area

47. I have addressed the design quality of the amended building further above in this report.
48. Please refer to paragraphs 93 to 109 of the updated July 14<sup>th</sup> Committee Report attached as **Annex 1**. My conclusions reached in that section of the previous report remain, in summary being;-

(a) Swanton House has a neutral contribution to the significance of the Conservation Area as a heritage asset and the harm that would arise from its demolition would be 'less than substantial' in nature.

(b) Great weight needs to be given to a heritage asset's conservation (para 193 of the NPPF) and clear and convincing justification is needed for proposals that would give rise to harm.

(c) Paragraphs 196-201 of the NPPF require the balancing of planning benefits vs. planning harm.

(d) Although it would have been helpful for additional options to have been presented - beyond the single one of conversion of the existing building into 12 apartments set out in the applicant's Viability Assessment – the planning benefits that would arise would outweigh the planning harm that would arise to the Conservation Area. New residential development in the town centre has the beneficial side effect of assisting in creating an enhanced town centre resident population that can help support existing shops and services in the



town centre and create the circumstances supporting additional commerce adding to the vitality of the town centre which includes the Conservation Area. The alternative is a boarded-up building and increasingly derelict site. An additional weighting factor to be taken in account is that in respect of the Council's housing land supply as is required by paragraph 11(d) of the NPPF which is triggered. At the time of the previous July 14<sup>th</sup> Committee Report that was identified as equivalent to 4.8 years: however, the very recently updated figure reduces this to 4.54 years and I factor this into my conclusion in respect of the updated scheme.

(e) My conclusion remains that the proposal would comply with Policy ENV14 of the ALP 2030.

(e ) Local highways impacts, potential for bus patronage and planning for pedestrians

49. No change from the analysis in the previous report. Please refer to paragraphs 110 to 113 of the updated July 14<sup>th</sup> Committee Report attached as **Annex 1**.

(f) Levels of on-site parking (vehicles and cycles)

50. No change from the analysis in the previous report. Please refer to paragraphs 114 to 135 of the updated July 14<sup>th</sup> Committee Report attached as **Annex 1**.

(g) Contamination, flooding, surface water drainage, ecology, biodiversity, water consumption, relationship to air quality and responding to climate change

51. Please refer to paragraphs 122 to 121 of the updated July 14<sup>th</sup> Committee Report attached as **Annex 1**.
52. As identified in the previous report, the site does not fall within an Air Quality Control zone. Policy ENV12 seems to ensure that due regard is paid to ways that existing air quality can be maintained and improved upon. The Council's Environmental Protection service identify that to promote a move towards sustainable transport options and to take account of cumulative impacts of development on air quality electric vehicle charging facilities should be provided.
53. The applicant's previous proposal provided for x 2 5.8%. parking spaces (representing 5.8% provision) to be ('actively') equipped with chargers from the outset and identified that the car parking areas would be ('passively') future-proofed to enable further provision to be provided in time. I indicated my view that this was insufficient.

54. The applicants amended proposal provides for the 25 spaces within the parking court to all be provided with an active charger to facilitate the take-up of electric vehicles by occupiers. As per my comments in respect of the points made by the CACF on EV facilities, delivery can be covered by planning condition and I consider that the amended scheme would accord with the requirements of Policy ENV12 of the ALP 2030.
55. In terms of climate change, the Addendum to the Design and Access Statement does not alter the proposal from that previously considered which I set out in the previous report being:-
- (i) a 'Reduce Water Consumption' approach (*dual flush toilets, low water use spray or aerated taps, water saving white goods*),
- (ii) an 'Embodied Energy' conscious approach (*use of materials with low embodied energy & from sustainable sources including recycled materials, use of non-oil based products, ability to re-use and recycle materials at the end of the building life*), and
- (iii) an 'Energy efficient building' approach (*maximising natural light, use of low energy mechanical and electrical equipment such as low energy LED lighting, installation of Class A or equivalent white goods, external lighting fittings controlled by daylight sensors & passive infra-red movement detectors to limit light pollution and minimise energy use, high thermal performance insulation substantially above the current Building Regulations, full natural ventilation, highly efficient combi boilers*)
56. The proposed building does not incorporate any low or zero carbon technologies. The Council's adopted development plan position is to rely on the Building Regulations to reduce emissions. There is no development plan policy or other material consideration of considerable weight (such as, for example, a change to the NPPF) to object to the proposal in terms of designing for climate change and achievement of Net Zero by 2050.
57. Finally, the amended application makes no reference to providing or working with other development sites to help explore the possibilities of a car club which has the capacity to help reduce parking demand by creating an alternative for those with only occasional car needs. My position remains as before: this can be required by planning condition and opportunities to tie in with other town centre sites, including Phase 2 of Elwick Road, ought to be explored.

(h) Habitats Regulations

58. Please refer to paragraphs 136 to 141 of the updated July 14<sup>th</sup> Committee Report attached as **Annex 1**. Page 30

59. As I indicated previously, on the basis that this proposal is considered to be otherwise acceptable in planning terms (subject to planning conditions and the approach to be taken to s.106 obligations including the issue of deferred contributions), any resolution to grant planning permission would need to be subject to the adoption by the Head of Planning and Development, having consulted NE, of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development will not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary additional obligation(s) and/or planning conditions that are necessary in order to reach that assessment. This approach is included as part of the Recommendation further below in this report.

(i) Mitigation the needs arising from the development through s.106 obligations: the policy compliant requests

60. Policy IMP1 of the ALP 2030 requires that development shall make provision to meet the additional requirements for infrastructure to mitigate the needs arising from the proposal with provision secured through a s.106 agreement. The policy does identify that the Council will take a flexible approach where it is justified to do so for reasons of development viability.
61. The position remains unchanged from the previous report: please refer to paragraphs 142 to 150 of the updated July 14<sup>th</sup> Committee Report attached as **Annex 1**.
62. As per my comments in the Consultation Section further above, should Members grant permission subject to a s.106 approach dealing with deferred contributions then some of the figures may need to be revisited to ensure these are up to date given the time that has elapsed since the requests were first made. Notwithstanding the above, for the purposes of this report the policy compliant s.106 starting point remains as £265,506.11.

(i) The applicant's viability case and the conclusion thereof

63. The applicant submitted a viability assessment at the end of April 2021. The assessment was in accordance with the provisions of Policies IMP1 and IMP2 of the ALP 2030 and was consistent with the NPPF (2019) and the standardised approach to viability as set out within Planning Practice Guidance.
64. The applicant's Viability Assessment considered the viability of the following development scenarios;-

(a) 'Scenario 1' – an alternative scheme involving the retention of Swanton House and its conversion into 12 apartments

- (b) 'Scenario 2' – the demolition and site redevelopment scheme applied for
65. The assessment has been independently reviewed by Bespoke, the Council's retained viability consultant. The Benchmark Land Value (BLV) for the site that has been used is £290,000 based on its alternative use value which is lower than the applicant's Viability Assessment assumption by £360,000 as the adoption of a premium is not agreed in accordance with the advice in paragraph 17 of the NPPG.
66. Bespoke's conclusion is as follows;-
- (a) 'Scenario 1' – even adopting the lowest profit of 15% of Gross Development Value advised by the NPPG, a residual land value of £197,614 would result. This value is below the £290,000 BLV (- £92,386) and therefore the scheme would not be viable and could not be expected to be taken forward. No s.106 contributions are available for this theoretical scheme and so have not been able to be factored in. Clearly, any such contributions would create an additional scheme cost and so reduce the residual land value further.
- (b) 'Scenario 2' - having assessed the viability of the scheme against £265,049 of s.106 contributions and a typical 20% profit, the appraisal shows a residual land value of £133,849 which is below the BLV of £290,000 (- £156,151). It is therefore a worse situation compared with that relating to Scenario 1 conversion scheme above (although the caveat identified above in respect of potential s.106 contributions not having been factored in to the Scenario 1 analysis applies).
- This means that the Scenario 2 scheme – being the applicant's actual proposition - could only be taken forward if the s.106 requests are forgone and potentially with a profitability level less than the 20% normally adopted being taken by the developer.
67. The fact that either of the scenarios would not be able to sustain policy compliant s.106 mitigation requests is, in itself, not a unique position. A number of town centre schemes have raised similar issues and the Council's approach is covered by Policy IMP2 of the ALP2030.
68. I am mindful that the 'Scenario 1' conversion scheme for Swanton House (a) is for modelling purposes only and does not represent the applicant's planning application development proposal to the Council in its role as the Local Planning Authority and (b) does not take into account potential s.106 contributions that might arise from such a scheme. I also take into account that the alternative, at face value given the absence of any other tested

alternatives put forward, would be for the site to remain in its present derelict form.

69. I deal further below the issue of other factors to be weighed in the decision making process in respect of the supply of new homes. It will be for the applicant to decide whether the reduced developer return is an acceptable one to allow taking the development of this site forward to implementation. Given my assessment of the amended scheme design quality and the impact of the amended scheme on the character of the conservation area it is important to stress that my conclusion is based on the development proposal as it is presented.
70. The applicant has confirmed willingness to enter into an agreement under s.106 of the Act in respect of deferred contributions i.e. if a significant uplift above the predicted values is actually realised then monies can be 'clawed back' to help partially mitigate scheme impacts. This approach can be adopted save in my view for the annual monitoring fee which I consider should form a 'pay regardless' sum in accordance with Policy IMP2: this would constitute a small cost to the applicant given the stated 18 month build for the development in the submitted Viability Assessment. This is reflected in the Table 1 Heads of Terms that I set out further below.
71. Finally, the viability assessment takes no account of any potential additional costs to the scheme deriving from the off-site mitigation and scheme contribution towards such mitigation that is likely to be necessary to address the Habitat Regulations which are set out further below. At this stage, it is not possible to estimate what scale of potential costs this might entail but, in my opinion, it does serve to underpin the wider conclusions on the viability of the scheme that is proposed as well as the alternative modelled in the applicant's Viability Assessment.

(k) Whether the planning benefits of the application would outweigh accepting sub-optimal mitigation through s.106 obligations and the implications of the Council's housing land supply on the required balance

72. My view, with some reluctance that a prominent existing building fronting Elwick Road would be lost, is that the amended scheme design would provide overall planning benefits in accordance with the approach set out in Policy SP5 of the ALP 2030. It would remedy the adverse visual impacts of an unlisted building that is boarded up and in a derelict condition in the conservation area. Residential use in a highly sustainable urban location has attendant town centre benefits in terms of supporting and stimulating town centre shops, commerce and services. I consider that these benefits would outweigh the sub-optimal position in respect of the redevelopment scheme not being able to deliver policy compliant s.106 benefits.

73. The Council's 5 year housing land supply for the Borough is material to the consideration of this application. In November 2020, the Council published its updated position and this identified that the deliverable housing land supply was equivalent to 4.8 years. This has recently been updated and is now reduced to 4.54 years.
74. As a consequence, paragraph 11 (d) of the NPPF is triggered that requires the decision-maker to grant planning permission for new housing development unless:-
- 'i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*
75. In effect, paragraph 11(d) requires additional weight to be given to the issue of delivery of homes in the required balancing exercise. I have already attached appropriate weight to all of the considerations in respect of the impacts of the proposal on the character of the conservation area.
76. The review of the applicant's Viability Assessment concludes that an alternative development scenario – one referenced and favoured by many of the objectors to the application - providing for the retention and conversion of Swanton House has been found to be significantly unviable even when taking a lower than normal 15% approach to profit from the norm of 20%. Furthermore, when reaching that conclusion no s.106 contributions have been able to be taken into account and these would present a further scheme cost. My conclusion remains as before in that this type of scheme could not proceed as a development reality.
77. The Design Panel pre-application advice identified the lack of options for consideration as an issue that the applicant needed to explore. The applicant, at my request, assessed the viability of an alternative scheme that would retain the integrity of Swanton House and included that in the submitted Viability Assessment. As per my July 14<sup>th</sup> Committee Report, I do, however, accept that other options, potentially involving both retention and rearwards extension, have not been presented as part of the applicant's viability assessment. Clearly, such schemes would be likely to have implications on both the quantum of new homes achievable and overall scheme viability. A significant reduction in available on-site car parking (which would bring into question how far a significantly lower level of on-site parking would be acceptable as an exception to Policy TRA3(a)) would appear to be a likely consequence of a retention/conversion and extension scheme.

78. The amended design scheme that does not alter the number of and type of homes and overall scale and nature of the development, on the other hand, remains unviable when assessed with a normal 20% approach to profit. However, this is the scheme that the applicant wishes to be decided by the LPA and (subject to a relaxation of all s.106 mitigation contributions) is identified by the applicant as being able to be taken forward potentially with a reduced profit level. It would provide 34 new homes in a location that performs strongly measured against the development plan and the NPPF when read as a whole and as I have identified above it provides a future for the site with a number of attendant planning benefits..
79. In the circumstances, I conclude that the first exemption to paragraph 11(d) would not apply in this instance.
80. On the second exemption, I do not consider that impacts could be demonstrated that would reach the required bar so as to dictate a refusal of permission in the current circumstances where the Council now has a 4.54 year housing supply position and so my conclusion is that this exemption also would not apply.

### Planning Obligations

81. Regulation 122 of the Community Infrastructure Regulations 2010 says that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) **necessary** to make the development acceptable in planning terms,
  - (b) **directly related** to the development; and
  - (c) **fairly and reasonably related in scale and kind** to the development
82. I recommend the planning obligations in Table 1 be required should the Committee resolve to grant permission. I have assessed them against Regulation 122 and for the reasons given consider they are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Accordingly, they may be a reason to grant planning permission in this case.
83. Recommendation (A) further below deals with the necessity for the applicant to enter into a s.106 agreement and includes delegation to officers to deal with any necessary deletions, amendments and additions that might be required. Recommendation (B) further below provides for delegation to officers to deal with any additional s.106 obligations that might be necessary

to mitigate against impacts of development on the integrity of Stodmarsh  
SAC, SPA and Ramsar site.



## Heads of Terms for Section 106 Agreement/Undertaking

	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts (s)	Trigger Points (s)	
1.	<p><b><u>Informal/Natural Green Space</u></b></p> <p><u>Project:</u> investment at Memorial Gardens</p>	£18,816.87	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as informal/natural green space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies SP1, COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use informal/natural green space and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>

Planning Obligation		Regulation 122 Assessment	
Detail	Amounts (s)	Trigger Points (s)	
2. <b><u>Adult Social Care</u></b>  <u>Project:</u> towards extra care accommodation in Ashford	Total £4,993.92	<b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.	<p><b>Necessary</b> as enhanced facilities and assistive technology required to meet the demand that would be generated pursuant to Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use community facilities and assistive technology services and the facilities and services to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings.</p>
3. <b><u>Allotments</u></b>  <u>Project:</u> towards Torrington Road community allotment	Total £8,032.50	<b>From any Deferred Contributions received,</b> allocated as	<p><b>Necessary</b> as allotments are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies SP1, COM1, COM2, COM3, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p>

			determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.	<p><b>Directly related</b> as occupiers will use allotments and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
4.	<p><b><u>Children’s and Young People’s Play Space</u></b></p> <p><u>Project:</u> off-site provision of play facilities either in Ashford Town Centre or Victoria Park</p>	Total £32,526.67	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the</p>	<p><b>Necessary</b> as children’s and young people’s play space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD, and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use children’s and young people’s play space and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>

			viability assessment.	
5.	<p><b><u>Community Learning</u></b></p> <p><u>Project:</u> towards additional resources and equipment</p>	Total £558.28	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as enhanced services required to meet the demand that would be generated and pursuant to Local Plan 2030 Policies COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use community learning services and the facilities to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings.</p>
6.	<p><b><u>Health Care</u></b></p> <p><u>Project:</u> towards the refurbishment, reconfiguration and/or extension of space within the Ashford Primary Care Network.</p>	Total £29,376.00	<p><b>From any Deferred Contributions received,</b> allocated as</p>	<p><b>Necessary</b> as additional healthcare facilities required to meet the demand that would be generated pursuant to Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2 and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use healthcare facilities and the facilities to be funded will be</p>

			determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.	available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has been calculated based on the estimated number of occupiers.
7.	<p><b><u>Libraries</u></b></p> <p><i>Applies to developments of 11 dwellings or more</i></p> <p>Contribution for additional bookstock at libraries in the borough</p>	Total £1,885.30	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the</p>	<p><b>Necessary</b> as more books required to meet the demand generated and pursuant to Local Plan 2030 Policies SP1, COM1 and KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use library books and the books to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because amount calculated based on the number of dwellings.</p>

			viability assessment.	
8.	<p><b><u>Outdoor &amp; Indoor Sports provision</u></b></p> <p>Project: towards outdoor &amp; indoor sports pitch provision targeted towards the specific 'Hub' projects identified in Policy COM2 of the ALP 2030</p> <p><i>(Discovery Park                      Conningbrook Park                      Ashford Town Centre                      Finberry/Park Farm                      Kingsnorth Recreation Centre                      Sandyhurst Lane                      Spearpoint                      Pitchside/Courtside)</i></p>	<p>Total outdoor                      £34,919.00</p> <p>Total indoor                      £13,060.00</p>	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as outdoor sports pitches are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use sports pitches and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
9.	<p><b><u>Primary Schools</u></b></p> <p>Project: (1) towards construction of Conningbrook Primary School and (2) towards associated land acquisition</p>	<p>(1) Sub-total                      £51,000.00</p>	<p><b>From any Deferred Contributions</b></p>	<p><b>Necessary</b> as no spare capacity at any primary school in the vicinity and pursuant to, Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p>

	costs at this site	(2) Sub-total 17,729.40  <u>Total</u> £68,729.40	<b>received</b> , allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.	<b>Directly related</b> as children of occupiers will attend primary school and the facilities to be funded would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of primary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
10.	<b><u>Secondary Schools</u></b>  <u>Project:</u> towards the expansion of Norton Knatchbull	Total £34,050.00	<b>From any Deferred Contributions received</b> , allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted	<b>Necessary</b> as no spare capacity at any secondary school in the vicinity and pursuant to, Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, Developer Contributions/Planning Obligations SPG, Education Contributions Arising from Affordable Housing SPG (if applicable), KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF. .  <b>Directly related</b> as children of occupiers will attend secondary school and the facilities to be funded would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and

			sales price as identified by the viability assessment.	because the amount has taken into account the estimated number of secondary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
11.	<p><b><u>Strategic Parks</u></b></p> <p><u>Project:</u> improvements to Victoria Park</p>	Total £4,784.79	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as strategic parks are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use strategic parks and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
12.	<p><b><u>Voluntary Sector</u></b></p> <p><u>Project:</u> towards active Town Centre groups</p>	Total £2,156.88	<p><b>From any Deferred</b></p>	<p><b>Necessary</b> as enhanced voluntary sector services needed to meet the demand that would be generated pursuant to Local Plan 2030 policies SP1, COM1,</p>



			<p><b>Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p>IMP1 and IMP2, KCC document 'Creating Quality places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use the voluntary sector and the additional services to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development.</p>
13.	<p><b><u>Youth Services</u></b></p> <p><u>Project:</u> towards the Ashford Youth service</p>	Total £2,227.00	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted</p>	<p><b>Necessary</b> as enhanced youth services needed to meet the demand that would be generated and pursuant to Local Plan 2030 policies SP1, COM1, IMP1 and IMP2, KCC document 'Creating Quality places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use youth services and the services to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings and because no payment is due</p>

			sales price as identified by the viability assessment.	on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
	<b>Planning Obligation</b>			<b>Regulation 122 Assessment</b>
	<b>Detail</b>	<b>Amount (s)</b>	<b>Trigger Points</b>	
14.	<p><b><u>Public Art</u></b></p> <p><u>Project</u> towards provision within Ashford Town Centre including Giraffes project</p>	Total £8,389.50	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> in order to achieve an acceptable design quality pursuant to Local Plan policies SP1, SP5, SP6, COM1, IMP1 and IMP2 (if applicable) and guidance in the NPPF, the Ashford Borough Public Art Strategy and the Kent Design Guide.</p> <p><b>Directly related</b> as would improve the design quality of the development and would be visible to occupiers.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development.</p>
	<b><u>Monitoring Fee</u></b>			<b>Necessary</b> in order to ensure the planning

15.	Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking	£500 per annum until development is completed	<p><b>PAY REGARDLESS</b></p> <p>First payment upon commencement of development and on the anniversary thereof in subsequent years (if not one-off payment)</p>	<p>obligations are complied with.</p> <p><b>Directly related</b> as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the obligations to be monitored.</p>
16..	<p><b><u>Deferred payments mechanism</u></b></p> <p>Mechanism to monitor sales/rental values to ensure that 40% of any rise in values is paid to the Council towards those contributions above that are deferred.</p>	Up to the value of all deferred contributions (index linked)	To be paid if the circumstances prevail	<p><b>Necessary, directly related and fairly and reasonably related in scale and kind</b> pursuant to Ashford Local Plan Policy IMP2</p>
17.	<p><b><u>Accessible and Adaptable Housing</u></b></p> <p>Level 2 access homes (M4(2)) to be provided</p>	Minimum of 20% M4(2) across the	N/A	<p><b>Necessary</b> as providing a mix and type of housing is required to meet identified needs in accordance with Policy HOU14 of Local Plan 2030 and guidance in the NPPF.</p>

		whole site		<p><b>Directly related</b> as the accessible/adaptable housing would be provided on-site.</p> <p><b>Fairly and reasonably related in scale and kind</b> as based on a proportion of the total number of housing units to be provided.</p>
<p>Notices must be given to the Council and the County Council at various stages in order to aid monitoring. All contributions are index linked in order to maintain their value. County Council contribution are to be index linked by the BCIS General Building Cost Index from Oct 2016 to the date of payment (Oct-16 Index 328.3). The Council's and the County Council's legal costs in connection with the deed must be paid.</p> <p><b>If an acceptable deed is not completed within 3 months of the committee's resolution, the application may be refused.</b></p>				

## Human Rights Issues

84. I have also taken into account the human rights issues relevant to this application. In my view, the “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

## Working with the applicant

85. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

## Conclusion

86. I acknowledge that the loss of the building is a sensitive matter. However, for the reasons set out in this report (to be read in conjunction with the previous updated report to July 14<sup>th</sup> Planning Committee attached as **Annex 1**) I conclude that the development would accord with the key policies of the ALP 2030 seeking responsive well designed buildings and that the benefits of the proposal outweigh issue of harm to the character of the Conservation Area especially when taking into account the derelict nature of the existing building and the NPPF requirement to add further weight to granting permission for new homes when a 5 year housing land supply cannot be demonstrated.
87. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh SAC, SPA and Ramsar Site under the Habitats Regulations. Therefore, the Recommendation below to grant planning permission is subject to the adoption, under delegated powers, of an Appropriate Assessment to the effect that the development will not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary additional obligation(s) and/or planning conditions deemed necessary to achieve that end.

## Recommendation

- (A) Subject to satisfactory resolution of the privacy matter identified in paragraph 39 & Figure 16 of this report to the satisfaction of the Strategic Development and Delivery Manager or Development Management Manager including the submission of amended plans**

**and elevations and delegated authority to such officers to agree to any such revisions to the scheme, and**

- (B) Subject to the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations detailed in Table 1 (and any section 278 agreement so required), in terms agreeable to the Strategic Development and Delivery Manager or Development Management Manager in consultation with the Solicitor to the Council & Monitoring Officer, with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning obligations and planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit; and,**
- (C) Subject to the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations to be adopted by the Head of Planning and Development which identifies suitable mitigation proposals such that, in her view, having consulted the Solicitor to the Council & Monitoring Officer, and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation**
- (D) Resolve to permit subject to planning conditions and notes, including those dealing with the subject matters identified below, with any 'pre-commencement' based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018**

1. Standard time condition
2. Development carried out in accordance with the approved plans
3. Code of Construction practice including Dust Management
4. Hours of construction
5. Wheel washing, site set-up and contractor paring arrangements
6. Highways
7. Provision and retention of parking
8. Provision of 25 active EV 7kw chargers to the parking court prior to the first occupation at the site and any associated passive provision as part of a future proofing strategy including details of supporting infrastructure and its location

9. Provision and retention of secure cycle parking and bin storage
10. Remediation and verification to leave uncontaminated
11. Dealing with any unexpected contamination
12. Foul water sewerage disposal details
13. SUDs scheme including verification
14. Tree protection measures
15. Arboricultural Method Statement to prevent damage to off-site trees
16. Full details of hard and soft landscaping works within the site, including permeable paving
17. Water use not to exceed 110 litres per day
18. External bricks, roof tiles, feature bricks, metal cladding to elevations and gable roof features, balcony balustrading and privacy screens, entrance canopies and other external detailing such as rainwater goods, vents and flues and external materials all to be agreed prior to usage in the buildings.
19. Exploration of car club
20. Details of a scheme to celebrate the site's local history to Ashford (including but not limited to WW1) through building naming, on-site information externally, internally in entrance lobby areas and any other appropriate external measures to be agreed.

### **Note to Applicant**

1. S106
2. Construction Management Plan to ensure cessation of works sufficiently in advance and for the duration of the bi-annual EKBMGC events within the Memorial Gardens.
3. The Local Planning Authority would wish to see thoughtful incorporation of the site's local history to Ashford so that it can be appreciated.
4. Working with the Applicant

### **Working with the Applicant**

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,

- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance,

- the applicant/agent was provided with both officer and Design Panel pre-application advice,
- The applicant was provided the opportunity to submit amendments to the scheme to address issues raised,
- The applicant was provided with the opportunity to bring back an amended design scheme for consideration following deferral at the July 14<sup>th</sup> 2021 Planning Committee meeting, and
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

## Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 20/00711/AS)

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# ANNEX 1 - SWANTON HOUSE - 20/00711/AS

Ashford Borough Council - Report of the Head of Planning and Development  
Planning Committee 14<sup>th</sup> July 2021

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<b>Application Number</b>	<b>20/00711/AS</b>
<b>Location</b>	<b>Swanton House, Elwick Road, Ashford, Kent, TN23 1NN</b>
<b>Parish Council</b>	<b>Central Ashford</b>
<b>Ward</b>	<b>Victoria</b>
<b>Application Description</b>	<b>Demolition of existing building and erection of two buildings comprising 34 apartments with associated access, parking and landscaping.</b>
<b>Applicant</b>	<b>A Better Choice for Property Development Ltd c/o agent</b>
<b>Agent</b>	<b>Mrs Emma Hawkes, DHA Planning, Eclipse House Sittingbourne Road Maidstone ME14 3EN</b>
<b>Site Area</b>	<b>0.26ha</b>

(a) / 15 R	(b) CACF R	(c) Ashford Access X, Env Prot. X, Street scene X, Culture X, UKPN X, NR X, Kent Fire X, Ashford College X, HE X, KCC Ecol X, KCC Dev Contribs X, KCC Flooding X, KCC Heritage X, KH&T X, K.Pol X, NHS X, Baby Memorial Charity X, Boyer Planning R,
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## Introduction

1. This application is reported to the Planning Committee because although it involves major development of a scale that would now fall within the scope of Officer delegation, in my opinion it is 'sensitive' due to the applicant being the Council's property development company, 'A Better Choice for Property Limited'.

## Site and Surroundings

2. The application site is immediately to the west of the new Ashford College building created in the town centre and close to the Church Road, Elwick Road junction as per the area marked in red in **Figure 1** below.



**Figure 1: location**

3. Swanton House comprises a 3-storey vacant building last used as offices with end-19th century detailing and gable features. It is located on the southern side of the plot fronting Elwick Road and appears on the 1898 Ordnance Survey map. The building sits at a raised level to Elwick Road, has a basement and has a large tarmac car park located to the rear. The building was last used by KCC and is vacant: the applicant identifies that has been in excess of 17 years. **Figure 2** below shows the frontage to Elwick Road.



**Figure 2:** south facing frontage to Elwick Road

4. **Figure 3** below shows the rear of the premises with the car park.



**Figure 3:** north facing rear of Swanton House and car park

5. To the east of the site is the aforementioned College. To the west of the site is a 2-storey building, Sunnyside, which is in commercial use as a dentists.
6. Sunnyside turns the corner into Church Road which rises in a northerly direction with a further 3 properties, two of which are in commercial office uses (Leaffield and Stoke House) and one of which, Conyers, is vacant. Conyers is in the same ownership of the applicant (and thus marked in blue on Figure 1) and is understood to have been purchased at the same time as Swanton House from Kent County Council.
7. To the north of Conyers an access lane gives vehicular access to the rear of that property, a small area of land occupier in the main by a single garage building at the bend in the lane, the rear car park at the application site and the rear of the College. The lane has not footway but is a well-used pedestrian thoroughfare to the rear entrance of the College as well as providing access to the end of a track servicing a number of church Road properties to the north as well as the southern end of the Memorial Gardens.
8. The site (circled in red) falls within the Town Centre Conservation Area the extent of which in this part of the town is shown below in **Figure 3**.



**Figure 3:** the edge of the conservation area in this part of the Town Centre

## Proposal

9. The proposal is for the demolition of Swanton House and the creation of 34 apartments taking the form of two new blocks, CGIs of which are shown in **Figure 4** below.





**Figure 4:** CGIs of the two new blocks

10. The applicant makes a number of points in various supporting documents in support of the proposals. In summary, these are as follows;-
  - (a) the proposal is a brownfield site in the town centre,
  - (b) the site is considered unsightly in its appearance as the existing building has been vacant for a number of years and was originally intended to (and agreed by the Council to be) demolished as part of a larger Ashford College development,
  - (c) the proposal has been sensitively designed to relate to its context including its Ashford College neighbour from scale and massing through to development detail including materials and the way the southern-most block addresses the street: the result is considered to be high quality,
  - (d) the proposal represents an opportunity to visually improve a derelict vacant site and the proposal would not harm the character of the conservation area
  - (e) there would be no adverse impacts arising to the neighbouring uses and the proposals would meet all the necessary development plan requirements
  - (f) there would be no adverse impact of the proposal on the local highway network and the proposed level of parking reacts to the site's constraints and given the location the minor shortfall can be treated as an exception under the

provisions of the Council's parking policy,

(g) a landscape strategy has informed the layout, proposed planting palette and approach to ensuring biodiversity while a preliminary ecological appraisal has informed the intended approach to lighting and mitigation for bats,

(h) in terms of sustainability, the re-use of the site for housing delivers economic, social and environmental benefits and the design of the proposed homes is one that helps reduce unnecessary energy use by maximising daylight penetration, use of LED lighting and natural ventilation,

(i) an alternative redevelopment scenario for the site involving the conversion of Swanton House into 11 apartments has been considered but would not be viable,

(j) the redevelopment that is proposed in the application is the subject of a 2021 Viability Assessment that identifies that the development could not be taken forward if it is required to meet the normal range of s.106 contributions dealing with impact mitigation, and

(k) the site falls within the Stour catchment and the residential redevelopment would increase wastewater that would then increase nutrient loads from the site and would need off-site mitigation (location / form and nature to be determined) in order to achieve nutrient neutrality.

11. I set out the detailed elements of the proposal below.

Site Layout

12. The centre of the site would be retained as car parking accessed from the rear lane with new southern and northern blocks located approximately 18m apart either side of that central area as per the site layout plan shown as **Figure 5** below. Additional car parking would be created on the western side of the northern block in an undercroft.



**Figure 5:** site layout

Block 1: form & layout

13. The southern-most block (described as 'Block 1') fronting Elwick Road would be 4-storeys in height save for its vertical scale diminishing on its western side down to 3-storeys in height. The massing of the building would be consistent save for the top-storey which would react to the reduced floorplan but otherwise continue the same approach to enclosing built volume. **Figure 6** below shows this stepping down of scale.



**Figure 6:** stepping down of scale on Elwick Road frontage

14. The applicant states that the design of this Block reflects the rhythm of the surrounding buildings. The massing of the building would be broken up with the 'stepping down' of the building close to Sunnyside and that the recessed balconies would break up the building line and add aesthetic depth qualities to the building.
15. Apartments within this block would be arranged so that the corners would be dual aspect 2-bedroom apartments and, save for part of the top storey, balconies would all be recessed. **Figure 7** below shows this varying detail in plan form and elevation (with the latter showing the repeated recessed balcony areas).



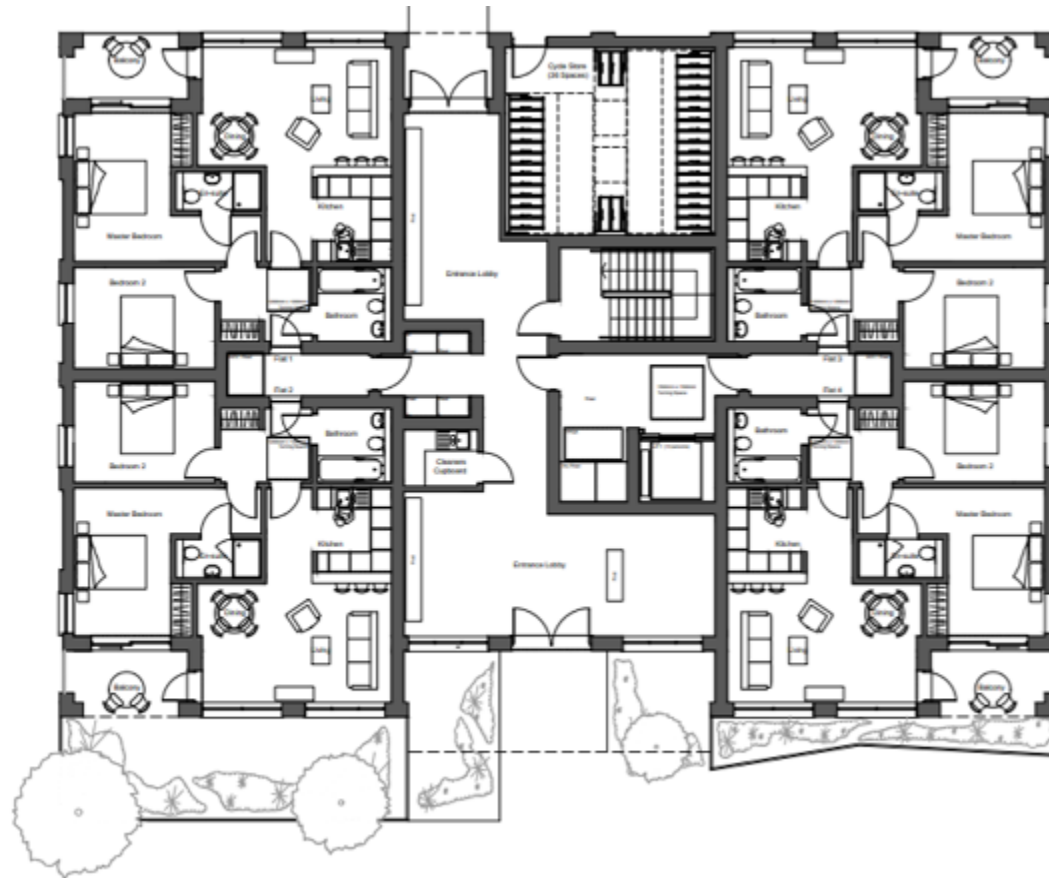
**Figure 7:** balconies

16. At ground floor, x 4 2-bedroom apartments would be provided at the corners with an access and rising circulation core (containing lift and stair options) comprising the middle of the plan. Entrances leading to lobbies containing letter boxes for occupiers would be provided on both the car park and Elwick Road sides of the building. In support of the approach to the ground floor layout, the applicant states that a large grand entrance fronting Elwick Road is provided to reflect the grandeur of entrances of buildings within the street and



that a significant amount of glazing on the front elevation would help create an active frontage and be similarly appropriate.

17. An integral x 36 space cycle store room would be provided adjacent to the ground floor entrance on the northern side with its own entrance door to the car park hardstanding. On the southern side of the building, soft landscaped areas are shown flanking the route through to the ground floor entrance lobby on this side of the buildings as well as providing buffers to the edge of the street beyond recessed balconies. The ground floor plan is shown as **Figure 8** below.

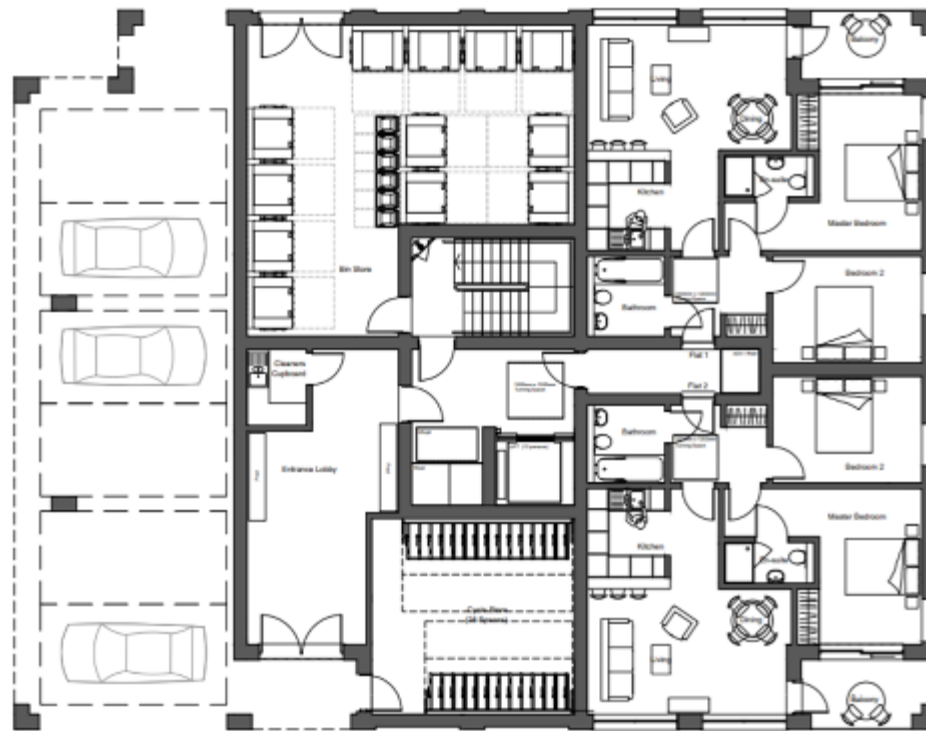


**Figure 8:** Block 1 ground floor

18. Variation in typology would occur through 2 x 1-bedroom single aspect apartments being located in the middle section of the plan and 4 x 2-bed apartments being provided at the corners at first and second floor levels.
19. The third floor level plan form would respond to the scaling down of the height of the building on its western side in so far as only 2-bedroom units would be provided. The western side 2-bedroom apartments would have larger balconies over part of the roof to the storey below. The other 2-bed room apartments at this level would have recessed balconies.

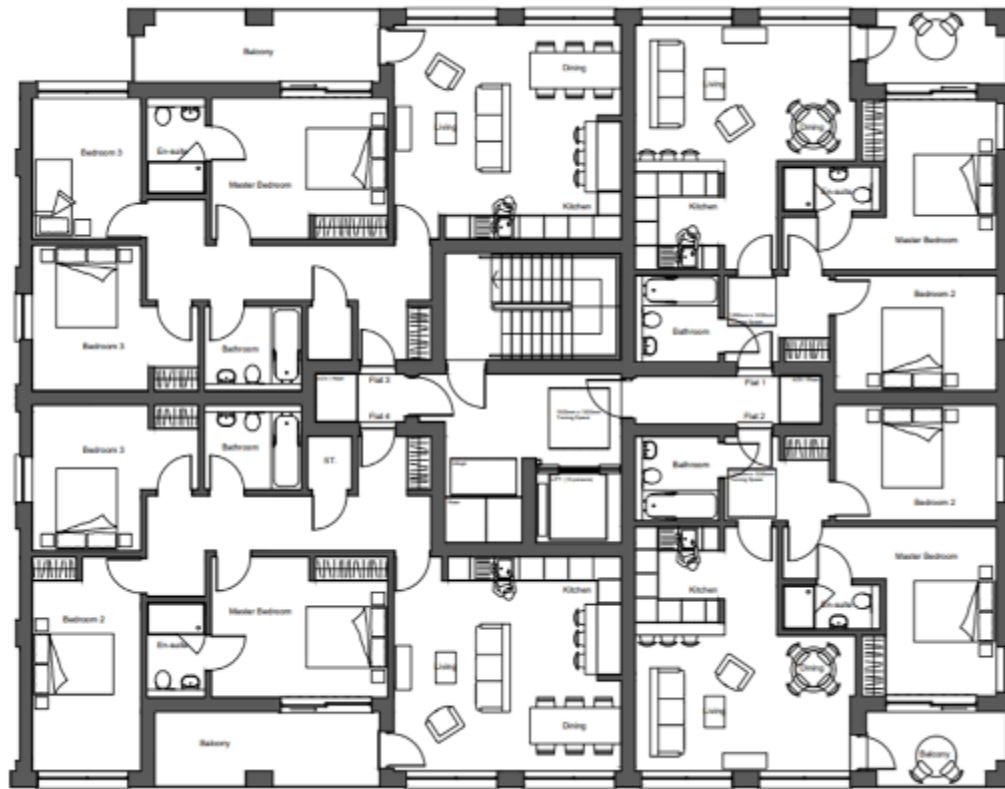
Block 2: form and layout

20. The northern-most block would adopt a similar approach with a consistent massing of development over 4-storeys with the western area of the ground floor forming open sided undercroft parking. In terms of its position on the site, the applicant highlights that comments made at pre-application stage in respect of impacts on Leafield and Stoke House have been addressed with the result that the footprint of the block has been moved further away from the boundary.
21. At ground floor – shown as **Figure 9** below - a single entrance into the building would be from the (southern) car park side leading to a lobby with post reception areas and a lift and stair core. A 26 space cycle-store would be provided adjacent to the entrance. On the northern side an integral store with double inwards opening doors from the access lane would be provided. This store would (i) be accessible internally via a residents' door from the rising core and (ii) would provide for the needs of the development as a whole. Two x 2-bed apartments would be provided at this floor with a ground floor terrace.



**Figure 9:** Block 2 ground floor

22. For the first, second and third floors of the building, each floor would provide for x 2 2-bed dual aspect apartments and 2 x 3-bed dual aspect apartments at the corners. The larger 3-bed apartments would have larger balconies. The balcony design would be recessed as per Block 1. **Figure 10** below shows the plan layout of the upper storeys.



**Figure 10:** Block 2 upper storeys

Housing mix

23. The mix would be as follows:-

	<u>Number</u>	<u>%</u>
(i) 1-bed apartment	4	12%
(ii) 2-bed apartment	24	70%
(iii) 3-bed apartment	6	18%
	-----	----
Total	34	100%

24. The applicant identifies that all the apartments would be built in compliance with the Building Regulations part M4(2) as well as part M4(3b) that deals with wheelchair accessible homes.

25. The applicant states that ‘the proposed flats are generous in size in order to meet the demands of the market. The mix has been developed to achieve a diverse community from single person households to families and older persons who are looking for high quality accommodation close to the town centre’.

Architectural style and materials

26. The applicant states that the buildings within the immediate surrounding part of the Conservation Area include an eclectic mix of materials with no overarching architectural style. It is noted that properties in Church Road are predominantly red brick and tile/slate, whilst the adjacent College incorporates a flat roof design with grey stone detailing, off-white render, extensive glazing and detailing with copper tones to the entrance rotunda.
27. In the light of this, the applicant contends that a contemporary architectural style and a contemporary use of materials, including brickwork, would be in keeping with its surroundings. Full height glazing would be provided, some of which would have Juliet balconies via an external balustrade.
28. A mixture of brick colours (red and grey brick but also the use of feature bricks including stepped brickwork and a glazed green feature brick to the areas located of the east of the entrance) would be used giving further articulation to elevations as well as decorative visual interest. The resultant colour palette is considered appropriate to context and the Elwick Road street scene.
29. The buildings would also incorporate copper cladding/stone/feature brick panels between floors, copper balustrades and powder coated black aluminium balustrades for balconies. **Figure 11** below shows some of these elements of detail in relation to Block 1. A larger diagram from the Design & Access Statement explaining detail further is attached as **Appendix 1**.

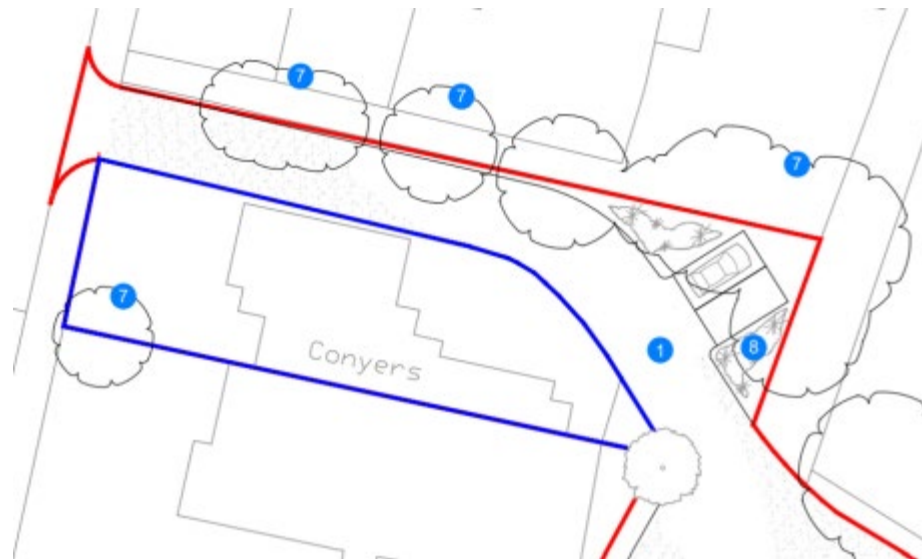


**Figure 11:** Block 1 elements of detail

30. Block 1 would have a combination of grey and red brick reflecting the different colours used on buildings to the east (grey) and west (red) with Block 2 being predominantly red brick. Coloured elevations have not been provided for all elevations but in the absence of any statement to the contrary the assumption is that the details would follow in a similar vein to the frontage of Block 1 as detailed in the Design & Access Statement.
31. The CGIs of both Blocks are enlarged and attached to this report as **Appendix 2** and **Appendix 3**.

Parking provision (cycle and vehicle), EV charging and servicing

32. A total of 58 cycle parking spaces would be provided in the stores within each of the Blocks.
33. A total of 27 parking spaces would be provided to serve the site: x 25 located within the main development site and, with demolition of the single garage building adjacent to the bend in the access lane, x 2 further spaces. The latter are shown in **Figure 12** below.



**Figure 12:** x 2 parking spaces adjacent to the bend

34. That level of provision would equate to 0.8 spaces per unit. The applicant would provide 2 spaces with active charging installed for residents with EVs and two spaces would be designed as larger bays for residents with disabilities.
35. The applicant has provided tracking details showing a refuse freighter entering the access lane running from Church Road, running past the northern side of Block 2 and pausing to collect refuse and recycling and then

reversing and turning within the site. The same tracking manoeuvre has been carried out for a fire tender.

Landscaping and biodiversity

36. The applicant's arboricultural assessment concludes that trees T1 (a Cherry Laurel categorised as C1), T4 (a Norway Maple categorised as A1+2) and tree Group G1 (Sycamore categorised as B1+2) would require removal. These are shown on **Figure 13** below.

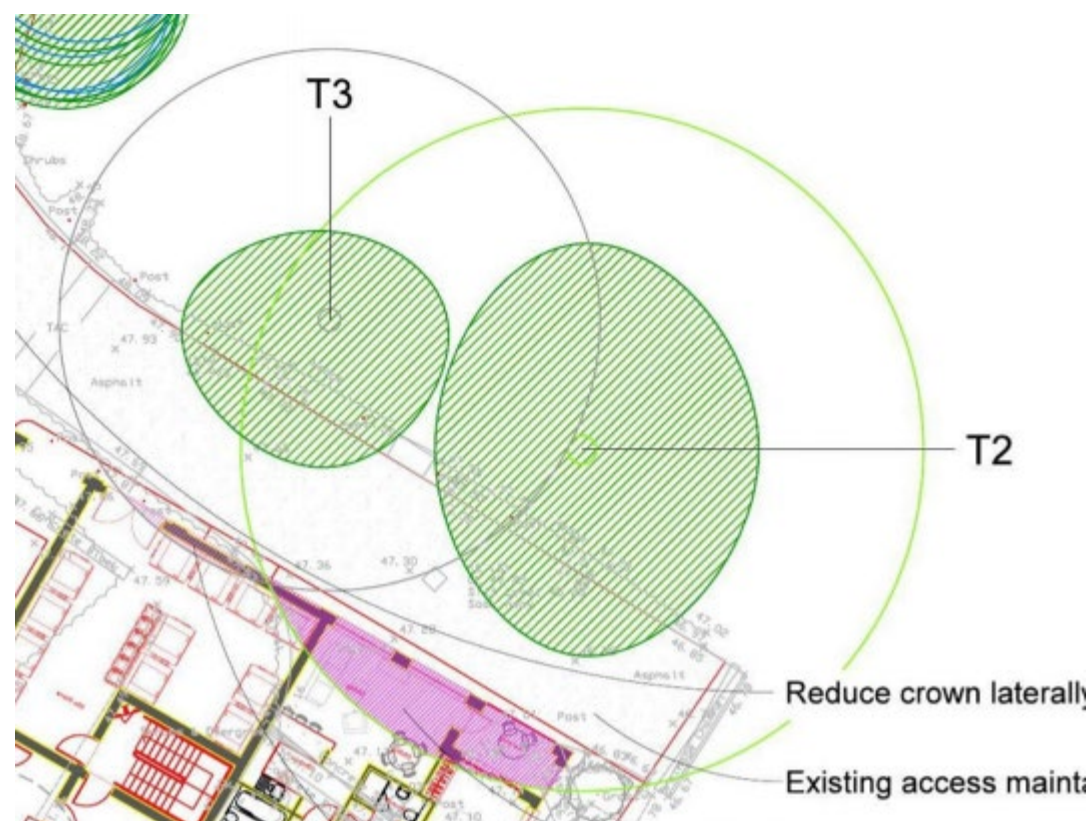


**Figure 13:** trees requiring removal

37. The applicant's tree planting proposal for the site is cited as being robust to mitigate for these losses and includes the following;-
- (i) x 2 semi-mature broad canopy trees as mitigation for the loss of T4 on the eastern boundary,
  - (ii) x 3 trees as part of the soft landscaping to the Elwick Road frontage, 20 of which would be semi-mature medium canopy trees design to soften the development and blend with the street trees created as part of the frontage to the College site,
  - (iii) x 2 'striking' trees to aid year round visual interest and shade,

(iv) a 3 tree cluster of medium canopy trees on the western boundary to the car parking areas of Leaffield and Stoke House.

38. The arboricultural assessment identifies that the footprint of Block 2 would encroach into the root protection area (RPA) of off-site trees T3 and T4 located at the southern edge of Memorial Gardens. These are shown in **Figure 14** below.



**Figure 14:** Impacts on RPAs of off-site Trees

39. Tree T2 by 5% (as depicted shaded in light purple on Figure 14) and Tree T3 by less than 1%. The applicant contends that due to existing built infrastructure and construction works associated with Ashford College the presence of root growth within the RPA that would be encroached is considered to be unlikely of significance with minimal impacts on the remaining life of these specimens. The use of specialist foundations is therefore considered unnecessary. Crown reduction laterally to minimise access overhang is identified
40. The other planting proposals would comprise as follows;-
- (i) a single row hedge to Elwick Road,
  - (ii) a double mixed row hedge along the western boundary, and
  - (iii) native & nectar rich shrubs and ground cover along the eastern boundary.

41. The applicant's Landscape Strategy Plan is attached as **Appendix 4**.

Flooding & surface water drainage

42. The site is located in Flood Zone 1 and the applicant's position is that the development would not increase the impermeable area on the site. The proposition is that onward discharge rates will be restricted through use of use flow restriction devices (such as a hydro-brake) and attenuation provided on site (through a combination of cellular storage crates & through the sub-base design of permeable paving to parking areas) in order to achieve a betterment in discharge rate. The detailed design of the surface water drainage proposals is identified as being reserved for future confirmation, presumably by planning condition.

Planning Statement & pre-application feedback

43. The applicant's Planning Statement also sets out pre-application matters concerning x 2 sets of pre-application feedback involving demolition of Swanton House, a Members' Briefing of the emerging scheme in summer 2019 and the review of the emerging proposals by the Design Panel in November 2019. A copy of the Design Panel's letter is attached as **Appendix 5**.
44. The applicant summarises the Panel's report as follows;-
- (a) a detailed historical analysis of the existing building and the Conservation Area should be carried out to inform and not simply justify the emerging scheme in order to achieve the objective of preservation and enhancement of the character of that Area,
  - (b) parking standards make site design difficult and are onerous given the location and should not be fully required in accordance with the Council's exceptions to Policy TRA3(a),
  - (c) a variety of design strategies and layout options should be considered and tested to justify the most appropriate solution,
  - (d) a variety of home types should be considered to help establish a unique residential offer, and
  - (e) a reduction in the number of units could be considered to alleviate pressure on the edges of the site and spatial qualities of the proposal
45. The applicant also references the discussion in relation to the tree-belt on the eastern side of the site and the fact that a number of the trees did not fall within the application site but on the basis of such trees having low quality



these could be removed as long as it could be demonstrated that the site could start again to the benefit of the appearance of the site and its contribution to the character of the Conservation Area. Based on Kent Historic Environment Records supplemented by historic mapping it is considered that prior to the construction of the present structures the site was in agricultural use since at least the medieval period and probably much earlier.

46. The Planning Statement concludes that the proposal;-
- (i) constitutes an exciting redevelopment opportunity of a derelict building located on an important brownfield site within an expanding town centre,
  - (ii) would deliver residential units which vary in size,
  - (iii) adopts a design approach that reflects the transitional nature of the site located between the modern College building and the more traditional buildings in the Conservation Area,
  - (iv) would be provided with appropriate car parking provision,
  - (v) would accord with the key principles of the NPPF and the ALP2030 in term of sustainability, and
  - (vi) as a result of sensitive design and use of materials the scheme would enhance the character and appearance of Elwick Road and the Conservation Area, would make an important contribution to the regeneration along Elwick Road and so on balance should be granted permission.

Heritage & Townscape Assessment (HTA) and Archaeology

47. The applicant has supplied an HTA that has been amended during the course of dealing with the application to address points made by KCC Heritage.
48. The HTA identifies that buildings within this part of the Conservation Area illustrate the rapid expansion of Ashford following the opening of the railway in the 1840s with population growing from 3000 in 1841 to 13,000 by 1901 and with this came extensive building of houses including terraces, town houses and villas on former glebe land along Elwick Road and by 1871 on the western side of Church Road as **Figure 15** below shows.



**Figure 15:** 1871 Ordnance Survey Map

49. By 1896, land on the east side of Church Road began to be developed including Swanton House as a semi-detached property with rear gardens. The buildings along Elwick Road reflect the local population growth and illustrate commonly used mid to late Victorian trends for large detached and semi-detached villas in a suburban context. The Memorial Gardens were created after the Ecclesiastical Commissioners bought the land from the church in 1923.
50. In terms of local history, the HTA identifies such interest associated with a number of these buildings having been used during WWI as identified on the Kent Historic Environment Record (KHER). Swanton House is named as one of seven buildings used by Voluntary Aid Detachment (VAD) (itself a pooling of the Kent Territorial Association, the Red Cross and St. John's Ambulance). The Kent VAD organised and ran over 80 auxiliary military hospitals in houses, churches, town halls and schools to receive wounded and sick soldiers brought home from the battlefields of France and Belgium.
51. In summary, the HTA concludes as follows;-
  - (a) There are no significant historic associations, and the architecture is not exceptional. Its historic use as a WWI military hospital has local interest but

the building has no surviving attributes that point to this use – which is unsurprising given the limited amount of time the building would have been in use for this purpose - and as such this historical connection is not tangible.

(b) It is currently in a derelict condition and is identified within the conservation area appraisal as detracting from the otherwise good character of the area. It is considered to therefore make a neutral contribution to the character and appearance of the conservation area. The demolition of the building has been previously agreed by the Council.

(c) There would be a change in the appearance of the conservation area through the loss of a late nineteenth century building, although this would not result in harm as the building currently makes a neutral contribution to the character and appearance of the conservation area which is currently undermined by derelict buildings and is undergoing a period of transition

(d) The new building would provide a high quality design response to the area, assimilating into the townscape well. The use of appropriate materials, fenestration detail, visual interest, modulation in the facades and respect for adjacent relationships all count to ensure the character and appearance of the area would be preserved by the development.

(e) There will be preservation for the decision maker's duty under Section 72(1) of the Act, 1990. No harm is identified and so paragraphs 195-196 of the NPPF are not engaged.

52. An Archaeological Assessment has been undertaken concludes that the site does not contain any matter that would dictate preservation in situ and so hinder redevelopment. The conclusion is that the implementation of the proposed development would not result in an adverse impact on, harm to, or loss of significance from any of the identified designated heritage assets, either in terms of an effect on their physical fabric or through changes to their wider setting.

## **Planning History**

53. The relevant recent history to Swanton House relates to the planning permission granted for the creation of what is now Ashford College (ref 11/00757/AS).
54. This included Swanton House which, along with the Kent Care Building and the Technical College were all proposed to be demolished as part of a new campus. The first phase of the development has been completed. The part of the site comprising Swanton House as a 'technology wing' of similar scale, bulk and massing to the College with a retained area of car parking was deferred to a later date. Following rationalisation of the College's plans it was

decided not to take the technology wing forward. **Figure 16** below shows the plan form of the technology wing.



**Figure 16:** the permitted but unimplemented technology wing

55. The Planning Committee report on application 11/00757/AS included an analysis in respect of the impact of the proposal on trees and concluded that whilst loss was regrettable, the Council's landscape officer considered that the replacement trees to be planted along Elwick Road and elsewhere within the site would, over time, compensate for the loss.
56. Application 20/00070/TC for works to trees in the Conservation Area involving the felling of Ash trees T1-T5 due to the presence of ash dies back was approved by the Council in May 2020. **Figure 17** shows the trees concerned with **Figure 18** showing the condition of most of the group on this boundary.



**Figure 17:** Trees T1-T5



**Figure 18:** trees on the eastern boundary with Ashford College

## Consultations

**Ward Members:** No representation received from Cllr Charles Suddards or Cllr Dara Farrell..

**Ashford Access Group:** comment that refuse bin areas should have flush entry as should thresholds to balcony areas with no double glazing 'lip'.

**ABC Environmental Protection:** no objection subject to planning conditions and informatives.

**ABC Street scene and Refuse:** No objection

**ABC Cultural Services:** confirm that (i) the proposal does not trigger a requirement to provide on-site informal open space and (ii) that off-site mitigation will be required in respect of sport, informal/natural open space, play, allotments, strategic parks, public art and voluntary sector.

Comment that an addition of a buffer/screen planting between the development and the Memorial Gardens would be welcomed and identify a long term ambition to improve maintenance access via a the southern-end of the track that serves adjacent properties on Church Road and which runs through to Vicarage Lane. The track is overgrown and unkempt. It is hoped that the developer could provide access and a right of way as suggested below.



(SS&DM note:

(A) in respect of the additional buffer screen, Block 2 is immediate to the access lane and there would be insufficient space to adjust the development to achieve that without losing on-site car parking.

(B) In respect of the track, (i) rearrangement and access over this would involve 3<sup>rd</sup> party land and although Aspire maintenance vehicles use the northern section from Vicarage Lane whether rights of access exist for the southern stretch through the access lane serving Swanton House and Ashford College is unclear, (ii) the track is narrow as opposed to generous and (iii) entry into the track would be tight as the applicant's proposal involves the corner functioning as resident car parking. I consider the matter is best pursued separately between the applicant and Cultural Services to ascertain whether the access aspiration is feasible legally and as a practicality. Other possibilities might include;-

(a) a width expansion on the track on its eastern side in order to make the entrance into the track from the lane wider and easy to negotiate around the aforementioned car parking, or

(b) creating an improved wider multi-purpose gated access in lieu of the pedestrian gate on the southern side of the Gardens sufficient to accommodate a maintenance vehicle)

**UK Power Networks:** identify the issue of an existing electricity substation close to the site, the need for careful design of footings away from the substation and need for residential design that would not overlook, or have windows opening out over, the substation. A suggestion is made that should noise attenuation works be necessary then costs would be expected to be recovered from the developer.

**Network Rail:** no objection

**Kent Fire & Rescue:** no objection

**Ashford College:** state no objection but raise a number of concerns. In summary, these are as follows;-

- (i) impact on vehicular and pedestrian access to the College site along the lane during the construction phase,
- (ii) upkeep of the lane during and after construction,
- (iii) access and egress for emergency vehicles, and
- (iv) parking levels may result in on-lane overspill and maintenance vehicle parking causing obstruction.

**Historic England (HE):** do not wish to offer any comments and suggests seeking the views of the Council's specialist conservation and archaeological advisors.

(SS&DM note: HE were consulted in error on this application. There is no statutory requirement for the Council to consult HE in this instance)

**KCC Ecology:** No objection subject to planning conditions.

**KCC Economic Development:** no objection and request developer contributions in respect of primary education, primary land, secondary education, community learning, libraries, youth, social care and waste. Sums requested are valid for 3 months from when the request is made (08/07/20) and would be index-lined.

**KCC Flooding:** following clarifications and additional information from the applicant note that the scheme seeks to utilise a combination of permeable paving and a cellular storage soakaway and raise no objection subject to planning conditions.

**KCC Heritage:** in the light of additional information supplied by the applicant concerning previous uses and the potential for Early Medieval remains, consider that the archaeological issues have been addressed. Swanton House is of local heritage importance as a part of the 20th century WW1 heritage but it is not designated. As such archaeological interest could be met through the attachment of appropriate conditions.

**KCC Highways & Transportation:** no objection subject to planning conditions

**Kent Police:** identify that although the application states that the proposals have been informed by Secure by Design principles, the proposal should incorporate advice in Homes 2019. If permission is granted, it is suggested that a condition be attached requiring further details to be agreed.

**NHS:** no objection and request a financial contribution towards refurbishment, reconfiguration and/or extension of space within the Ashford Stour Primary Care Network.

**East Kent Baby Memorial Gardens Charity (EKBMGC):** welcome, in principle the plans to redevelop the existing derelict site. In summary, make the following comments:-

(a) the 200 sq.m Ashford Baby Memorial Garden was created in 2013 in part of the southern edge of the Memorial Gardens and is managed under a licence from the Council. It is a focus for bereaved families throughout the year. Volunteers visit the Garden several times each week for maintenance, weeding and litter using own equipment and occasionally need to park on the access lane.

(b) a prime reason for the location was the relatively secluded position away from the 'hubub' of activity. The intended creation of the new College nearby was not considered to be impactful. The potential expansion of the College into the application site as a further wing was also not considered an issue given most activity would be Mon-Friday whereas the Baby Garden would tend to be most visited at weekends.

(c) annual events (the wave of light & picnic), attended by a large number of families, are held in July & October and take place while the College is closed and so afford appropriate privacy.

(d) Concern is expressed with any development of the area which negatively impacts



on the qualities of this space either from a privacy perspective or through noise during construction.

(e) The suggestion at pre-application stage of additional planting landscaping to enhance privacy is not wanted: there is no desire to be hidden from view. Any additional landscaping should be within the footprint of the development.

**Boyer Planning (on behalf of MELT Homes Ltd and PJSD Limited):** object. In summary, the following points are made:-

(a) MELT is a company in the same group of PJSD, the owner of the adjacent property Sunnyside. Sunnyside is considered outdated and inefficient. Proposals for redevelopment to provide a new dental practice and new homes are being formulated that might involve demolition and new build or conversion & extension. This is considered material.

(b) New homes at Swanton House and the demolition of that building to achieve them is supported. The scale, height, massing and design of the proposals is generally supported and is viewed as an improvement.

(c) Serious concerns, however, remain in terms of relationships. No Daylight and Sunlight assessment is provided. No decision should be made until one has been provided and the Council is satisfied that the proposals are acceptable. Account needs to be taken into account of emerging proposals.

(d) Block 1 has homes with habitable room windows that face across the boundary within a short distance. If the scheme is approved the presence of those windows would potentially fetter (re)development of Sunnyside because those windows would be sensitive to daylight and sunlight. The same windows would also create overlooking and loss of privacy.

(e) It would be unreasonable for the Council to approve a scheme that then constrains the neighbouring site where pre-application proposals are emerging.

(SS& DM note: A request for pre-application advice was received by the Council 23/12/20. However, no pre-application fee was submitted and so, to date, a response has not been able to be made)

**Central Ashford Community Forum:** object. In summary, make the following points:-

(a) The previous demolition order was only passed on the understanding that the site would form part of the College so does that order still stand?

(SS& DM comment: I do not consider there to be any implementable fall-back position. Ultimately, the College chose not to proceed with a purchase of the site from the then owner, KCC, to create a further wing extending westwards along Elwick Road)

- (b) The market for flats in the town is not considered sustainable.
- (c) The town centre needs a mix of homes and if apartments are needed then these should be more spacious 3 or 4-bed homes. Affordable housing is need to ensure a mixed community.
- (d) x 2 EV charge points with capacity to add more is vague.
- (e) ABC policy for car parking is clear and should not be eroded.
- (f) Despite statements in the supporting documents referencing the ALP Policy SP6 on design, the proposal is not high quality/good, is not inclusive, would not contribute to quality and would not establish a sense of place.
- (g) Analogies are made with the Newtown development (which does not exist) and Victoria Way flats (which are barely visible) collapse on examination as both are large developments that defined their own area. The application is two overbearing blocks in a built up area with its own existing sense of place.
- (h) The colours are not sympathetic and could better reference the neighbours.
- (i) The harsh angles are unsympathetic whereas other buildings both new and old have a softness about them with curves and slopes. This is a gaunt unhospitable design that should be rejected.
- (j) The proposal calls for x 3 trees to be removed but this is a conservation area and so should be addressed. Planting should be native species only.
- (k) The proposal is in the conservation area. The application argues it is on the edge as if it means it does not count. Either the policy means something or it does not. Each building loss detracts from the policy until there is nothing left to conserve. KCC Heritage's response acknowledges the role of the building in Ashford's history.
- (l) Conserving the building has been dismissed. No attempt has been made to quantify re-use. This contrives Policy TC6 of the Ashford TCAAP 2010.
- (m) There is no desire to see the applicant lose money or become a burden but viability is not addressed.
- (n) The application is worrying. The alleged refusal to cooperate with the neighbour reinforces the impression that the Council is determined to press ahead with a vanity project contravening its own policies.

**Residents:** 15 objections received. In summary, the following points are raised;-

- Disappointment that these beautiful old building are to be demolished to build yet more apartments

- The buildings have been left to rot but would be better renovated and put to better use
- The loss of this building would be a great shame for the town. It has architectural interest and displays some of the town's past heritage.
- The building played a part in Ashford's WW1 history
- 
- Ashford will turn into a slum town if this amount of building of apartments is allowed to continue
- The look of the proposed apartments is not in keeping with the look, harmony and coherence of Elwick Road and would date quickly.
- The scheme does not meet the design quality and approach to development in conservation areas policies in the Council's own Plan.
- Is not Ashford proud of its development, heritage and history?
- The Council needs to stop destroying the town's history
- The two new buildings are ugly: can the Council not instead choose a developer that will maintain the character of that which exists? The frontage finish is completely at odds with the surrounding buildings and displays in clear detail the main qualification for modern architects is the ability to draw vertical and horizontal lines.
- For such a prominent site in Ashford, which many people will see when the step off the train, this is development on the cheap and in the words of Prince Charles would create a 'carbuncle'.
- The development is yet another unattractive 'egg box' and the only consideration has been how many units could be squeezed into the smallest place possible creating a density out of keeping with the surroundings and an overpowering development
- At a time when the town need beautiful structures which can be used as homes the Council is instead stuck in an architectural post WW2 design era
- Listed buildings should be looked after not demolished
- Could a lottery grant be acquired to repair the building for community use such as a museum / eatery / small business / homeless hostels?
- Surely it is possible to convert the structure into apartments?
- The application appears to argue the design is fitting because it is adjacent to the modern College building. However, following this argument all historic buildings in a town can be demolished and replaced with modern designs as they will soon all be next to each other: where does that policy end?

## Planning Policy

57. The Development Plan for Ashford Borough comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020).

The relevant policies from the Local Plan relating to this application are as follows:-

Vision for Ashford Borough

SP1	Strategic objectives
SP2	The strategic approach to housing development
SP5	Ashford Town Centre
SP6	Promoting high quality design
HOU1	Affordable Housing
HOU12	Residential space standard internal.
HOU14	Accessibility standards
HOU15	Private External Open Space
HOU18	Providing a range and mix of dwelling types and sizes
EMP6	Fibre to the Premises
TRA3a	Parking standards for residential development.
TRA6	Provision for cycling.
TRA7	The road network and development.
TRA8	Travel plans, assessment and statements
ENV1	Biodiversity
ENV6	Flood Risk.

ENV7	Water efficiency
ENV8	Water quality, supply and treatment.
ENV9	Sustainable drainage
ENV11	Sustainable Design and Construction
ENV12	Air Quality
ENV13	Conservation and enhancement of heritage assets
ENV14	Conservation areas
ENV15	Archaeology
COM1	Meeting community needs
COM2	Recreation, Sport, Play and Open Spaces
COM 3 & 4	Allotments and Cemeteries
IMP1	Infrastructure provision
IMP2	Flexibility, viability and deferred contributions
IMP4	Governance of public community space and facilities

58. The following are also material considerations to the determination of this application:-

**Supplementary Planning Guidance/Documents**

Affordable Housing SPD 2009

Residential Parking and Design Guidance SPD 2010

Sustainable Drainage SPD 2010

Residential Space and Layout SPD 2011(now external space only)

Sustainable Design and Construction SPD 2012

Public Green Spaces and Water Environment SPD 2012

### **Informal Design Guidance**

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2019

59. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF.
60. The following sections of the NPPF are relevant to this application:-
61. The following sections of the NPPF are relevant to this application:-
  - Paragraph 11 - Presumption in favour of sustainable development.
  - Paragraph 47 - Determination in accordance with the development plan.
  - Paragraph 59 - 76 - Delivering a sufficient supply of homes.
  - Paragraphs 91 - 95 - Promoting healthy and safe communities.
  - Paragraphs 102 - 107 - Promoting sustainable transport.
  - Paragraphs 117 - 121 - Making effective use of land.
  - Paragraphs 124 - 132 - Achieving well-designed places.
  - Paragraphs 148 - 165 - Meeting the challenge of climate change and flooding
  - Paragraphs 170 - 177 - Conserving and enhancing the natural environment.
  - Paragraphs 174 - 177 - Habitats and biodiversity.
  - Paragraphs 178 - 183 - Ground conditions and pollution.

Paragraphs 190-196 – Heritage assets

National Planning Policy Guidance (NPPG)

Viability and decision taking

## **Assessment**

62. The key areas for consideration are as follows:-

- (a) The principle of a creating new homes at the site and the approach to affordable housing & housing mix
  - (b) The quality of the proposed design including relationships to other land
  - (c) Amenity and privacy impacts including Memorial Gardens
  - (d) Impact on the proposal on the conservation area
  - (e) Local highways impacts, potential for bus patronage and planning for pedestrians
  - (f) Levels of on-site parking (vehicles and cycles)
  - (g) Contamination, flooding, surface water drainage, ecology, biodiversity, water consumption, relationship to air quality and responding to climate change
  - (h) Habitats Regulations
  - (i) Mitigation the needs arising from the development through s.106 obligations: the policy compliant requests
  - (j) The applicant's viability case and the conclusion thereof,
  - (k) Whether the planning benefits of the application would outweigh accepting sub-optimal mitigation through s.106 obligations and the implications of the Council's housing land supply on the required balance
- (a) The principle of a creating new homes at the site and the approach to affordable housing & housing mix

63. 'The Vision' for the Borough in the ALP 2030 is one that identifies Ashford as the main focus for development with regeneration and residential cited as being important components of that vision.
64. 'The Vision' is proposed to be delivered by the strategic objectives that are set out in Policy SP1 of the ALP2030. Development is required to be focussed at accessible and sustainable locations (such as Ashford Town Centre) to help promote healthier lifestyles and promote choice of transportation as well as make the best use of suitable brownfield opportunities (such as the application site).
65. The Council's Strategic approach to housing delivery is set out in Policy SP2 of the ALP 2030 with the Council's housing targets to 2030 being met through a combination of already committed schemes, new allocations in the ALP 2030 being delivered and suitable unallocated 'windfall' proposals: the application is not allocated and so would constitute a windfall.
66. Both the Vision and Policy SP1 reference the importance of conserving and enhancing Ashford Town Centre's heritage reflecting the various different character areas and settings that combines to create that heritage and give locally distinct places. These issues are explored below.
67. A variety of housing types is encouraged in the Policy HOU18 of the ALP 2030. The proposed housing mix would be weighted towards 2-bed homes (70%) followed by 3-bed homes (18%) and then 1-bed homes (12%). I note that objections are raised to the type of development not delivering family homes but consider that the delivery of apartments of different sizes is welcome and that the proposed mix represents a good balance and meets the objectives of HOU18.
68. The proposal does not deliver any affordable homes but, as apartment development in Ashford Town Centre, it is not required to deliver such pursuant to Policy HOU1.
69. Policy SP6 specifically promotes high quality design and place-making, Policy ENV13 sets out the approach to conservation areas and other ALP Policies deal with specific issues in respect of liveability which are all dealt with further below. Subject to the development being considered acceptable against those policies then the principle of the development would be acceptable assessed against 'The Vision' and Policy SP1 and Policy SP5 which identifies that where a proposal would support the Vision then criteria including good design that makes a significant contribution to the character of the town centre and residential development providing a range of types of homes will need to be met. Policy SP5 also references the potential for deferred contributions as part of a flexible approach to matters of development viability and this is explored further below in this report.



(b) The quality of the proposed design including relationships to other land

70. I note the views expressed by objectors to the scheme in terms of the qualities of the proposed Blocks. I do not doubt that these are sincerely held but comment that these inevitably stray into subjectivity and stylistic preferences. For example, the negative comments about modern architects concentrating on horizontal and vertical lines, ignore the fact that much of the northern side to Elwick Road has Victorian villas constructed as single dwellings with strong regular vertical openings, decorative horizontal emphasis through multiple string courses and a high degree of uniformity as **Figure 19** below demonstrates. Notwithstanding that there are faceted regular rising bay window elements, the apparent depiction of previous architectural eras as being something inherently much more organic in its external aesthetic is therefore open to challenge.



**Figure 19:** villas fronting Elwick Road

71. In a modern block of apartments, the stacking and ordering of homes will naturally create a regular façade composed of similar vertical and horizontal ordering and a building with a consistent (as opposed to tapering) massing. On closer inspection of the proposals in the applicant's Design and Access Statement, the architect is seeking to provide articulation, visual interest and richness interest to the façade through detailing and good manners by a reduction in scale stepping down in scale to Sunnyside located on the western side of the site.
72. In terms of detailing, I do not consider that the CGIs bring this out in respect of the Block 1 frontage to Elwick Road for the darker feature brick elements including the glazed green feature bricks: the colour changes are harder to pick out from the grey brickwork and shadows. The explanation of the detailing to the elevation attached as an Appendix is more successful in this regard. I consider the architectural approach to decoration would help create

a building with a rich vibrant quality. Carrying decorative element strongly and appropriately through to rear other elevations has the scope to create a design with distinct memorable visual qualities. The CGI of the rear of Block 2 facing northwards towards the Memorial Gardens is less vibrant in its colour palette but I consider that more restrained approach is more fitting given the nature of the Memorial Gardens.

73. The change in vertical scale to Block 1 in the area closest to Sunnyside is an acceptable approach in my opinion. It helps create an acceptable relationship with that adjacent commercial building in terms of sunlight and daylight and avoids a discordant and jarring change in heights. The applicant has referred to the proposal as having transitional qualities and I consider this a fair assessment. Block 2 also has a step down in scale on its western side which I consider helps create a similarly reasonable relationship with Stoke House.
74. I set out my consideration of amenity and privacy impacts further below but my conclusion in terms of modern architectural design is that the proposals do pay due regard to relationships with their surroundings and do acknowledge the elements of visual richness found in different architectural eras through detailing, decoration and colour palette. The use of grey and red bricks for Block 1 is a response to its neighbours rather than a random design decision and the more sombre approach to Block 2 is fitting to its context with the Memorial Gardens.
75. The use of full height glazing has strong potential to create attractive bright living spaces within the building. The predominant use of apartments with a dual aspect is supported in creating cross ventilation for the larger 2-bedroom apartments. The design elements cited in response to moves towards sustainability are welcomed.
76. I acknowledge and agree with the Design Panel's comment about the consequential impacts of maximising on-site parking in response to Policy TRA3(a): it does create a development without a significant green landscaping perimeter on all sides and within the site interior. While the soft landscaping beds and proposed replacement feature trees are welcomed, overall, I consider it fair to conclude that the redevelopment leads to a site with relatively hard qualities. That mentioned, the context is urban/central and I acknowledge that the existing rear of the site is one of a large tarmac car park where the current sense of greenery is perhaps one that also stems from historic vacancy of the site.
77. In conclusion, although I appreciate that the architectural style will not meet some tastes, the architects approach to the development brief is one that I consider is acceptable and would comply with the design approach set out in Policy SP1, SP2 and SP6 of the ALP 2030. I deal with the acceptability of the approach in terms of conservation area impact further below. In terms of the

objection from Boyer Planning, the stated emerging pre-application scheme has not been progressed: I do not give any weight to the stated development aspirations but assess impacts of the proposal on that and adjacent plots below.

(c) Amenity and privacy impacts including Memorial Gardens

78. Two amenity and privacy issues have been raised.
79. The first is in respect of impacts on the adjacent property to the west, Sunnyside which is a pitched roof 2-storey traditional building and currently in use as a dentists.
80. The objection raised on behalf of MELT homes and PJSD Limited expresses concerns both in terms of (i) daylight and sun-lighting - with an assessment being requested – and (ii) impacts on future development at the site which is suggested could be either conversion and extension or demolition and re-build. Pre-application discussions are suggested as being taken forward and development at the site is considered a material consideration.
81. In respect of (ii), a request for pre-application advice was received in December 2020 and the document on which officer advice is requested does indeed show a number of options the applicant is considering in relation to that property. However, the pre-application fee has not been provided which is necessary for any discussions to proceed. This remains the case over 6 months further on. Given this and the lack of any formal planning application to the Council, I do not consider that any weight can be given to an emerging situation in respect of Sunnyside. Any planning application for development of the site that formally comes forward will need to be assessed on its merits against the material considerations appertaining at the time.
82. Turning to (i), the applicant has provided a daylighting and sun-lighting assessment that takes into account Sunnyside and the Leaffield building.
83. In terms of daylighting, this concludes that of the 22 windows tested all but x4 would meet the vertical sky component (VSC) values set out in Building Research Establishment good practice guidance. One window of the flank wall to the dental practice at Sunnyside is considered to narrowly miss the BRE target but the VSC would be above 20% and would exceed the BRE 'urban target' of 18%. The urban target acknowledges the obvious point that in an urban environment, density would be greater than suburbia, groupings of buildings would be expected to be placed more tightly together and that lighting is only one of many factors in site layout design. In respect of the Leaffield building, x3 ground floor windows would be just below the BRE target value and the Assessment concludes the daylighting of these rooms is such that the proposed development would have no material impact.

84. In respect of daylight distribution, 18 rooms have been tested and all but 1 would meet the target values in the BRE guidelines. Again, the 1 room concerned would actually be extremely close to the BRE target values and the same conclusion of no material impact is reached.
85. Turning to sunlight, of the 15 windows tested for probable sunlight hours all but 4 would continue to meet the target values set out in the BRE guidelines. One room at Sunnyside would have results marginally (1%) below the BRE guidelines in the winter period. This is not considered a material impact on reasonable levels of sunlight throughout the year. In respect the Leaffield building, x 3 rooms would be affected. The Assessment concludes that the residual annual sunlight levels are reasonable and that it should be borne in mind that the BRE sunlight targets are for living rooms rather than commercial premises.
86. The assessment considers the daylight, sunlight and overshadowing position in respect of the development applied for and concludes that it would create acceptable conditions for future occupiers.
87. I consider that the Assessment supplied deals with the concerns expressed about such impacts robustly as well as demonstrate that the living conditions of future occupiers would not be compromised by the relationships with existing buildings..
88. In terms of potential overshadowing of the Memorial Gardens by the development, the analysis suggests that there would be no material change and this would include the EKBM Garden area. I do understand the concerns made in respect of the potential for new residential development to have a negative impact from (i) a privacy perspective and (ii) during any construction.
89. In terms of privacy to the EKBM Garden area, I note the Charity's desire not to be hidden and for no additional landscaping to be proposed to manage the relationship across the access lane. The CGI in this report showing the north facing elevation of Block 2 in my opinion demonstrates that the primary vista from habitable room windows and external recessed balconies would be directly north and softened by the continued presence of the mature trees at the southern end of the Gardens and a number of views from windows would be at a more oblique angle. There would be a separation distance of just under 15m from windows into to the heart of the EKBM area. Given the presence of mature trees and vegetation creating a sense of seclusion, I consider that the privacy relationship to this part of the Memorial Gardens would be reasonable should the development be permitted.
90. In terms of construction impacts, all construction will have a degree of impact on its surroundings. However, with contractors being chosen which are members of the Considerate Contractors scheme (this has not always been

the case and some problems have been experienced through inconsiderate behaviour) and adhering to a Construction Management Plan secured by planning conditions, most impacts are capable of being sensibly managed. Realistically, the proximity of the Swanton site would mean that tranquillity could not be ensured at all times for those visiting or maintaining the area during the normal hours when construction activity would take place typically with no working on Saturday afternoons or Sundays/Bank Holidays and with an early evening cut-off. However, with prior liaison, it would be possible to ensure that during the times of the bi-annual events held by the Charity no construction work be carried out: this could be worked into a planning condition.

91. Construction phase impacts are mentioned by Ashford College in its representation and in my view these would also be dealt with by a Construction Management Plan (including demolition works).
92. In conclusion, I consider that the proposal would not have any unacceptable privacy or amenity impacts and so would comply with policies SP1, SP2 and SP6 of the ALP 2030.

(d) Impact on the proposal on the conservation area

93. Although the applicant raised at pre-application stage the issue of the approval for demolition in relation to the Ashford College development, in my opinion this does not represent a fall-back position as the College has no interest in pursuing a Technical Wing and (i) the site has been purchased from KCC by 'A Better Choice for Property Development Limited' which is the VAT Registered development subsidiary of 'A Better Choice for Property Limited and (ii) the intention is to use the site for other redevelopment purposes. I accept that it is a material consideration to the extent that the Council has previously considered and agreed to the loss of Swanton House in the context of the wider benefits considered to derive from the creation of a new town centre campus for the College balanced against conservation impacts.
94. Notwithstanding the design merits of the proposal design proposed, the provision of new homes in a strongly performing urban location does not itself outweigh consideration of the impacts of the scheme on the character of this part of the Town Centre Conservation Area. Clearly, the proposal has to be justified in a clear and convincing manner.
95. The Design Panel raised issues in relation to the lack of options and confirmed its opinion that the site was sensitive and would be challenging to develop in an acceptable manner and options were identified as needing to be explored.

96. Clearly, the scale, massing and form of the Swanton House building is still apparent. The detailing and materiality of the elevations are still evident too. The building is one with a particularly strong façade to Elwick Road that is highly visible. The northern side of Elwick Road street scene is one of period buildings alongside modernist architecture with modern office space buildings at Dover Place in the background. The resultant street scheme is one that I consider is attractive and proof that development of different styles and in different eras can sit comfortably together to create an attractive urban street scene. Swanton House is the more visually dominant building of the remaining two late Victorian existing buildings fronting Elwick Road before the junction with Church Road. That group dominance works its way into the redevelopment scheme.
97. The HTA acknowledges at paragraph 3.23 that the building is visible when entering the Conservation Area and that it has some qualities as a 'landmark' and that it does have a relationship with other buildings in this part of the Conservation Area as well as some local WW1 interest. I do, however, accept that the building is derelict and in that state can be argued to be a visual detractor offering a neutral contribution to the designated Area and I consider that the design approach to the proposed building – through articulation, materials, colour palette and decoration – has the components to offer a similar contribution to the Elwick Road street scene falling within Conservation Area.
98. The Council's Ashford Town Centre Conservation Area Appraisal and Management Plan 2016 acknowledges the state of the building and identifies that;-
- 'The Swanton Villas (above right) are not the same materials, or building line as the other villas in Elwick Road, but if feasible should be retained if the consent (for demolition) lapses.' (pg.51 and with my emphasis)
99. The applicant has now supplied one alternative option for the site – a conversion scheme of Swanton House - as part of a Viability Assessment submitted earlier this year. This deals with the feasibility point raised in the 2016 Plan as well as the point raised by the Design Panel.
100. I am mindful of development precedent, again an issue raised by objectors, but every application has to be dealt with on its merits and there are no live application for adjacent sites in the Conservation Area sub-group of which Swanton House forms part.
101. Taking the above into account, and notwithstanding the presence of the building to Elwick Road, my conclusion is that the HTA position advancing the case that Swanton House, as part of a group of, has a neutral contribution to the significance of the Conservation Area as a heritage asset.

102. The need to pay special attention to the desirability of preserving or enhancing the character or appearance of a designated conservation area when considering a planning application is a duty on the decision maker under the provisions of the Act. Paragraph 193 of the NPPF identifies that 'great weight' should be given to a heritage asset's conservation irrespective of whether harm is classed as being substantial/total loss/less than substantial in nature.
103. Paragraph 194 of the NPPF requires clear and convincing justification for proposals that would give rise to harm. The application includes a feasibility option for conversion.
104. The level of harm that would arise from the demolition of Swanton House, in my opinion, would be 'less than substantial' in nature. Accordingly, paragraphs 196 and 201 of the NPPF are appropriate and the issue for the LPA is one of weighing a convincing justification of harm on the one hand (and, in the process, affording it the appropriate 'great weight' as is required per paragraph 193), against the planning benefits of the proposal, on the other hand. In terms of optimum viable use, my view is that residential is the only realistic candidate given the location and vacant commercial floorspace elsewhere in the vicinity.
105. In terms of harm, the existing building does make a contribution to the character and appearance of this part of the conservation area but I consider that overall the contribution can be reasonably considered neutral. The applicant's justification for the application is that Swanton House cannot be viably retained through conversion to another use (feasibility now assessed and proven – see below), no such uses have been advanced, the Council has previously agreed to its demolition and that the proposal would remove an eyesore and fit with regeneration broadly set to happen along the southern side of Elwick Road.
106. In terms of benefits, replacing an existing building with a new building, would overcome the existing appearance of Swanton House as a building where a degree of disrepair and neglect is visually apparent. The proposal seeks to manage the relationship of its different scale and massing with Sunnyside.
107. The proposal would provide new homes within the town centre in a location that is highly sustainable as a location given its proximity to shops, services, public space, leisure and public transport. The proposal would provide on-site parking and EV charging.
108. In terms of the balance that is required in reaching a conclusion, although it would have been useful for additional options to be presented for consideration I conclude that notwithstanding the benefits of the proposal would outweigh the harm that would arise to the conservation area. The issue

of the additional weight that needs to be attached due to the Council's housing land supply is also a fact that I have taken into account – see further below.

109. In conclusion, my judgement is that the proposal would comply with Policy ENV14 of the ALP 2030.

(e) Local highways impacts, potential for bus patronage and planning for pedestrians

110. The application site is centrally located, well related to the primary and secondary road network. It would not require any additional access on to Elwick Road. All car traffic would be via Church Road and then the access track serving the rear of Conyers, the development site and Ashford College beyond.
111. Kent Highways & Transportation raise no objection to the proposal and consider that it would not be significant and would not cause adverse highway capacity or safety impacts and can be accommodated. I agree with that conclusion and consider that the proposal meets the requirements of Policy TRA7 of the ALP2030.
112. The central location of the site would mean that occupiers would be potential patrons of existing local bus services accessible within a very short distance with good opportunities to achieve a modal shift away from the private vehicle. I conclude that the development would accord with Policy TRA4 of the ALP.
113. Policy TRA5 of the ALP 2030 requires proposals to deliver movement routes that will be safe and give accessible pedestrian access. The location of the site is within a highly accessible town centre with a network of routes to supermarkets, retail shops, food and beverage, other commerce, leisure uses, public car parks, open space and public transportation. The layout of the site achieve would easily connect occupiers to these movement possibilities. I conclude that the proposal is therefore acceptable assessed against this Policy.

(f) Levels of on-site parking (vehicles and cycles)

114. Policy TRA3(a) of the ALP2030 deals with residential parking. As the site is located within the town centre the starting point minimum is 1 space per residential unit on average. Irrespective of the 1-bed, 2-bed and 3-bed apartment mix, the proposal would therefore need to provide a minimum of 34 spaces as the starting point.
115. A total of 27 spaces is proposed including the 2 spaces located off the northern side of the access track leading from Church Road which equates to



an average of 0.8 spaces per home. I note the quantum of parking is raised by some objectors to the scheme. The second half of the Policy identifies where exceptional cases may depart including:-

- (a) accessibility to public transport, shops and services,
- (b) where the use could rely on public car parking off-street car parking nearby, and
- (c) where verified viability evidence demonstrates that achieving minimum parking standards would render the scheme unviable and that there are overriding planning benefits to justify that the development should proceed.

116. I note that matters of design/layout are not expressly identified in the list of exceptions but consider that these too need to be taken into account. I have considered further above the nature of the site and the inability to accommodate more parking than is shown at grade: there is no other space available that could be repurposed to create additional car parking for occupiers. The scheme is also not part of a larger development in Elwick Road which could potentially provide for additional parking off-site but nearby.
117. Given the location of the site my conclusion is that average of 0.8 spaces per home would be acceptable assessed against the requirements of Policy TRA3 (a). It would be close to the average levels found acceptable, balancing locational accessibility and proximity to public transport, for other town centre developments under construction such as at the Victoria Road apartments (0.87 spaces per home), and well as resolved to be approved at the Kent Woolgrowers Site. The applicant has made a viability case which I cover further below in this report. It demonstrates that the application scheme is already unviable to meet policy compliant mitigation through s.106 agreement contributions as it is: the reality is the site is too small for undercroft or basement car parking to be provided and that there is no more available space at grade to further boost the quantum of on-site parking.
118. Policy TRA3(a) also deals with visitor parking and identifies that this should be provided primarily off-plot in short stay car parks where available or on-plot at 0.2 spaces per dwelling where layout permits. As I have identified further above, layout does not so permit. In my opinion, the proximity of public car parks and on-street parking areas to the site would satisfactorily meet the needs of car borne visitors.
119. My conclusion in respect of car parking is the proposal is acceptable assessed against Policy TRA3(a). I deal with issues of electric vehicle charging further below in this report.
120. Policy TRA6 of the ALP seeks to promote and provide for cycling as an integral part of good planning and seeks 1 cycle parking space per apartment as a minimum.

121. The application proposal provides for integral safe and accessible ground cycle store rooms adjacent to entrances in both Blocks 1 & 2. The stores would give a total of 62 cycle parking spaces and so exceed the 34 minima spaces that is required and approach almost 2 spaces per apartment. This is welcome and will assist given the weighting of the accommodation to larger apartments with potentially greater occupancy. I conclude that the proposal is acceptable against the provisions of Policy TRA6.

(g) Contamination, flooding, surface water drainage, ecology, biodiversity, water consumption, relationship to air quality and responding to climate change

122. Ensuring the development deals satisfactorily with any issues of contamination as well as any unexpected contaminants and verification of the measures undertaken are all matters that can be dealt with by planning condition.

123. The site lies in Flood Zone 1 and therefore residential development in such location is acceptable as a matter of principle due to the low risks involved. The redevelopment of the site would not increase impermeable area and so would not result in off-site discharge would not be likely to lead to flooding off-site. The proposal would therefore comply with Policy ENV6 of the ALP 2030.

124. The applicant's surface water drainage, including permeable paving and sub-surface cellular storage, proposal has been considered by KCC in its role as Lead Local Flooding Authority and, subject to planning conditions, is considered acceptable. The proposal would therefore meet the requirements of Policy ENV9 of the ALP2030.

125. Turning to ecology and biodiversity, the applicant's submissions have been assessed by KCC Ecology. External lighting is identified as needing to be sensitively designed given that bats have been recorded in the area and lighting can be detrimental to commuting and foraging. A lighting design plan for biodiversity is requested to be submitted by planning condition.

126. The applicant's ecology report recommends the provision of both bee and bat bricks which are supported. An objection that is raised by a resident relates to some reference to non-native species as part of the planting palette and KCC pick up on this point too and recommended native species only. Subject to this being attached as an Informative for the applicant to review further and subject to planning conditions the proposal is acceptable and would accord with the requirements of Policies ENV1 and SP6.

127. In terms of water consumption, the need for the development to install low flow devices and fittings can be controlled by planning condition in order to

ensure compliance with Policy ENV7 of the ALP 2030 seeking to ensure water efficiency.

128. The site does not fall within an Air Quality Control zone. Policy ENV12 seems to ensure that due regard is paid to ways that existing air quality can be maintained and improved upon. The Council's Environmental Protection service identify that to promote a move towards sustainable transport options and to take account of cumulative impacts of development on air quality electric vehicle charging facilities should be provided.
129. The applicant's proposal provided for x 2 spaces to be ('actively') equipped with chargers from the outset and identifies that the car parking areas will be ('passively') future-proofed to enable further provision to be provided in time. In terms of active provision, for a 34 home scheme, the level of provision at 2 spaces with EV charging equates to 5.8%.
130. Given that it has been announced by the Government that the production of new petrol and diesel vehicles will cease in the UK from 2030 and taking into account the timescales involved for the issue of any decision and completion of construction the remaining period before that planned 2030 cessation will be reduced. I consider that, in all likelihood, the sales of new EVs from the current position will have increased. So far in 2021, from the registration of new vehicles, the market share of plug in cars (whether battery powered or hybrid) is c.14% according to some reports. My view is that the scheme should be more ambitious in its initial active provision to meet likely demands. I would therefore wish to see a minimum of 4 spaces (11.6%) with active EV charging installed ready to serve occupiers at the first occupation of the site. The ground floor plan of Block 2 is such that additional active EV spaces could be provided in the parking undercroft flank wall.
131. In terms of future proofing, some thought will be required as to the spatial implications of providing additional active charging facilities to the car park spaces in the future as well as the capacity for accommodating the necessary electricity supply infrastructure in an acceptable fashion: within some of the integral stores may be a possibility. The site layout is tight and I would not wish future active chargers to necessitate the removal of the soft landscaping strips. These would help separate parked cars from the frontage of buildings and habitable rooms will need to be safeguarded for the benefits of residents, for visual softening and for urban heat reduction and biodiversity gains.
132. Nevertheless, I am satisfied that subject to a planning condition dealing with these matters the proposal would accord with the requirements of Policy ENV12 of the ALP 2030.
133. In terms of climate change, the supporting Design and Access Statement and Planning Statement identify that the proposals will meet the three objectives

of sustainable development set out in paragraph 8 of the NPPF (economic, social and environmental). a high degree of sustainable construction and energy conservation is identified as having influenced the detailed design and form of the buildings and site layout with the objective to make the two Blocks energy efficient. The proposal would accord with the provisions of the Building Regulations in respect of sustainable method of construction. The following methods of construction and energy saving would be used;-

(i) 'Reduce Water Consumption' (*dual flush toilets, low water use spray or aerated taps, water saving white goods*),

(ii) 'Embodied Energy' (*use of materials with low embodied energy & from sustainable sources including recycled materials, use of non-oil based products, ability to re-use and recycle materials at the end of the building life*), and

(iii) 'Energy efficient buildings' (*maximising natural light, use of low energy mechanical and electrical equipment such as low energy LED lighting, installation of Class A or equivalent white goods, external lighting fittings controlled by daylight sensors & passive infra-red movement detectors to limit light pollution and minimise energy use, high thermal performance insulation substantially above the current Building Regulations, full natural ventilation, highly efficient combi boilers*)

134. The proposal does not incorporate any low or zero carbon technologies. The ALP2030 notes the demise of Eco-Homes and Code for Sustainable Homes and the updated Building Regulations effectively superseding these initiatives aimed at securing more sustainable methods of design and construction. The Council's adopted position is to rely on the Building Regulations to reduce energy emissions. Whilst it is open to debate whether the minima set out in the Regulations are stringent enough given the aspirations for the UK to achieve Net Zero by 2050 there is no development plan policy basis to object to the proposal.
135. Finally, the application makes no reference to providing or working with other development sites to help explore the possibilities of a car club which has the capacity to help reduce parking demand by creating an alternative for those with only occasional car needs. Given the sustainable location of the site within proximity to transport, shops and services I consider that by the requirement of a planning condition this matter should be explored further in the same way has been required by development in the Victoria Road corridor. I also note that there could be opportunity for a tie-in to future development opportunities on the southern side of Elwick Road (where outline planning permission has been granted for a substantial number of homes) and other sites that may come forward within the town centre.

(h) Habitats Regulations

136. Since the application was submitted, the Council has received advice from Natural England (NE) regarding the water quality at the nationally and internationally designated wildlife habitat at Stodmarsh lakes, east of Canterbury, which in particular includes a Special Area of Conservation (SAC), a Special Protection Area for Birds (SPA) and a Ramsar Site.
137. The importance of this advice is that the application site falls within the Stour catchment area and the effect is that this proposal must prima facie now be considered to have a potentially significant adverse impact on the integrity of the Stodmarsh lakes, and therefore an Appropriate Assessment (AA) under the Habitats Regulations would need to be undertaken and suitable mitigation identified to achieve 'nutrient neutrality' as explained in NE's advice, in order for the Council to lawfully grant planning permission
138. Under the Council's Constitution, the Head of Planning and Development already has delegated authority to exercise all functions of the Council under the Habitats Regulations. This includes preparing or considering a draft AA, consulting NE upon it, and amending and/or adopting it after taking into account NE's views.
139. As matters stand, an off-site package of mitigation measures will be required in order for the development proposal to achieve 'nutrient neutral' status and in the absence of such measures (or any others) having been identified and demonstrated to be deliverable, it is not possible to conclude, at this moment in time, that the scheme would be acceptable in respect of this issue. The applicant's supporting documents acknowledge this.
140. However, work commissioned by the Council is moving forward on identification of a package of strategic mitigation measures that should enable relevant developments within the Borough's River Stour catchment (where the NE advice applies) to come forward on a 'nutrient neutral' basis, subject to appropriate obligations and conditions to secure the funding and delivery of the mitigation before occupancy of the development.
141. Therefore, on the basis that this proposal is considered to be otherwise acceptable in planning terms (subject to planning conditions and the approach to be taken to s.106 obligations including the issue of deferred contributions), any resolution to grant planning permission would need to be subject to the adoption by the Head of Planning and Development, having consulted NE, of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development will not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary additional obligation(s) and/or planning conditions that are necessary in order to reach

that assessment. This approach is included as part of my Recommendation further below in this report.

(i) Mitigation the needs arising from the development through s.106 obligations: the policy compliant requests

142. Policy IMP1 of the ALP 2030 requires that development shall make provision to meet the additional requirements for infrastructure to mitigate the needs arising from the proposal with provision secured through a s.106 agreement. The policy does identify that the Council will take a flexible approach where it is justified to do so for reasons of development viability. I deal with viability further below.
143. KCC Developer Contributions requests are as follows:-
- |   |            |
|---|------------|
| - Primary education<br>(towards Conningbrook Primary School)  | £51,000.00 |
| - Primary school acquisition land<br>(2FE primary school acq. costs: Conningbrook)  | £17,729.40 |
| - Secondary education<br>(towards Norton Knatchbull expansion)  | £34,050.00 |
| - Community learning<br>(additional resources and equipment)  | £ 558.28   |
| - Libraries<br>(Ashford branch: additional resources/services/equipment)  | £ 1,885.30 |
| - Youth<br>(Ashford Youth service)  | £ 2,227.00 |
| - Social care<br>(towards extra care accommodation in Ashford<br>and the provision of homes to wheelchair and adaptable<br>standards) | £ 4,993.92 |
144. The requests sub-total **£112,443.90** at the time of request in 2020. It should be noted that these are specifically indicated by KCC as being valid for 3 months only and so are likely to be subject to change. The requests are also to be index-linked.
145. Turning to the Borough Council's requests made prior to early autumn 2020, the development does not require any open space to be provided on site. The Council's requests are as follows:-

- outdoors sports provision	£34,919.00
- indoors sports provision	£13,060.00

*(the above towards outdoor & indoor sports pitch provision at Ashford targeted toward the 'hubs' identified in the ALP 2030)*

- informal natural open space <i>(investment at Memorial Gardens)</i>	£18,816.87
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- play <i>(play facilities either town centre of Victoria Park)</i>	£32,526.67
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- allotments <i>(towards Torrington Road community allotment)</i>	£ 8,032.50
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- strategic parks <i>(improvements to Victoria Park)</i>	£ 4,784.79
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- public art <i>(provision within the Town Centre incl. Giraffes project)</i>	£ 8,389.50
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- voluntary sector <i>(towards active Town Centre groups)</i>	£ 2,156.88
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146. For the sports element above, the figures have been derived from the Sports England Calculator, as prescribed in Policy COM2 of the ALP 2030. The Borough Council's requests sub-total **£122,686.21** and are to be index-linked.
147. Since the final quarter of 2020, the position in respect of Stodmarsh lakes is such that a number of development sites in the Stour catchment area will be reliant on an off-site mitigation strategy being put in place and delivered in order to be able to proceed without giving rise to harm to that sensitive habitat. The application subject of this report falls into that category. The extent of that financial contribution relative to the development applied for is an unknown factor at present but, clearly, the ABC s.106 mitigation sub-total could increase from the figure quoted in the previous paragraph. I deal with Stodmarsh issues further below.
148. The NHS Kent & Medical Clinical Commission Group request a sub-total of £29,376.00 towards the refurbishment, reconfiguration and/or extension of space within the Ashford Stour Primary Care Network.
149. The total of the KCC, ABC and NHS contributions listed above is therefore £264,506.11.

150. Finally, for a development of this nature a s.106 monitoring fee would be the norm. In my view, I propose to follow the approach taken in respect of the Homeplus site and suggest that a total of £500 per annum would be appropriate for the duration of the build. On this basis, the IMP1 un-indexed policy compliant s.106 starting point would be £265,506.11.

(j) The applicant's viability case and the conclusion thereof

151. The applicant submitted a viability assessment at the end of April 2021. The assessment was in accordance with the provisions of Policies IMP1 and IMP2 of the ALP 2030 and was consistent with the NPPF (2019) and the standardised approach to viability as set out within Planning Practice Guidance.

152. The viability assessment considered the viability of the following development scenarios;-

(a) 'Scenario 1' – an alternative scheme involving the retention of Swanton House and its conversion into 12 apartments

(b) 'Scenario 2' – the demolition and site redevelopment scheme applied for

153. The assessment has been independently reviewed by Bespoke, the Council's retained viability consultant. The Benchmark Land Value (BLV) for the site that has been used is £290,000 based on its alternative use value which is lower than the applicant's Viability Assessment assumption by £360,000 as the adoption of a premium is not agreed in accordance with the advice in paragraph 17 of the NPPG.

154. Bespoke's conclusion is as follows;-

(a) 'Scenario 1' – even adopting the lowest profit of 15% of Gross Development Value advised by the NPPG, a residual land value of £197,614 would result. This value is below the £290,000 BLV by £92,386 and therefore the scheme would not be viable and could not be expected to be taken forward. No s.106 contributions are available for this scheme and so have not been able to be factored in. Any such contributions would reduce the residual land value further.

(b) 'Scenario 2' - having assessed the viability of the scheme against £265,049 of s.106 contributions and a typical 20% profit, the appraisal shows a residual land value of £133,849 which is below the BLV of £290,000 by £156,151 and thus a worse residual land value compared with that relating to Scenario 1 conversion scheme above (although the caveat identified above in respect of potential s.106 contributions applies). This means that the Scenario 2 scheme – being the applicant's proposition - could only be taken forward if



the s.106 requests are forgone and with a profitability level less than the 20% normally adopted being taken by the developer.

155. The fact that either of the scenarios would not be able to sustain policy compliant s.106 mitigation requests is, in itself, not a unique position. A number of town centre schemes have raised similar issues and the Council's approach is covered by Policy IMP2 of the ALP2030.
156. I am mindful that the 'Scenario 1' conversion scheme for Swanton House (a) is for modelling purposes only and does not represent the applicant's planning application development proposal to the Council in its role as the Local Planning Authority and (b) does not take into account potential s.106 contributions that might arise from such a scheme. I also take into account that the alternative, at face value given the absence of any other tested alternatives put forward, is for the site to remain in its present derelict form.
157. I deal further below the issue of other factors to be weighed in the decision making process in respect of the supply of new homes. It will be for the applicant to decide whether the reduced developer return is an acceptable one to allow taking the development of this site forward to implementation. Given my assessment of design quality and the impact of the scheme on the character of the conservation area it is important to stress that my conclusion is based on the scheme as it is presented.
158. The applicant has confirmed willingness to enter into an agreement under s.106 of the Act in respect of deferred contributions i.e. if a significant uplift above the predicted values is actually realised then monies can be 'clawed back' to help partially mitigate scheme impacts. This approach can be adopted save in my view for the annual monitoring fee which I consider should form a 'pay regardless' sum in accordance with Policy IMP2: this would constitute a small cost to the applicant given the stated 18 month build for the development in the submitted Viability Assessment. This is reflected in the Table 1 Heads of Terms that I set out further below.
159. Finally, the viability assessment takes no account of any potential additional costs to the scheme deriving from the off-site mitigation and scheme contribution towards such mitigation that is likely to be necessary to address the Habitat Regulations which are set out further below. At this stage, it is not possible to estimate what scale of potential costs this might entail but, in my opinion, it does serve to underpin the wider conclusions on the viability of the scheme that is proposed as well as the alternative that has been modelled.

(k) Whether the planning benefits of the application would outweigh accepting sub-optimal mitigation through s.106 obligations and the implications of the Council's housing land supply on the required balance

160. My view, with some reluctance that a prominent existing building fronting Elwick Road would be lost, is that the scheme would provide overall planning benefits in accordance with the approach set out in Policy SP5 of the ALP 2030. It would remedy the adverse visual impacts of an unlisted building that is boarded up and in a derelict condition. It would also deliver much needed homes in a good location. I consider that these benefits would outweigh the sub-optimal position in respect of the redevelopment scheme not being able to deliver policy compliant s.106 benefits.
161. The Council's 5 year housing land supply for the Borough is material to the consideration of this application. In November 2020, the Council published its updated position and this identified that the deliverable housing land supply was equivalent to 4.8 years. As a consequence, paragraph 11 (d) of the NPPF is triggered that requires the decision-maker to grant planning permission for new housing development unless:-
- 'i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*
162. In effect, paragraph 11(d) requires additional weight to be given to the issue of delivery of homes in the required balancing exercise. I have already attached appropriate weight to all of the considerations in respect of the impacts of the proposal on the character of the conservation area.
163. The review of the applicant's viability assessment concludes that an alternative development scenario – one referenced and favoured by many of the objectors to the application - providing for the retention and conversion of Swanton House has been found to be significantly unviable. Clearly, it could not proceed as a development reality.
164. The Design Panel pre-application advice identified the lack of options for consideration as an issue that the applicant needed to explore. At my request, the applicant assessed the viability of an alternative scheme that would retain the integrity of Swanton House.
165. I do, however, except that other options, potentially involving both retention and rearwards extension, have not been presented as part of the applicant's viability assessment. Clearly, such schemes could be likely to have implications on both the quantum of new homes achievable and overall scheme viability. A significant reduction in available on-site car parking (which would bring into question how far a significantly lower level of on-site parking

would be acceptable as an exception to Policy TRA3(a)) would appear to be a likely consequence of a retention/conversion and extension scheme. The application scheme, on the other hand, is also not viable assessed with a 20% profit. However, this is the scheme that the applicant wishes to be decided by the LPA and (subject to a relaxation of all s.106 mitigation) could be taken forward with a reduced profit level and provide 34 new homes in a location that performs strongly measured against the development plan and the NPPF when read as a whole.

166. In the circumstances, I conclude that the first exemption to paragraph 11(d) would not apply in this instance.
167. On the second exemption, I do not consider that impacts could be demonstrated that would reach the required bar so as to dictate a refusal of permission in the current circumstances where the Council has a 4.8 year housing supply position and so I my conclusion is that this also would not apply.

#### **Planning Obligations**

168. Regulation 122 of the Community Infrastructure Regulations 2010 says that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) **necessary** to make the development acceptable in planning terms,
  - (b) **directly related** to the development; and
  - (c) **fairly and reasonably related in scale and kind** to the development
169. I recommend the planning obligations in Table 1 be required should the Committee resolve to grant permission. I have assessed them against Regulation 122 and for the reasons given consider they are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Accordingly, they may be a reason to grant planning permission in this case.
170. Recommendation (A) further below deals with the necessity for the applicant to enter into a s.106 agreement and includes delegation to officers to deal with any necessary deletions, amendments and additions that might be required. Recommendation (B) further below provides for delegation to officers to deal with any additional s.106 obligations that might be necessary to mitigate against impacts of development on the integrity of Stodmarsh SAC, SPA and Ramsar site.



### Heads of Terms for Section 106 Agreement/Undertaking

	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts (s)	Trigger Points (s)	
1.	<p><b><u>Informal/Natural Green Space</u></b></p> <p>Project: investment at Memorial Gardens</p>	£18,816.87	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as informal/natural green space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies SP1, COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use informal/natural green space and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>

Planning Obligation				Regulation 122 Assessment
	Detail	Amounts (s)	Trigger Points (s)	
2.	<p><b><u>Adult Social Care</u></b></p> <p><u>Project:</u> towards extra care accommodation in Ashford</p>	Total £4,993.92	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as enhanced facilities and assistive technology required to meet the demand that would be generated pursuant to Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use community facilities and assistive technology services and the facilities and services to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings.</p>
3.	<p><b><u>Allotments</u></b></p> <p><u>Project:</u> towards Torrington Road community allotment</p>	Total £8,032.50	<p><b>From any Deferred Contributions received,</b> allocated as</p>	<p><b>Necessary</b> as allotments are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies SP1, COM1, COM2, COM3, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p>

			determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.	<p><b>Directly related</b> as occupiers will use allotments and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
4.	<p><b><u>Children's and Young People's Play Space</u></b></p> <p><u>Project:</u> off-site provision of play facilities either in Ashford Town Centre or Victoria Park</p>	Total £32,526.67	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the</p>	<p><b>Necessary</b> as children's and young people's play space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD, and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use children's and young people's play space and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>

			viability assessment.	
5.	<p><b><u>Community Learning</u></b></p> <p><u>Project:</u> towards additional resources and equipment</p>	Total £558.28	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as enhanced services required to meet the demand that would be generated and pursuant to Local Plan 2030 Policies COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use community learning services and the facilities to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings.</p>
6.	<p><b><u>Health Care</u></b></p> <p><u>Project:</u> towards the refurbishment, reconfiguration and/or extension of space within the Ashford Primary Care Network.</p>	Total £29,376.00	<p><b>From any Deferred Contributions received,</b> allocated as</p>	<p><b>Necessary</b> as additional healthcare facilities required to meet the demand that would be generated pursuant to Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2 and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use healthcare facilities and the facilities to be funded will be</p>



			determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.	available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has been calculated based on the estimated number of occupiers.
7.	<b><u>Libraries</u></b>  <i>Applies to developments of 11 dwellings or more</i>  Contribution for additional bookstock at libraries in the borough	Total £1,885.30	<b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the	<b>Necessary</b> as more books required to meet the demand generated and pursuant to Local Plan 2030 Policies SP1, COM1 and KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.  <b>Directly related</b> as occupiers will use library books and the books to be funded will be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because amount calculated based on the number of dwellings.

			viability assessment.	
8.	<p><b><u>Outdoor &amp; Indoor Sports provision</u></b></p> <p>Project: towards outdoor &amp; indoor sports pitch provision targeted towards the specific 'Hub' projects identified in Policy COM2 of the ALP 2030</p> <p><i>(Discovery Park                      Conningbrook Park                      Ashford Town Centre                      Finberry/Park Farm                      Kingsnorth Recreation Centre                      Sandyhurst Lane                      Spearpoint                      Pitchside/Courtside)</i></p>	<p>Total outdoor                      £34,919.00</p> <p>Total indoor                      £13,060.00</p>	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as outdoor sports pitches are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use sports pitches and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
9.	<p><b><u>Primary Schools</u></b></p> <p><u>Project:</u> (1) towards construction of Conningbrook Primary School and (2) towards associated land acquisition</p>	<p>(1) Sub-total                      £51,000.00</p>	<p><b>From any Deferred Contributions</b></p>	<p><b>Necessary</b> as no spare capacity at any primary school in the vicinity and pursuant to, Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p>

	costs at this site	(2) Sub-total 17,729.40  Total £68,729.40	<b>received</b> , allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.	<b>Directly related</b> as children of occupiers will attend primary school and the facilities to be funded would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of primary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
10.	<b><u>Secondary Schools</u></b>  <u>Project:</u> towards the expansion of Norton Knatchbull	Total £34,050.00	<b>From any Deferred Contributions received</b> , allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted	<b>Necessary</b> as no spare capacity at any secondary school in the vicinity and pursuant to, Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, Developer Contributions/Planning Obligations SPG, Education Contributions Arising from Affordable Housing SPG (if applicable), KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF. .  <b>Directly related</b> as children of occupiers will attend secondary school and the facilities to be funded would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and

			sales price as identified by the viability assessment.	because the amount has taken into account the estimated number of secondary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
11.	<p><b><u>Strategic Parks</u></b></p> <p><u>Project:</u> improvements to Victoria Park</p>	Total £4,784.79	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> as strategic parks are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use strategic parks and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
12.	<p><b><u>Voluntary Sector</u></b></p> <p><u>Project:</u> towards active Town Centre groups</p>	Total £2,156.88	<p><b>From any Deferred</b></p>	<p><b>Necessary</b> as enhanced voluntary sector services needed to meet the demand that would be generated pursuant to Local Plan 2030 policies SP1, COM1,</p>

			<p><b>Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p>IMP1 and IMP2, KCC document 'Creating Quality places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use the voluntary sector and the additional services to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development.</p>
13.	<p><b><u>Youth Services</u></b></p> <p><u>Project:</u> towards the Ashford Youth service</p>	Total £2,227.00	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted</p>	<p><b>Necessary</b> as enhanced youth services needed to meet the demand that would be generated and pursuant to Local Plan 2030 policies SP1, COM1, IMP1 and IMP2, KCC document 'Creating Quality places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use youth services and the services to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings and because no payment is due</p>

			sales price as identified by the viability assessment.	on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
<b>Planning Obligation</b>				
	<b>Detail</b>	<b>Amount (s)</b>	<b>Trigger Points</b>	<b>Regulation 122 Assessment</b>
14.	<p><b>Public Art</b></p> <p><u>Project</u> towards provision within Ashford Town Centre including Giraffes project</p>	Total £8,389.50	<p><b>From any Deferred Contributions received,</b> allocated as determined by Officers under delegated powers. Payable if the actual sales price of each dwelling exceeds the predicted sales price as identified by the viability assessment.</p>	<p><b>Necessary</b> in order to achieve an acceptable design quality pursuant to Local Plan policies SP1, SP5, SP6, COM1, IMP1 and IMP2 (if applicable) and guidance in the NPPF, the Ashford Borough Public Art Strategy and the Kent Design Guide.</p> <p><b>Directly related</b> as would improve the design quality of the development and would be visible to occupiers.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development.</p>
<b>Monitoring Fee</b>				
	<b>Monitoring Fee</b>			<b>Necessary</b> in order to ensure the planning

15.	Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking	£500 per annum until development is completed	<p><b>PAY REGARDLESS</b></p> <p>First payment upon commencement of development and on the anniversary thereof in subsequent years (if not one-off payment)</p>	<p>obligations are complied with.</p> <p><b>Directly related</b> as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the obligations to be monitored.</p>
16..	<p><b><u>Deferred payments mechanism</u></b></p> <p>Mechanism to monitor sales/rental values to ensure that 40% of any rise in values is paid to the Council towards those contributions above that are deferred.</p>	Up to the value of all deferred contributions (index linked)	To be paid if the circumstances prevail	<p><b>Necessary, directly related and fairly and reasonably related in scale and kind</b> pursuant to Ashford Local Plan Policy IMP2</p>
17.	<p><b><u>Accessible and Adaptable Housing</u></b></p> <p>Level 2 access homes (M4(2)) to be provided</p>	Minimum of 20% M4(2) across the	N/A	<p><b>Necessary</b> as providing a mix and type of housing is required to meet identified needs in accordance with Policy HOU14 of Local Plan 2030 and guidance in the NPPF.</p>

		whole site		<p><b>Directly related</b> as the accessible/adaptable housing would be provided on-site.</p> <p><b>Fairly and reasonably related in scale and kind</b> as based on a proportion of the total number of housing units to be provided.</p>
<p>Notices must be given to the Council and the County Council at various stages in order to aid monitoring. All contributions are index linked in order to maintain their value. County Council contribution are to be index linked by the BCIS General Building Cost Index from Oct 2016 to the date of payment (Oct-16 Index 328.3). The Council's and the County Council's legal costs in connection with the deed must be paid.</p> <p><b>If an acceptable deed is not completed within 3 months of the committee's resolution, the application may be refused.</b></p>				



## Human Rights Issues

171. I have also taken into account the human rights issues relevant to this application. In my view, the “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

## Working with the applicant

172. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

## Conclusion

173. I acknowledge that the loss of the building is a sensitive matter but for the reasons set out in the sub-sections of my Assessment I conclude that the development would accord with the key policies of the ALP 2030 seeking responsive well designed buildings and that the benefits of the proposal outweigh issue of harm to the character of the Conservation Area especially when taking into account the derelict nature of the existing building and the NPPF requirement to add further weight to granting permission for new homes when a 5 year housing land supply cannot be demonstrated.
174. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh SAC, SPA and Ramsar Site under the Habitats Regulations. Therefore, the recommendation to grant planning permission is subject to the adoption, under delegated powers, of an Appropriate Assessment to the effect that the development will not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary additional obligation(s) and/or planning conditions deemed necessary to achieve that end.

## Recommendation

- (A) Subject to the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations detailed in Table 1 (and any section 278 agreement so required), in terms agreeable to the Strategic Development and Delivery Manager or Development Management Manager in consultation with the Director of Law and Governance, with delegated authority to the Strategic**

**Development and Delivery Manager or Development Management Manager to make or approve changes to the planning obligations and planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit; and,**

- (B) Subject to the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations to be adopted by the Head of Planning and Development which identifies suitable mitigation proposals such that, in her view, having consulted the Director of Law and Governance and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation**
- (C) Resolve to permit subject to planning conditions and notes, including those dealing with the subject matters identified below, with any 'pre-commencement' based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018**

1. Standard time condition
2. Development carried out in accordance with the approved plans
3. Code of Construction practice including Dust Management
4. Hours of construction
5. Wheel washing, site set-up and contractor paring arrangements
6. Highways
7. Provision and retention of parking
8. Minimum x 4 active EV charging installation prior top first occupation at the site and passive provision as part of a future proofing strategy including details of supporting infrastructure and its location
9. Provision and retention of secure cycle parking and bin storage
10. Remediation and verification to leave uncontaminated
11. Dealing with any unexpected contamination
12. Foul water sewerage disposal details
13. SUDs scheme including verification
14. Tree protection measures
15. Arboricultural Method Statement to prevent damage to off-site trees

16. Full details of hard and soft landscaping works within the site, including permeable paving
17. Water use not to exceed 110 litres per day
18. External bricks, feature bricks, cladding and other materials to be agreed.
19. Exploration of car club
20. Details of a scheme to celebrate the site's WW1 local history to Ashford to be agreed.

#### **Note to Applicant**

1. S106
2. Construction Management Plan to ensure cessation of works sufficiently in advance and for the duration of the bi-annual EKBMGC events within the Memorial Gardens.
3. The Local Planning Authority would wish to see thoughtful incorporation of the site's local WW1 history to Ashford preferably into the site's hinterland so that it can be appreciated by non-residents.
4. Working with the Applicant

#### **Working with the Applicant**

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance,

- the applicant/agent was provided with both officer and Design Panel pre-application advice,
- The applicant was provided the opportunity to submit amendments to the scheme to address issues raised, and

- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

## **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 20/00711/AS)

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<b>Application Number</b>	21/00306/AS
<b>Location</b>	Former Goods Yard, Bramble Lane, Wye, Kent
<b>Grid Reference</b>	604725 147086
<b>Parish Council</b>	Wye with HinxHill
<b>Ward</b>	Wye with HinxHill
<b>Application Description</b>	Erection of 9 houses
<b>Applicant</b>	Pathway Project 1 Ltd
<b>Agent</b>	Bhox Ltd
<b>Site Area</b>	0.48 ha

## Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member.

## Site and Surroundings

2. The application site is located adjacent to the Havillands housing development to the west with a number of residential properties backing directly onto the site. Wye Railway Station is located to the east of the site and Briar Close office/light industrial units are located to the south of the site.
3. Access to the site is off Bramble Lane with a right of easement across the land currently utilised as a car park serving the adjacent railway station. The car park is currently not formally laid out. To the north of the car park adjacent to the rear of number 43 Havillands, is a Southern Water sewage pumping station.
4. There are a number of site constraints, including the site falling within the North Downs Area of Outstanding Natural Beauty (AONB), being within an area of Archaeological Potential and given its previous uses, potential contamination. The site is adjacent to, but not within Flood zones 2 and 3, which are located to the east of the site beyond the railway line. The site also lies within the Stodmarsh catchment area.



Figure 1: Site Location Plan

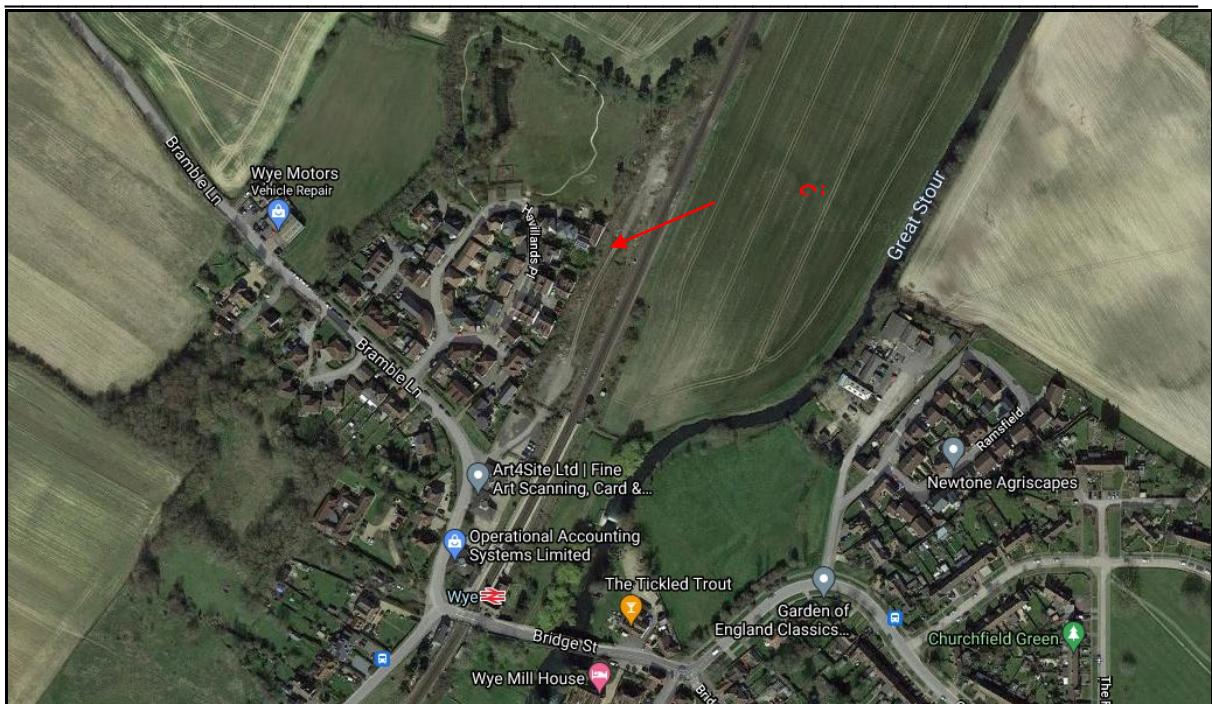


Figure 2: Google image of site

## The Proposal

5. The application is a detailed application for the erection of 9 houses.
6. Amended plans have been submitted during the course of the application altering the main parking court layout to include more landscaping, adding tandem parking at Plot 1, reducing the central parking court to include planting and relocating the visitor parking from meadow area to the main parking court. Additional landscaping has been introduced, including hedgerow planting along the carriageway and planting / trellis planting on the boundary walls and house elevations along the footway within the site.



Figure 3: Proposed Site Plan



Figure 4 – Visual of site



Figure 5 – Central square visual



Figure 6 – Plot 1. View from main parking court into the site

## Planning History

DC	FA	17/01646/AS	Development of 14no. dwellings with associated access and parking	Dismissed at appeal	18/06/2019
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## Consultations

7. **Wye Parish Council:** Holding objection. As summarised below:

- Consider the site to be over 0.5 hectare and contributions should be sought (*NB the site area has not changed since the last application and is below 0.5 hectares. The vehicle access through the station car park does not count towards the site/development area*)
- Lack of landscaping.
- Stodmarsh.
- Buildings would be overpowering to Havillands
- Loss of privacy.
- Habitat surveys are out of date.
- Archaeology report recommends an archaeological survey
- Impact on AONB.
- Flood risk and drainage issues
- Fire and refuse access.

8. **Network Rail** – Comments summarised below:
- NR welcomes the developer’s proposals to improve the station car park and will help the car park from getting blocked.
  - NR would welcome a contribution from the applicant towards station improvements (NB not a planning contribution as not major development)
  - Provides advice regarding construction works to safeguard NR land/access
9. **Environment Agency** – No objections. Recommend conditions relating to ground water contamination, surface water drainage and foundation design.
10. **KCC Heritage** – Site lies within an area of high potential associated with Romano-British industrial activity. Recommends archaeology field evaluations condition.
11. **KCC Biodiversity and Ecology:** - No further ecological surveys are required prior to determination of the planning application. The ecology reports recorded a medium population of GCNs and slow worm and a low population of grass snake and common lizard. There will be a need for updated surveys to inform the detailed mitigation strategies secured by condition. An offsite receptor site will be used for the reptile population and we are satisfied that this approach is acceptable. Recommend conditions for ecological enhancement, mitigation and lighting conditions.
12. **KCC Highways:** - No objection. Recommends conditions.
- Formalised station car parking with 28 spaces is acceptable in principle and a parking survey demonstrated that a maximum of 28 cars parked within the car park at present. Adequate access is being proposed for the internal access road in the form of a 4.1 metre wide carriageway and 1.8 metre wide footway. Vehicle tracking has been submitted to demonstrate that an 11.4 metre long refuse vehicle can enter the site, turn around and then exit in forward gear. Parking provision is acceptable.
- Some of the car parking spaces (for plots 4, 6 and 8) in the parking court are not well located to the dwellings they serve but this is a residential amenity issue rather than a highway safety issue as the internal road will remain in private ownership (*NB the parking court arrangement has been amended and parking is at least one parking space is now located adjacent to each house*)
- Recommends a condition for submission of a Construction Management Plan.
13. **KCC Drainage** – 9 dwellings therefore outside remit to comment. However, have reviewed the FRA. Would seek to reduce the discharge rate 2l/s minimum which can likely be met by using permeable paving with tanked subbase.

14. **ABC Environmental Health** – Recommend conditions as per noise assessment, contamination and electric charging points.
15. **ABC Refuse** – There is sufficient space for RCV to enter and turn within the site.
16. **Neighbours:** 46 objections and one general comment received covering the following issues as summarised below:
  - Vehicle access through the station car park.
  - Density.
  - Out of keeping.
  - Unsympathetic design.
  - Increase traffic.
  - Increased parking pressure.
  - Landscape harm.
  - Loss of privacy.
  - Loss of outlook.
  - Overbearing impact.
  - Increased flood risk.
  - Too close to the railway leading to impact on future occupiers of the units.
  - Impact on local infrastructure.
  - Detrimental to the character of Wye.
  - Network Rail maintenance access.
  - Impact on AONB and views of the Crown.
  - Not part of the neighbourhood plan.
  - Ecological impact.
  - Contrary to Local Plan policies.
  - Outside Wye village envelope.
  - Scale of the proposed houses.

## Planning Policy Context

### 17. The Development Plan

Section 38(6) of the Planning & Compensation Act 2004 replaces section 54A of the Town & Country Planning Act 1990 and states that if regard is to be had to the development plan for the purpose of any determination (including the assessment of any planning proposal) to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise

18. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden

Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).

19. The relevant policies in the Local Plan relating to the consideration and assessment of this application are as follows:-

20. SP1 – Strategic Objectives

SP2 – The Strategic Approach to Housing Delivery

SP6 – Promoting High Quality Design

HOU5 – Residential Windfall Development in the Countryside

HOU12- Residential Space Standards Internal

HOU15 - Private External Open Space

TRA3a - Parking Standards for Residential Development

TRA6 - Provision for Cycling

ENV3b – Landscape Character and Design in the AONB

ENV4 – Light Pollution and Promoting Dark Skies

ENV8 – Water Quality, Supply and Treatment

ENV9 – Sustainable Drainage

21. **Supplementary Planning Guidance/Documents**

Sustainable Design SPD

Sustainable Drainage SPD

Residential Parking

Residential Space & Layout (External space standards)

Dark Skies

Kent Downs AONB Management Plan

22. **Wye Neighbourhood Plan**

Policies WYE05, WNP1a, WNP1c, WNP2, WNP3, WNP5, WNP6, WNP8,

WNP9, WNP10



23. **National Planning Policy / Government Advice**

National Planning Policy Framework (NPPF)

The NPPF was published on 27 March 2012 but has been amended on several occasions, with the most recent in July 2021. Paragraph 11 of the National Planning Policy Framework sets out a presumption in favour of sustainable development. Paragraph 47 states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.

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

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

National Planning Practice Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Design
- Determining a planning application

## **Assessment**

24. The main issues for consideration are:

- a) Principle of Development
- b) Layout, Design, Character and Appearance
- c) Residential Amenity and Standards
- d) Access Arrangement, Parking Provision and Highway Safety

- e) Foul Water Disposal, Biodiversity & Habitat Regulations
- f) Five year housing land supply
- g) Other Matters

### **Principle of Development**

- 25. The site is located adjacent to Wye train station and adjoins the housing development known as Havillands. The site is located outside but adjacent the village boundary in the Wye Neighbourhood Plan. Development proposals for the site were previously assessed under policy HOU5 and therefore should be again.
- 26. Previously, a scheme for 14 dwellings (ref: 17/1646/AS) was dismissed on appeal as recently as June 2019 and aspects of the Inspector's decision letter remain pertinent to the consideration of this application. It is important to recognise that, notwithstanding the dismissal of the appeal, the Inspector took the view that this site was suitable in principle for housing development when assessing the previous scheme - as set out in paragraph 6 of the Appeal Decision:
- 27. *'The Council acknowledges that the site comprises 'previously developed land', and is sustainably located close to public transport and day-to-day shops and services. Therefore, I see no reason why, in principle, residential development could not take place on the site, subject to various criteria being met'.*
- 28. The Inspector's Decision is a material consideration in the determination of the current application and provides a useful benchmark for assessing the proposed development under policy HOU5 and will be examined in greater detail below.
- 29. Policy HOU5 of the Local Plan relates to a residential windfall development outside the recognised built up confines of existing settlements. The policy states that proposals for residential development adjoining or close to the existing built up confines of the urban area of Ashford and sustainable villages will be acceptable providing the following criteria are met:
  - a) *The scale of development proposed is proportionate to the size of the settlement and the level, type and quality of day to day service provision currently available and commensurate with the ability of those services to absorb the level of development in combination with any planned allocations in this Local Plan and committed development in liaison with service providers;*

The Wye Neighbourhood Plan allocates land at the former Wye College for residential development, however, I consider that the proposal for an additional 9 dwellings in combination with the planned developments and recently approved scheme at the former College would not create

unacceptable additional pressure and would be proportionate to the size of the settlement and the services available in Wye, which include a train station, shops, a primary and secondary school, several pubs and restaurants, a doctor's surgery and small businesses.

*b) The site is within easy walking distance of basic day to day services in the nearest settlement, and/or has access to sustainable methods of transport to access a range of services;*

Although on the western side of the railway line, the site is located in proximity to the village services and facilities and is connected by dedicated walking routes.

A pedestrian route through the station car park would not be a dedicated pedestrian route which does weigh against the scheme in some respects in my opinion and would not provide the most welcoming entrance into the application site from a pedestrian's perspective. However, the Inspector found this arrangement to be acceptable during the appeal for 14 houses (as set out below) therefore I do not consider that it would not be reasonable to raise objection to this scheme on this basis now. Paragraph 17 of the Appeal Decision states:

*'The Council has raised concerns regarding site accessibility for pedestrians, noting the absence of a pedestrian footpath, both across the car park and within the development itself. However, I do not consider it inherently problematic for pedestrians to walk through the car park to the site. Furthermore, the limited number of dwellings proposed means that, within the development, a 'shared surface' rather than separate pedestrian route should be adequate'.*

*c) The development is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider road network without adversely affecting the character of the surrounding area;*

A majority of the objections received from local residents relate to the routing of the vehicle access through the station car park that adjoins the southern boundary of the site and an anticipated increase in traffic and parking pressures. An inability to demonstrate safe access to and from the site was cited by the Inspector as one of the reasons why the appeal on the previous scheme was dismissed.

To overcome this, as part of the current proposals, the developer is proposing to provide a dedicated parking layout within the station car park for 28 cars (Page 11 of the Transport Statement). The parking arrangement would enable a clear access route through the car park into the application site from the public highway and KCC Highways have advised that there are no objections to the proposed route and internal access / turning arrangements in terms of highway safety. In addition, ABC refuse services have confirmed that the route would be suitable for refuse collection vehicles. Network Rail welcome the proposed layout changes to the car park. No objections are therefore

raised to the vehicle access to the site through the car park subject to conditions.

There have been extensive discussions between the developer and Network Rail in respect of the new station car park layout, Network Rail have agreed in principle to a new access right over the station car park into the proposed development area for both construction traffic and for the permanent right of the future occupiers of the residential units. The 2 parties have also agreed Heads of Terms for the establishment of a permanent and defined vehicular link from the public highway to the site boundary. However, in order for the Council to ensure that such Agreement is secured, it is recommended that a 'Grampian style' pre-commencement condition be imposed to restrict commencement pending the submission of evidence of that Agreement (signed, sealed and engrossed) to the Council. This would obviate the need for a S106 Agreement involving the Council and leave it to the 2 parties to sort out the details between themselves whilst giving the Council sufficient control over the situation. It is understood that the Agreement between the developer and Network Rail would be subject to the following:

- Internal approval from Network Rail's asset protection team and engineers.
- LC17 approval for Network Rail's regulator the ORR.
- Agreement of the consideration for the right which currently includes: Resurfacing and relining the station car park, a storage/welfare area for Network Rail operatives at back of the development segregated from the residential units.
- Planning approval for the development.

Taken together with the proposed condition, I consider that this overcomes the Inspector's concerns about this matter from the previous appeal.

The additional nine residential units would not result in a significant increase in traffic generation on the local road network and there are not considered to be any objections in terms of highways safety or parking provision from the proposed development. Given KCC Highways views on this matter, and having regard to paragraph 111 of the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, I am content that the proposal, subject to the imposition of appropriate conditions, satisfies this element of policy HOU5.

*d) The development is located where it is possible to maximise the use of public transport, cycling and walking to access services;*

The site has particularly good access to public transport (being adjacent to the railway station), cycling and walking to access services in Wye village and further afield.

*e) The development must conserve and enhance the natural environment and preserve or enhance any heritage assets in the locality; and,*

As set out above, the appeal Inspector accepted the principle of development on this brownfield site and the previous Appeal Decision sets out a number of useful parameters to assess the current application against.

The application site comprises a narrow brownfield site sandwiched between an existing housing development and the railway line, therefore there are no in principle objections to the redevelopment of the site for housing subject to an acceptable layout, scale and design which are assessed in further detail below.

Unlike the appeal proposal, the built development proposed in this application would not protrude beyond the existing building line of the adjoining Havilands development and would be seen much more in the context and backdrop of existing residential development. Given this, I consider there is a marked difference from the appeal proposal in terms of visual impact and potential impact on the rural setting of Wye and the wider character of the AONB. Consequently, I am content that the scheme is now acceptable in the context of this element of policy HOU5 and the criteria of policy ENV3b.

Similarly, given the location of the site, backdrop of the adjacent development and separation distances involved, including the railway line buffer it is considered that a suitably designed scheme would preserve the setting of the nearby conservation area providing the previous reasons for refusal can be overcome, as assessed below.

*f) The development (and any associated infrastructure) is of a high quality design and meets the following requirements:-*

- i) it sits sympathetically within the wider landscape,*
- ii) it preserves or enhances the setting of the nearest settlement,*
- iii) it includes an appropriately sized and designed landscape buffer to the open countryside,*
- iv) it is consistent with local character and built form, including scale, bulk and the materials used,*
- v) it does not adversely impact on the neighbouring uses or a good standard of amenity for nearby residents,*
- vi) it would conserve biodiversity interests on the site and / or adjoining area and not adversely affect the integrity of international and national protected sites in line with Policy ENV1.*

The Inspector did not raise any significant objections to the proposed layout of the previous 14 unit scheme stating at paragraph 7:

*'The new dwellings would be of varying designs, with some constructed parallel to the railway line and others at right angles to it. The layout makes efficient use of an awkwardly shaped site, and takes its cue from the Havillands development: for example, the dwellings around the central square*

*replicate the orientation of the adjacent Havillands properties, with others reflecting the respective positions of existing adjacent dwellings. In these respects, I do not find the scheme objectionable’.*

The principal reasons for the refusal of the previous application were the density, the lack in the variation of building height (only three-storey dwellings were proposed previously) and the encroachment into the meadow area beyond the established building line within Havillands.

The proposed development area would now be wholly within the existing brownfield site and there would be no intrusion into the countryside, therefore this reason for refusal has been successfully overcome.

In this respect the number of houses have been reduced and the northern development boundary would now respect the northern development boundary of the adjacent site at Havillands.

The northern part of the site would comprise a meadow area and would link into the existing meadow at Havillands. The northern boundary of the meadow benefits from established tree / hedgerow planting which would provide an appropriate landscape buffer to the wider countryside, in a similar fashion to the existing arrangement at the adjoining Havillands site. In addition, further tree planting / landscaping could be secured in this area by condition.

The current application follows a similar layout, albeit at a reduced density, to the appeal scheme, therefore no objections area raised in terms of the layout which would be sympathetic to the neighbouring development at Havillands. In addition, the proposals would infill a brownfield site located between the railway line and Havillands and would therefore preserve the setting of Wye village.

In terms of the scale, a variation in height is now proposed with a mix of two-storey and three-storey houses which would respect the variety of building heights found within the Havillands development.

Amendments have been submitted to increase the amount of landscaping within the site. Given the narrow and awkwardly shaped site there is limited space for any structural landscaping within the public areas. However, the revised scheme proposes a hedgerow along the eastern boundary of the site, planting at the entrance, the parking courts have been broken up with pockets of landscaping and the eastern elevation of some of the houses and garden boundary walls would be planted with climbing plants.

In terms of the design and built form, cues have been taken from the adjoining development at Havillands and the proposals would appear sympathetic to this neighbouring development. The design would comprise a more modern

approach than the neighbouring development which is considered to be acceptable and the layout would face the railway line creating an attractive and active frontage into the village by train. The palette of materials comprises facing brick and coloured cladding with recessed windows which are considered to be acceptable subject to a condition for material samples to ensure good quality materials are utilised.

As a result the proposed development of this brownfield site would not result in any significantly adverse harm to the character of the rural landscape or setting of Wye village and Wye Conservation Area. The Inspector noted that the development of this site would have limited impact on the AONB and I consider that the reduced density and layout and the variation in building heights would conserve the setting of the AONB and the site would be viewed in the context of the adjoining Havillands development.

Policy ENV1 states proposals should safeguard features of nature conservation interest and should include measures to retain, conserve and enhance habitats.

A Preliminary Ecological Assessment (PEA) and Reptile Presence survey was submitted in support of the application. The PEA was undertaken to classify the habitats present, determine the potential for protected species to occur within the site, identify key ecological constraints to minimise ecological effects through the design of the scheme, and suggest any further surveys or suggest ways to maintain, enhance or mitigating measures for biodiversity.

The submitted reports confirmed that a medium population of GCN and slow worm were found on the site and a low population of grass snake and common lizard.

The applicant proposes to use an offsite receptor site for the reptile population which is considered acceptable in principle and has been agreed by KCC Ecology subject to conditions requiring a detailed ecology mitigation strategy to safeguard protected species. There are opportunities for ecology enhancements to be incorporated into the housing development and the meadow area and these could also be secured by condition.

### **Living conditions**

30. In accordance with policy HOU12 and the provisions in the national guidance, the internal layouts meet the set standards. The external amenity spaces are also satisfactory and in accordance with policy HOU15.
31. During the previous application, objections were raised by the Council regarding the proximity of the proposed development to Havillands and a loss of privacy and overbearing impact. However, it is noted that the Inspector did

not raise any concerns on this point as set out at paragraph 11 of the Appeal Decision:

32. *'In my judgement, the proposed relationship between all the dwellings would be acceptable. Some degree of mutual overlooking is not unusual in residential areas. Indeed, I note that the distances and relationships between the dwellings do not appear to be significantly different from that found at the adjacent Havillands scheme. Overall, I do not find that the appeal should fail on this ground'*.
33. The current scheme proposes a similar layout to the refused application in terms of the relationship with Havillands, therefore no neighbour amenity objections are raised.
34. The proposals are supported by a noise assessment to determine the impact of noise from the adjacent railway and pumping station on the future occupants. The Inspector concluded that there would be no issue from noise subject to various mitigation measures to safeguard future occupants. This view has been echoed by the Council's Environmental Health department and conditions are recommended to safeguard future occupants from the nearby railway line/station and pumping station.

#### **Parking**

35. The proposals would provide policy compliant parking for the proposed development, including visitor parking in accordance with policy TRA3a. Some secondary parking spaces for the housing are proposed in the parking courts, however each house would have at least one parking space adjacent / on plot for easy access.
36. Policy compliant cycle parking is proposed in individual cycle sheds at each property.

#### **Foul Water Disposal, Biodiversity & Habitat Regulations**

37. The site falls within the 'Stour Lower' Operational Catchment Area. The Council has received Standing advice from Natural England (NE) regarding the water quality at the nationally and internationally designated wildlife habitat at Stodmarsh Lakes, east of Canterbury, which in particular includes a Special Area of Conservation (SAC), a Special Protection Area for Birds (SPA) and a Ramsar Site.
38. The effect of the advice implies that this proposal must prima facie now be considered to have a potentially significant adverse impact on the integrity of the Stodmarsh Lakes, and therefore an Appropriate Assessment (AA) under the Habitats Regulations would need to be undertaken and suitable mitigation identified to achieve 'nutrient neutrality' as explained in NE's advice, in order for the Council to be able lawfully to grant planning permission.



39. Under the Council's Constitution, the Head of Planning and Development already has delegated authority to exercise all functions of the Council under the Habitats Regulations. This includes preparing or considering a draft AA, consulting NE upon it, and amending and/or adopting it after taking into account NE's views.
40. As such, the applicant is required to carry out a Habitats Regulations Assessment (HRA), which generally includes an Appropriate Assessment (AA) carried out by the competent authority, in this case the LPA (NB: the second, more detailed stage of an HRA). The findings of the HRA need to be referred to Natural England and there is a duty to consider their response.
41. As matters stand, it is likely that an off-site package of mitigation measures could be required in order for this proposal to achieve 'nutrient neutral' status and in the absence of such measures (or any others) having been identified and demonstrated to be deliverable, it is not possible to conclude that the scheme would be acceptable in respect of this issue now.
42. However, work commissioned by the Council has commenced on identifying a package of strategic mitigation measures that it is hoped would enable relevant developments within the Borough's River Stour catchment (where the NE advice applies) to come forward on a 'nutrient neutral' basis, subject to appropriate obligations and conditions to secure the funding and delivery of the mitigation before occupancy of the development.
43. Therefore, aside from the issue highlighted above, this proposal is considered to be otherwise acceptable (subject to conditions), it is recommended that a resolution to grant planning permission should be subject to the adoption by the Head of Planning and Development, having consulted NE, of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in order to reach that assessment.

#### **The application proposals in relation to the Borough's 5 year housing land supply**

44. The Council can currently demonstrate just over 4.54 years supply of land for housing, which includes a 5% buffer.
45. Given that a five year supply of housing land cannot be demonstrated and is therefore a material consideration, ordinarily the tilted balance in paragraph 11(d) of the NPPF applies.

46. This states that for decision taking,  
*..where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer), granting permission unless:*
- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
47. However, in the circumstances of this particular case at the current time in fact the ‘tilted balance’ does not apply due to the effect of Reg. 63(5) in that NPPF footnote 7 and para. 181 provide, collectively, that the tilted balance only applies if and when an appropriate assessment has concluded that the proposal will not adversely affect the integrity of the protected site in question – in this case, Stodmarsh lakes. At present, this is not the case – and thus, under Reg. 63(5), it would not currently be lawful to grant permission in any event.
48. In this case, it is pertinent however to pay regard to the Council’s housing land supply position and the guidance contained in para. 11 of the NPPF which reinforces the need to permit proposals which are in accordance with the Development Plan. I consider this lends added weight to the recommendation below.

### **Other Matters**

49. It is noted that the site is allocated in the Wye Neighbourhood Plan as a car park. However, the Inspector made an important comment on this point in his Decision letter on the appeal scheme by concluding that states that NP policies carry diminished weight in light of the (then) newly adopted Local Plan. The Neighbourhood Plan has not been revised or updated since 2019 and whilst it remains part of the Development Plan and its policies are material but should not outweigh the relevant Local Plan policies referred to in this report.
50. The previous application on this site was for 14 dwellings and was therefore a major development and subject to policies requiring affordable housing and other planning contributions. The current application is for 9 houses and is therefore not classed as a major development and the requirements for these contributions are no longer applicable. The Parish Council has indicated that

they believe the site area is greater than 0.5 hectares and is therefore a major development site. On this point, the site area has been checked by the Council and has not increased from the previous application and the Council are of the view that the development site area is below 0.5 hectares as stipulated on the application form. The access through the station car parking does not constitute part of the development site and is third party land and has therefore not been included in the measurement of the site area.

## Human Rights Issues

45. Human rights issues relevant to this application were taken into account in the assessment of this proposal. The “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

## Conclusion

46. In conclusion, the Development Plan supports the principle of residential development close to the sustainable villages such as Wye, subject to compliance with policy HOU5 criteria, other relevant policies and adopted standards. This previously developed site lies on the edge of Wye, and is well located in terms of access to local services and facilities as well as public transport. In contrast to the previous scheme for the site dismissed on appeal in 2019, it is considered that the proposed development would not harm the rural character of the area, setting of the AONB or conservation area, by virtue of its scale, design and layout which would be in keeping with the character and the spatial pattern of the adjoining development at Havillands.
47. No harm to residential amenity is envisaged and the proposed development is acceptable in terms of its visual impact and impact upon the highway.
48. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh Special Area of Conservation (SAC) Special Protection Area (SPA), and Ramsar Site under the Habitats Regulations. Therefore, the recommendation to grant planning permission is subject to the adoption, under delegated powers, of an Appropriate Assessment to the effect that the development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in this respect.

## **Recommendation**

### **Permit**

- (A) Subject to the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations to be adopted by the Head of Planning and Development which identifies suitable mitigation proposals such that, in their view, having consulted the Solicitor to the Council & Monitoring Officer and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation and the following conditions**
- (B) Resolve to Permit subject to planning conditions and notes, including those dealing with the subject matters identified below (but not limited to that list) and those necessary to take forward stakeholder representations, with wordings and triggers revised as appropriate and with any ‘pre-commencement’ based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018**

### **Conditions**

1. Standard Time Condition
2. Compliance with The Approved Plans
3. Landscaping Scheme to include additional tree planting
4. Materials to be Approved
5. Retention of Vehicle Parking spaces
6. Code of Construction Practice
7. Submission of evidence concerning the execution of a bilateral between the applicant / developer and Network Rail concerning establishment of a permanent and defined vehicular link from the public highway to the site boundary and right of passage
8. Electric Vehicles Charging Points
9. Biodiversity Enhancement
10. Ecology Mitigation
11. Removal of permitted development.
12. Drainage
13. Noise condition – protection for future occupiers.

#### **1. Working with the Applicant**

In accordance with paragraph 38 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,

- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
  - where possible suggesting solutions to secure a successful outcome,
  - informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- 
- In this instance, the applicant/agent was updated of any issues after the initial site visit, was provided with pre-application advice, The applicant was provided the opportunity to submit amendments to the scheme/ address issues.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

## **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 21/00306/AS)

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<b>Application Number</b>	21/00973/AS
<b>Location</b>	Greenluck Farm, Harris Lane, High Halden TN26 3HN
<b>Grid Reference</b>	
<b>Parish Council</b>	High Halden
<b>Ward</b>	Weald Central
<b>Application Description</b>	Creation of an access track
<b>Applicant</b>	Mr M Green
<b>Agent</b>	
<b>Site Area</b>	4.65 hectares

## Introduction

1. This application is reported to the Planning Committee at the request of the one of the Ward Members, Councillor Pickering.

## Site and Surroundings

2. The site (Greenluck Farm) lies outside the built confines of the village of High Halden. It is also outside a designated landscape area, but within land recorded as being part of the Low Weald Landscape Character Area. The site is part of an Ancient Woodland.
3. The farm holding measures approximately 4.65 hectares, with the western part populated by mature trees and the eastern part consisting of mainly of grassland. There are agricultural buildings to the south and north of the site under separate holdings. The farm is accessed from Harris Lane – which bounds the farm to the west.

## Proposal

4. The proposal under consideration seeks permission to create an access track – to connect the main access point off Harris Lane with the eastern part of the farm holding where several agricultural buildings are located. It is important to note that an unmade access track similar to the proposed configuration is already in place, but the applicant wishes to surface it with suitable materials

to prevent mud and hindrance to farm vehicles during the winter months. Details of the construction methods and surfacing of the proposed access have not been provided, but the access route would be approximately 4 metres wide and would terminate at the existing hedge line that separates the farmland from the grazing land on the eastern part of the site.



## Planning History

5. The following entries are relevant to the application;-

17/01529/AS: Proposed pig pens – Approved.

18/01551/AS: Access to field, erection of pole barn, cattle shed, chicken shed, aviary, shed for llamas, shed for sheep with surround fencing, shed for food, maintenance to pond – Undetermined.

## Consultations

**Ward Member(s): Councillor Alan Pickering** - The High Halden Parish Council is not happy with this application and should you be minded to approve it, I would like it 'Called In'.

**(Parish) Councillor Irmgard Pickering** – concurrence with the representations of the Parish Council, detailed below.

**High Halden Parish Council (Original Representation - Received on the 9<sup>th</sup> of August 2021):** The proposed 4m wide track crosses designated ancient woodland to reach open grassland field and the pig pens/livestock buildings.



Prior to this proposal a water pipe already excavated in 2018 and approved retrospectively could be utilized and adapted to reach the pens.

The report of the ABC Tree Preservation Officer is vital to avoid further potential damage to the ancient woodland from the new application, thus mitigating the impact.

Furthermore, the positioning of a caravan already in place in the open grassland field needs clarification from the Planning Officer to ensure whether appropriate and to its function.

**Further Representation Received on the 21<sup>st</sup> of September 2021:** Further to the comments submitted on the 9 August 2021 we wish to make it known that we have grave concerns regarding the proposed track. Residents living nearby have since sent their strong objections to you as well.

Any further concessions would add to the destruction of this designated land and the clear commitment of the NPPF and The Ashford Local Plan to safeguard such land.

The NPPF 2019 on page 51 on Habitats and biodiversity under para 175c states:

"Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (Special Area of Conservation or Ramsar site) and a suitable compensation strategy exists".

Cutting and dumping is already taking place on this designated land contravening the 2018 agreement. We can see no evidence of any animals but plenty of unsuitable rubble and neglect.

The Ashford Local Plan, adopted February 2019, also enforces the safeguarding of such land.

The Natural and Built Environmental Policy ENV1 Biodiversity states, page 268: Proposals should safeguard features of nature conservation interest and should include measures to retain, conserve and enhance habitats including BAP (Priority) habitats, and networks of ecological interest, including ancient woodland, water features, ditches, dykes and hedgerows as corridors and stepping stones for wildlife. Policy ENV5 Protecting Important Rural Features:

"All development in the rural areas of the Borough shall protect, and, where possible, enhance the following features:

a) Ancient woodland and semi-natural woodland,...."

These two important documents clearly state that ancient woodland should be protected.

The applicant for Greenluck Farm ignores these guidelines and appears to have little understanding of being in possession of a designated area with special needs.

The biodiversity would not be enhanced with keeping pigs as by their nature they would further damage the wood flora and insect habitat. Furthermore, the existing and planned pens are in any case too close to residential properties under current regulations.

The planned track would also introduce more hardcore/cement further eroding and damaging the designated land.

We express our strongest objections to allowing the building of such a track.

The owners should be forced to remove all dumped materials, cars etc. from the land within a given time and should put the land back to an appropriate condition for fauna and flora to recover.

The ancient woodland is the only access to the open grassland field at the rear and we consider this unsuitable for such a purpose.

**Natural England:** No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Sites of Special Scientific Interest - Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Ancient Woodland - Natural England advises that the proposal as presented has the potential to adversely affect woodland classified on the Ancient Woodland Inventory. Natural England refers you to our Standing Advice on ancient woodland.

Priority Habitat - The consultation documents indicate that this development includes an area of priority habitat as listed on Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.

**KCC PROW:** no PRoW appear to be affected so we would not make any comments on this application.

**ABC Tree Officer:** I am aware, the track construction needs more detail and must be no-dig. In principle, I would not object, but in addition I would expect to see an arboricultural method statement to ensure that no harm may be caused to the trees.

Neighbours: Nine (9) neighbours notified and 7 responses received. The concerns and objection raised are summarised below:

- The site is ancient woodland and as such feel it could have a detrimental effect to the woodland and its wildlife etc;
- It is not at all clear as to the purpose of a new access track, it is our understanding that there is already a track in place which is used regularly by cars and trucks going in and out. We are also curious as to why it needs to be 4 meters in width, what is the purpose of this and what is it intended to be used for?
- Noise and smell nuisance;
- Several breaches of planning control taking place on the farm;
- Proposal conflicts with several policies in the Local Plan;
- Damage and loss to protected trees; and
- These fields are not part of any farm. It is land that has been used by the family as a dumping ground and motocross track.

## Planning Policy

### Government Guidance/Development Plan Policy/SPG/Other

6. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019), Boughton Aluph & Eastwell Neighbourhood Plan, and the Kent Minerals and Waste Local Plan (2016).
7. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
8. The relevant policies in the Local Plan relating to the consideration and assessment of this application are as follows:-
9. SP1 – Strategic Objectives  
SP6 – Promoting High Quality Design  
ENV1 – Biodiversity  
ENV3a – Landscape Character and Design  
ENV5 – Protecting Important Remains

## **Supplementary Planning Guidance/Documents**

10. Sustainable Design SPD  
Sustainable Drainage SPD 2010  
Landscape Character Assessment SPD 2011

## **Government Guidance**

### **National Planning Policy Framework (NPPF) 2021**

11. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the NPPF. The NPPF states that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-
  4. Decision-making
  11. Making effective use of land
  12. Achieving well-designed places
  15. Conserving and enhancing the natural environment

### **National Planning Policy Guidance (NPPG)**

12. In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:
  - Design
  - Determining a planning application
  - Ancient woodland, ancient trees and veteran trees: protecting them from development

## **Assessment**

13. It should be noted that an unmade access track is already in place, meandering through the mature trees on the western part of the farm holding. The proposed access track is of similar alignment and configuration but requires permission because of the operational aspects in terms of changing the surfacing materials to a more durable component to overcome the mud

and hindrance to vehicle movements experienced during the winter months according to the applicants.

### Principle of the Development

14. Policy ENV5 (Protecting Important Rural Features) of the Local Plan states that all development in the rural areas of the Borough shall protect and, where possible enhance the following features:
  - a) Ancient woodland and semi-natural woodland;
  - b) River corridors and tributaries;
  - c) Rural lanes which have a landscape, nature conservation or historic importance;
  - d) Public rights of way; and,
  - e) Other local historic or landscape features that help to distinguish the character of the local area.
  
15. Paragraph 180(c) of the NPPF is also material to the assessment and determination of this application. This requires development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) to be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. These exceptional cases are clarified in the Natural England's and Forestry Commission's Guide to assessing development proposals affecting ancient woodlands.
  
16. It is advised that planning officers and others may wish to use this 'Assessment Guide' when making a comprehensive assessment of the potential effects of a development on ancient woodland and veteran trees when referring to the standing advice.
  
17. Some of the assessment criteria and the responses are detailed below:

Is the site of the ancient woodland the only possible place for this proposal? Does it have to be on the ancient woodland site (i.e. is it location dependent) or can it go anywhere else? **The proposed access is for the farm's benefit and cannot be located elsewhere.**

Will there be damage to the Root Protection Area of the woodland or individual trees? **The Tree Officer has raised no 'in principle' objection to the proposal subject to there being a no-dig. In addition, there is an expectation for an arboricultural method statement will be submitted to ensure that no harm may be caused to the trees. This will be required through the imposition of a pre-commencement condition.**

Has a survey for protected species been included in the application? **Whilst there are a number of ponds around the farm, none of these is likely to be adversely affected by the proposal.**

Does the development have the potential to affect the woodland through changes to air quality or to ground water (through pollutants or changes in hydrology)? If so, has an assessment been carried out and appropriate mitigation proposed? **No.**

Will access to the woodland increase? **There would not be a material increase in access or traffic generation because there would be no intensification of use.**

18. In relation to policy ENV5, there are no river corridors and tributaries on the application site. Neither are there rural lanes with landscape, nature conservation or historic importance. The adjacent PROWs are not adversely affected. In the light of the foregoing, it is considered that, on balance, the proposed development is acceptable in principle subject to satisfactory arboricultural assessment and construction details that provide adequate safeguard for the mature trees.

### **Visual and Residential Amenities**

19. Subject to the use of surfacing materials that are considered appropriate to the rural setting, the proposal would not be harmful to the rural landscape setting in compliance with policy ENV3a. It is considered that the proposed access would not necessarily translate to more intensive activities related to the agricultural enterprise. In the circumstance, it is not expected that the proposal would harm the living conditions of residential neighbours.

### **Human Rights Issues**

20. I have taken into account the human rights issues relevant to this application. In my view, the “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

### **Conclusion**

21. In light of the foregoing, it is considered that the proposed development complies with the relevant Development Plan policies and the provisions in the national guidance. It is therefore recommended that planning permission

be granted, subject to the imposition of appropriate safeguarding pre-commencement conditions.

## Recommendation

### Permit

Subject to the following Conditions and Notes:

#### Conditions

1. Standard Time Condition
2. Compliance with The Approved Plans
3. Full Landscaping Survey & Arboricultural Assessment
4. Materials to be Approved
5. Full Details of Construction and Excavation
6. Biodiversity Enhancement

#### Informatives

##### 1. Working with the Applicant

In accordance with paragraph 38 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- In this instance
- the applicant/agent was updated of any issues after the initial site visit,
- was provided with pre-application advice,
- The applicant was provided the opportunity to submit amendments to the scheme/ address issues.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while the bird is on the nest or being built. Planning consent



for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

### **Background Papers**

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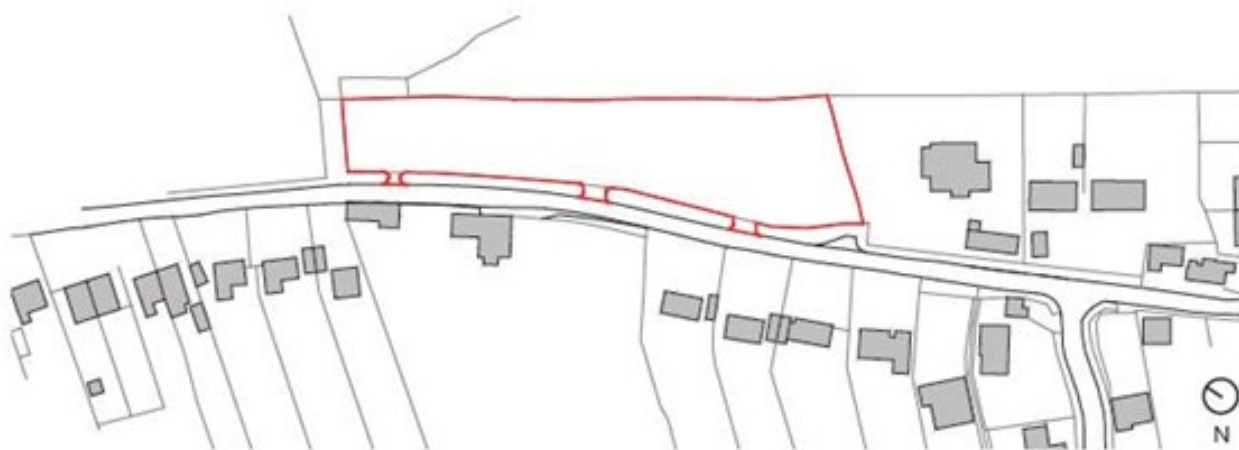
<b>Application Number</b>	21/01173/AS
<b>Location</b>	Land north of Stumble Holme, Kingsford Street, Mersham, Kent
<b>Grid Reference</b>	605029/140109
<b>Parish Council</b>	Mersham
<b>Ward</b>	Mersham, Sevington South with Finberry
<b>Application Description</b>	Erection of 5 no residential dwellings with associated access, parking, landscaping and amenity space.
<b>Applicant</b>	Mr Jonathan Mayes
<b>Agent</b>	DHA Planning Ltd
<b>Site Area</b>	0.33 ha

## Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member, Councillor Bartlett. The application was withdrawn from the November agenda of the Planning Committee due to a late representation from an adjoining land owner concerning encroachment.
2. In relation to the alleged encroachment, the applicant claims that neither the visibility splay nor the particular access point encroaches the neighbouring land (i.e. the visibility splay in respect of the proposed vehicular cross-over is entirely within highway land), but agrees that the interpretation of the highway definition plans alongside the submitted topographical survey is not clear cut.
3. He has therefore, made the decision to move the access to plot 1 slightly south to allow for sufficient clearance to avoid any confusion. The visibility splay is shown on the updated layout plan and is wholly within either his own landownership or the Highway Authority's. The applicant claims to have checked this against land registry details and the highway definition plan to ensure no third-party land is involved in the application.
4. Notwithstanding the foregoing, it should be noted that dispute concerning land ownership is a civil matter and granting planning permission is neither an endorsement nor validation of land ownership.

## Site and Surroundings

5. The application site is a vacant piece of grazing land on the eastern side of Kingsford Street and adjacent to the defined village confines of Mersham. The site is bounded to the south by a recently completed with agricultural land to the north and east. The site lies outside the Mersham settlement confines. The site is also within a Landscape Character Area (Mersham) Farmland and the smaller district landscape type of MF2 Mersham Paddocks, and the National Character Area, Wealden Greensand.
6. The site boundaries are well-defined by a mixture of post and wire fencing and established hedgerow. Two points of access currently exist into the site,



Existing Block Plan (DHA Planning)

## The Proposal

7. Full planning permission is sought for the erection of 5 detached residential dwellings (2 x 3 beds and 3 x 4 beds) with associated access, parking, landscaping and amenity space.
8. An existing access is to be replaced with 3 new access points. Plot 1 would benefit from a private access, whilst plots 2-5 will share dual access points. The new access points would require the removal of approximately 17m of hedgerow at the frontage of the site. This loss will be compensated for with the filling in of 2 existing access points and proposed hedgerow planting along the site boundaries.
9. On-site parking is provided with 3 parking spaces for all the dwellings. Plots 1, 3, 4 and 5 have 3 independently accessible spaces whilst Plot 2 has a mix of tandem and independently accessible spaces.
10. The proposed dwellings vary in form (all including a feature gable element) and height, increasing from 1.5 storey to 2 storey north-south with a catslide

roof form on plot 1 furthest to the east of the site to reflect the transition to the countryside. The maximum ridgeline height being 7.660m.

11. In terms of design there is a mix of full, half-hipped and catslide roofs as well as dormer windows in the eaves and feature gable frontages, indicative of Kentish vernacular design.
12. There is a palette of materials reflecting the local area, comprising orange/red brick, stone weatherboarding, vertical hanging tiles and clay roof tiles. All existing mature trees on the site are to be retained, together with additional tree planting along the eastern boundary and infilling of gaps to strengthen the boundary screening and to assist with assimilating the development into the landscape. 4 new trees are proposed on the western boundary – on the street frontage.





## Planning History

13. None.

## Consultations

**Ward Member:** Cllr Bartlett has not provided any comments on the proposal.

**Mersham Parish Council:** Object making the following comments:

*This application pertains to land that lies outside of that area designated as an integral part of the village as required by the Government's National Planning Policy Framework. Mersham PC does however recognise that one side of the development does abut to the edge of the village confines (as agreed by Ashford Borough Council) albeit the shortest side of the development and has for this reason approached the application on the basis that it could be considered under the terms of HOU3a. Mersham Parish Council would however urge Ashford Borough Council to separately consider exactly how much of the perimeter of a proposed developments needs to be adjacent to the designated area of a village to allow it to be considered as within that area.*

*That issue aside our objections to the proposed development follow:*

1) *Under HOU3a the application fails to meet the following criteria:*

*a) the layout, design and appearance are neither appropriate to nor compatible with the character and density of properties in the surrounding area;*

*b) it would have a substantial and significant impact on the amenities currently enjoyed by those currently residing in the area of the proposed development;*

*g) There is currently no safe lighting or pedestrian access on the street scene at present. Adding lighting would negatively impact the neighbours.*

2) *This application does not meet the requirements for certain facilities to be within 800 metres of the proposed development. The village shop, public house and primary school are outside of this "sustainable" catchment.*

3) *For the village and this area of Kingsford Street in particular any development is a sensitive issue as recent developments including the SIBF, J10A, the Hinxhill residential development and the M20 have had significant and detrimental impacts, some temporary and some ongoing.*

4) *Further development in this area also serves to undermine the potential mitigation of those developments identified at 3) above by the ongoing initiative to develop a green buffer on the Highfield site.*

5) *Parking in the village and in particular in Kingsford Street is already problematic and this development which offers only limited parking given that most family homes have at least two cars will only serve to exacerbate this issue.*

6) *The plan is considered to be an excessive level of development for a site of this size particularly in terms of property depth compared to properties opposite.*

*Finally, although not something that forms part of the planning consideration process, there is an extant covenant on this land intended, we would suggest, to protect the amenities enjoyed by existing properties in the area by prohibiting any development on the plot of land under consideration.*

**KCC Heritage:** Raise no objection subject to the imposition of a condition relating to safeguarding archaeological interest.

**KCC Biodiversity and Ecology:** Raise no objection and express satisfaction that biodiversity net-gain can be achieved. This can be controlled by way of the imposition of an informative and condition.

**Neighbours:** 16 neighbours notified and 22 objections received raising the following concerns and 1 letter of support.

- The proposal is in conflict with the adopted Local Plan;
- Undesirable impact on the amenity of neighbours;
- Detrimental to the character and appearance of the area;
- Impact on drainage;
- Loss of wildlife habitat;
- There are covenant issues in respect of this land;
- There are no affordable housing units in the proposal;
- The proposal would set an unwelcome precedent;
- The proposal would worsen road conditions;
- The proposed development is outside the village confines;
- This narrow country road cannot accommodate additional traffic;
- Undesirable impact on Stodmarsh Designated site;
- Inappropriate development detrimental to the visual amenity of the countryside;
- Encroachment onto adjoining land;
- Inaccuracies in the accompanying documents;

- Inconsistent with the NPPF provisions.

## Planning Policy Context

### The Development Plan

14. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019), Boughton Aluph & Eastwell Neighbourhood Plan, and the Kent Minerals and Waste Local Plan (2016).

15. The relevant policies in the Development Plan relating to the application are as follows:-

SP1 – Strategic Objectives

SP2 – The Strategic Approach to Housing Delivery

SP6 – Promoting High Quality Design

HOU5 – Residential Windfall Development in the Countryside

HOU12- Residential Space Standards Internal

HOU15 - Private External Open Space

TRA3a - Parking Standards for Residential Development

TRA6 - Provision for Cycling

TRA7 – The Road Network and Development

EMP6 – Promotion of Fibre to the Premises

ENV1 - Biodiversity

ENV3a – Landscape Character and Design

ENV4 – Light Pollution and Promoting Dark Skies

ENV5 – Protecting important rural features

ENV7 – Water efficiency

ENV8 – Water Quality, Supply and Treatment



## ENV9 – Sustainable Drainage

16. The following are also material considerations to the determination of this application.

### **Supplementary Planning Guidance/Documents**

Sustainable Drainage SPD 2010

Residential Parking & Design SPD 2010

Residential Space & Layout (External space standards) 2011

Landscape Character Assessment SPD 2011

Dark Skies SPD 2014  
Fibre to the Premises SPD

### **Informal Design Guidance**

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

### **Government Advice**

#### National Planning Policy Framework (NPPF)

17. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the NPPF. The NPPF states that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

#### National Planning Practice Guidance (NPPG)

18. In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains a range of subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Design
- Determining a planning application

Technical housing standards – nationally described space standards

## **Assessment**

19. The main issues for consideration are:

- a) Principle of Development
- b) Layout, Design, Character and Appearance
- c) Residential Amenity and Standards
- d) Access Arrangement, Parking Provision and Highway Safety
- e) Foul Water Disposal, Biodiversity & Habitat Regulations
- f) Five year housing land supply
- g) Other Matters

## **Principle of Development**

20. Policy HOU5 of the Local Plan relates to residential windfall development outside the existing built up confines of settlements. The policy states that proposals for residential development adjoining or close to the existing built up confines of villages, including Mersham, will be acceptable providing the following criteria are met:

- a) *The scale of development proposed is proportionate to the size of the settlement and the level, type and quality of day to day service provision currently available and commensurate with the ability of those services to absorb the level of development in combination with any planned allocations in this Local Plan and committed development in liaison with service providers;*

- b) *The site is within easy walking distance of basic day to day services in the nearest settlement, and/or has access to sustainable methods of transport to access a range of services;*
- c) *The development is able to be safely accessed from the local road network and the traffic generated can be accommodated on the local and wider road network without adversely affecting the character of the surrounding area;*
- d) *The development is located where it is possible to maximise the use of public transport, cycling and walking to access services;*
- e) *The development must conserve and enhance the natural environment and preserve or enhance any heritage assets in the locality; and,*
- f) *The development (and any associated infrastructure) is of a high quality design and meets the following requirements:-*
  - i) *it sits sympathetically within the wider landscape,*
  - ii) *it preserves or enhances the setting of the nearest settlement,*
  - iii) *it includes an appropriately sized and designed landscape buffer to the open countryside,*
  - iv) *it is consistent with local character and built form, including scale, bulk and the materials used,*

See visual amenity section
  - v) *it does not adversely impact on the neighbouring uses or a good standard of amenity for nearby residents,*

See residential amenity section
  - vi) *it would conserve biodiversity interests on the site and / or adjoining area and not adversely affect the integrity of international and national protected sites in line with Policy ENV1.*

See ecology section

21. The application site is located to the north of Kingsford Street and immediately adjacent to the defined village confines of Mersham. The village contains a range of local services including a post office and store, two pubs, a village hall, sports club, a church, and a primary school. Although Mersham is a relatively linear settlement with services located in different parts of the village, this site lies within reasonable walking distance of the core of the village that lies near to the junction of Kingsford Street and The Street. Therefore, in response to criteria a), b) and d) the site is close to the built up confines of Mersham and consequently is within close proximity of local

services/facilities. I am content that the scale of the proposal is such that any demand on local services can readily be absorbed. Criteria c), e) and f) on policy HOU5 are addressed below.

### **Layout, Design, Character and Appearance**

22. Local Plan policies SP1 and SP6 also require good design and state that all development should seek to create a distinct character, with a strong sense of place and identity. These policies are broadly consistent with the NPPF which attaches great importance to the design of the built environment and seeks to safeguard heritage assets.
23. Criterion f(iv) under policy HOU5 is particularly relevant to the proposal. Having regard to the site shape, size and configuration of the proposed 5 plots, especially in relation to the surrounding pattern of development, it is considered that the proposed development, of the size and scale proposed, can be erected on the site without harming the character and appearance of the area. The pattern of the surrounding development, particularly the site coverage and scale of the existing dwellings within the confines of their respective plots, implies that the proposed 5 dwellings would sit comfortably within their respective plots.
24. In relation to design, there is no noticeable or coherent pattern in the appearance of the surrounding buildings. The proposed development is considered as a continuation of the existing context of Kingsford Street, in a linear pattern fronting the street. The plot sizes and design have also been considered in the context of the area, which largely consists of a mix of one or two storey dwellings with detached garages and outbuildings, as such the proposed dwellings comprise a mix of 1.5 storey to 2 storey.
25. The appearance of the proposed dwellings responds to the architecture of the immediate setting, through the use of materials used locally. Notwithstanding, the imposition of a condition requiring the submission of full details of the external facing materials for approval is recommended.
26. The development includes the retention of existing mature planting as well as the reinforcement of existing planting particularly in the form of a new native hedgerow and tree planting to the rear boundary to assist with assimilating the development into the landscape.
27. On balance, no significant or unacceptable harm to the street scene or the surrounding area would be caused and the proposal complies with the relevant Local Plan policies in respect of visual impact and would not harm the character and appearance of the designated landscape. Subject to being acceptable on all other matters which are assessed below, the proposal is acceptable in this respect.

### **Residential Amenity and Standards**

28. Section 12 of the NPPF refers to design and the standard of amenity. Paragraph 127 states among other things that planning policies and decisions should ensure that developments:

*Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.”*

29. Policy HOU5 reinforces the emphasis on the protection of amenity. It seeks to ensure that new residential development do not harm the living conditions of neighbouring occupiers.
30. In consideration of the siting of the proposed dwellings relative to the surrounding buildings and the disposition of the windows and other openings, the proposal would not harm the living conditions of the neighbouring occupiers. The nearest neighbouring property to the proposed development is approximately 30m to the south of the site and is screened by existing mature trees. This amenity safeguard will be further reinforced through new landscaping, particularly the boundary hedgerow planting. The dwellings have been oriented in a manner that would prevent mutual overlooking between the existing and proposed dwellings. The scheme would therefore comply with both national and local planning policies.
31. In accordance with policy HOU12 and the provisions in the national guidance, the internal layout and floorspace disposition for the 5 dwellings meet the set standards. The external amenity spaces are also satisfactory and in accordance with policy HOU15. On balance, there would be no significant or unacceptable harm to the living conditions of the adjacent neighbouring dwellings and the future occupiers of the proposed development.

### **Access Arrangement, Parking Provision and Highway Safety**

32. Access to the site is from Kingsford Street. The current access points would be removed as part of the proposal and replaced with 3 new access points to serve the new dwellings. Plot 1 would benefit from a private access, whilst plots 2-5 will share dual access points.
33. Policy TRA3a states that dwellings of three bedrooms should be provided with 2 off road parking spaces and 3 spaces for 4 bedroom dwellings. The 5 plots could each accommodate at least 3 off-street car spaces and there would be sufficient turning spaces provided to allow vehicles to enter and exit in forward gear. The development is therefore acceptable in terms of highway safety and parking provision.

### **Foul Water Disposal, Biodiversity & Habitat Regulations**

34. An Ecological Assessment (EA) was submitted in support of the application. The EA was undertaken on site to classify the habitats present, determine the potential for protected species to occur within the site, identify key ecological

- constraints to minimise ecological effects through the design of the scheme, and suggest any further surveys or suggest ways to maintain, enhance or mitigating measures for biodiversity.
35. The EA confirms several potential habitats for protected species, which are proposed to be retained. These include the hedgerow on the south-west boundary of the site is classified as 'Important' under the ecology criteria of the Hedgerows Regulations 1997.
  36. The EA also considers that the site is capable of supporting "Low" quality bat habitat, however, a further ecological assessment found 1 tree on the site which showed evidence of a potential bat roosting features. The tree would be retained within the development proposal and therefore no further surveys for bats would be required.
  37. Following receipt of further information KCC Biodiversity and Ecology is satisfied that biodiversity net gain can be achieved. This can be secured by way of planning conditions. There would therefore be no harm to protected species.
  38. It is proposed that foul surface water will be dealt with by connecting to the existing sewerage system.
  39. The site falls within the 'Stour Lower' Operational Catchment Area. The Council has received Standing advice from Natural England (NE) regarding the water quality at the nationally and internationally designated wildlife habitat at Stodmarsh Lakes, east of Canterbury, which in particular includes a Special Area of Conservation (SAC), a Special Protection Area for Birds (SPA) and a Ramsar Site.
  40. The effect of the advice implies that this proposal must prima facie now be considered to have a potentially significant adverse impact on the integrity of the Stodmarsh Lakes, and therefore an Appropriate Assessment (AA) under the Habitats Regulations would need to be undertaken and suitable mitigation identified to achieve 'nutrient neutrality' as explained in NE's advice, in order for the Council to be able lawfully to grant planning permission.
  41. Under the Council's Constitution, the Head of Planning and Development already has delegated authority to exercise all functions of the Council under the Habitats Regulations. This includes preparing or considering a draft AA, consulting NE upon it, and amending and/or adopting it after taking into account NE's views.
  42. As such, the applicant is required to carry out a Habitats Regulations Assessment (HRA), which generally includes an Appropriate Assessment (AA) carried out by the competent authority, in this case the LPA (NB: the second, more detailed stage of an HRA). The findings of the HRA need to be referred to Natural England and there is a duty to consider their response.
  43. As matters stand, it is likely that an off-site package of mitigation measures could be required in order for this proposal to achieve 'nutrient neutral' status

and in the absence of such measures (or any others) having been identified and demonstrated to be deliverable, it is not possible to conclude that the scheme would be acceptable in respect of this issue now.

44. However, work commissioned by the Council is expected to commence shortly on identifying a package of strategic mitigation measures that it is hoped would enable relevant developments within the Borough's River Stour catchment (where the NE advice applies) to come forward on a 'nutrient neutral' basis, subject to appropriate obligations and conditions to secure the funding and delivery of the mitigation before occupancy of the development.
45. Therefore, aside from the issue highlighted above, on the basis that this proposal is considered to be otherwise acceptable in planning terms (subject to conditions), it is recommended that a resolution to grant planning permission should be subject to the adoption by the Head of Planning and Development, having consulted NE, of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in order to reach that assessment. This approach is included as part of my Recommendation further below in this report.

#### **The application proposals in relation to the Borough's 5 year housing land supply**

46. The Council can currently demonstrate just over 4.54 years supply of land for housing, which includes a 5% buffer. Given that a five year supply of housing land cannot be demonstrated and is therefore a material consideration, ordinarily the tilted balance in paragraph 11(d) of the NPPF applies.
47. This states that for decision taking,  
*..where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer), granting permission unless:*
- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
48. However, in the circumstances of this particular case at the current time in fact the 'tilted balance' does not apply due to the effect of Reg. 63(5) in that NPPF footnote 7 and para. 181 provide collectively, that the tilted balance

only applies if and when an appropriate assessment has concluded that the proposal will not adversely affect the integrity of the protected site in question – in this case, Stodmarsh lakes. At present, this is not the case – and thus, under Reg. 63(5), it would not currently be lawful to grant permission in any event.

49. In this case, it is pertinent however to pay regard to the Council's housing land supply position and the guidance contained in para 11 of the NPPF which reinforces the need to permit proposals which are in accordance with the Development Plan. I consider this lends added weight to the recommendation below.

### **Other Matters**

50. Many of the issues raised by the neighbours have been dealt with and addressed in this report. However, in many of the responses, references were made to covenants in respect of this site, but this is not a material planning consideration.

## **Human Rights Issues**

51. Human rights issues relevant to this application were taken into account in the assessment of this proposal. The "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

## **Conclusion**

52. In conclusion, the Development Plan supports residential development at the edge of rural settlements subject to compliance with policy HOU5 criteria, other relevant policies and adopted standards. This site lies on the edge of Mersham and it is considered that the proposed development, by virtue of its scale, design and layout would be in keeping with the character and the spatial pattern of the surrounding area.
53. No harm to residential amenity is envisaged and the proposed development is acceptable in terms of its visual impact and impact upon the highway.
54. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh Special Area of Conservation (SAC) Special Protection Area (SPA), and Ramsar Site under the Habitats Regulations. Therefore, the recommendation to grant planning permission is subject to the condition, under delegated powers, of an



Appropriate Assessment to the effect that the development would not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions deemed necessary to achieve that end.

55. Overall, for the reasons set out above, the proposed development is considered to comply with the requirements of the development plan and it is therefore recommended that planning permission is granted.

## **Recommendation**

### **Permit**

- (A) Subject to the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations to be adopted by the Head of Planning and Development which identifies suitable mitigation proposals such that, in their view, having consulted the Solicitor to the Council & Monitoring Officer and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation;**
- (B) Resolve to Permit subject to planning conditions and notes, including those dealing with the subject matters identified below (but not limited to that list) and those necessary to take forward stakeholder representations, with wordings and triggers revised as appropriate and with any 'pre-commencement' based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018**

### **Conditions**

1. Standard Time Condition
2. Compliance with The Approved Plans
3. Landscaping Scheme to include new hedgerow and tree planting
4. Planting plans required to accompany the landscaping scheme
5. Landscape management plan
6. Details of boundary treatments
7. Retention of existing hedgerows
8. Tree protection measures
9. Tree protection measures for new trees
10. Materials to be Approved
11. Provision and Retention of Vehicle Parking space
12. Provision and retention of bicycle storage
13. Enforcement Condition
14. Occupation as a single dwelling house only
15. Construction Management Plan/Hours of Working
16. Provision and maintenance of visibility splays?

17. Electric Vehicles Charging Points
18. Archaeological Field Evaluation
19. Biodiversity Enhancement
20. Sustainable surface water drainage scheme
21. FTTP

### **Working with the Applicant**

1. In accordance with paragraph 38 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;
  - offering a pre-application advice service, as appropriate updating applicants/agents of any issues that may arise in the processing of their application where possible suggesting solutions to secure a successful outcome,
  - informing applicants/agents of any likely recommendation of refusal prior to a decision and,
  - In this instance, the applicant/agent was updated of any issues after the initial site visit, was provided with pre-application advice,
  - The applicant was provided the opportunity to submit amendments to the scheme/ address issues.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

## Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 21/01173/AS)

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