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# Representations on the Medway Local Plan Regulation 18 Consultation

Land at the rear Berengrave Lane, Rainham

Iceni Projects Limited on behalf of  
Berengrave Lane 2 Ltd

ICENI PROJECTS LIMITED  
ON BEHALF OF  
BERENGRAVE LANE 2 LTD

September 2024

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Representations on the Medway Local  
Plan Regulation 18 Consultation  
LAND AT THE REAR BERENGRAVE LANE, RAINHAM



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## Abbreviations

ALLI – Area of Local Landscape Importance  
BMV – Best and Most Valuable Agricultural Land  
ISA – Interim Sustainability Appraisal  
LCA – Landscape Character Assessment  
SDO – Spatial Deliver Options  
SDS – Spatial Development Strategy  
SGO – Spatial Growth Options  
SO – Strategic Objectives

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# 1. EXECUTIVE SUMMARY

- 1.1 The representations are submitted on behalf of Berengrave Lane 2 Ltd, who has a legal interest in the subject site, in response to Medway Council's Regulation 18 Local Plan consultation 2024 in relation to land to the rear of 143 Berengrave Lane, Rainham ("the Site"). For the avoidance of doubt, these representations consider the following consultation documents:
- Medway Local Plan (Regulation 18, 2024) ("the Plan")
  - Draft Policies Map
  - Interim Sustainability Appraisal ("the ISA")
  - Landscape Character Assessment ("the LCA")
- 1.2 These representations answer specific questions asked by the Regulation 18 document, review the Council's preferred Spatial Growth Option ("the SGO") and assess how this can be achieved, and how this Site can contribute to the SGO. The representations assess the evidence base used to underpin the Local Plan and the SGO. Lastly, these representations promote the Site as a suitable, deliverable and achievable site for residential allocation.
- 1.3 Given that the Council's consultation portal and specific questions are restricted in their scope, these representations are submitted directly to the Council via email.
- 1.4 We agree with the preferred SGO and that the blended brownfield and greenfield approach is best suited to achieving the Council's strategic objectives, whilst balancing sustainability considerations. However, we have concerns that the failure to allocate this Site, and sites that are similarly capable of delivering sustainable development, would undermine the potential of the Plan to deliver the housing required to meet the substantial identified need.
- 1.5 We therefore make representations on the basis that:
- The overarching Vision for Medway in 2041, the Strategic Objectives ('the SOs') and the Spatial Development Strategy ('the SDS') fail to fully demonstrate the need for good housing growth, and an identification of the locations where this housing can be accommodated.
  - The Plan, as drafted, does not demonstrate how the Council will meet its objectively assessed need nor does it adequately demonstrate the robust and consistent supply of housing throughout the Plan period, noting that the Council has a significant housing shortfall and has historically under delivered against its housing requirement.



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- The Evidence Base fails to correctly consider the sustainability of the Site. Firstly, by way of the inclusion within the wider North Rainham Spatial Delivery Option ('the SDO') within the Interim Sustainability Appraisal ('the ISA'), the approach and methodology adopted fails to acknowledge specifics of the Site within this broad assessment location. Secondly, the appraisal of Impacts from the Development Sites section of the ISA incorrectly, and harmfully, overstates the potential Impacts of the development in the 'without mitigation scenario'.
  - The Evidence Base, namely the Landscape Character Assessment ('the LCA'), fails to appreciate that this Site has low quality and low functionality value, and that a broad approach to characterising the Lower Rainham Character Area fails to correct understand and acknowledge the fragmented character of this part of the current Area of Local Landscape Importance (ALLI) and that its value is substantially less than other areas within the ALLI (and therefore Landscape Character Area within the current drafting of the LCA).
  - The Plan, as drafted, does not identify a strong supply of available sites that are deliverable within the early part of the Plan. The SGO is likely based upon some substantial allocations, and as the Plan is progressed the SGO should include sufficient flexibility to include alternative options which can deliver housing should the larger strategic sites fail to come forward within the Plan period. Currently, given that blended SGO approach we hold substantial reservations that a SGO that is significantly reliant upon large brownfield sites is deliverable, particularly in the early stages of the Plan, where planning permissions are required.

1.6 We submit that the allocation of the Site is entirely consistent with the principles of the preferred blended SGO, and that the early delivery of the Site should weigh in its favour. We also maintain that impacts of the development, as considered by the ISA, are substantially lesser than identified, or can be ameliorated by mitigation.

1.7 Furthermore, given the planning history of the adjacent development sites, this Site would represent a natural, logical and sustainable addition to an established suburban growth location. Pre-application discussions with the Council have established that the primary issue relates to the impact upon the current ALLI designation. Earlier Phases on adjacent land (and similar suburban expansions on land accessed from Lower Rainham Road) have been demonstrated to be sustainable development and acceptable development within the ALLI. A clear pathway exists to securing planning permission. The Site therefore represents a deliverable site allocation which can come forward early in the Plan period.

1.8 Taken in the round, the development would bring about the following sustainable benefits:

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## **Social**

- A deliverable residential scheme which would positively contribute towards the Council's identified housing demand.
- The delivery of affordable homes which would achieve the Council's emerging policy requirements for 30% of all residential units proposed on suburban greenfield sites to be affordable.
- The expansion of a suburban neighbourhood with a scheme that is sustainable, and which avoids any unacceptable impacts on infrastructure and the environment.
- The proximity of the Site to Rainham District Centre, and the proximity to infrastructure and services.

## **Environmental**

- The development of a low-grade greenfield site in a sustainable location, which reduces the pressure on greenfield sites in areas of higher landscape importance, or sites which are best and most valuable agricultural land (BMV).
- Landscape features that seek to maximise opportunities for achieving biodiversity net gain, reduce surface water drainage and incorporate sustainable measures throughout.
- The use of high standards of design quality and environmental sustainability to contribute to net zero carbon aims.
- Measures to reduce reliance on car-based travel.
- Achieving 10% Biodiversity Net Gain

## **Economic**

- Employment opportunities that result from the construction phase of the development.
- Additional local spend on the nearby Town Centre from additional residents.
- Substantial financial contributions secured pursuant to s.106 legal agreement.

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## 2. SITE CONTEXT AND PROPOSALS

- 2.1 Berengrave Lane 2 Ltd has appointed Icen Projects to act on its behalf to submit representations to the Medway Council's Regulation 18 Local Plan consultation 2024.

### Phase 3

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#### Promoter/landownership

- 2.2 The land is promoted by Berengrave Lane 2 Ltd and is in a single ownership with no legal impediments to development. The site measures 1.5ha and will be accessible from the public highway via Phase 1 and 2 developments (see below)

#### The Site

- 2.3 The site is situated west of Berengrave Lane where the countryside meets the urban edge and, as such, the proposals would be on the boundary of the current settlement boundary and within the Area of Local Landscape Importance (ALLI) as identified on the current Proposals Map of the Medway Local Plan 2003. The characteristics of the Gillingham Riverside ALLI primarily include landscapes which contain orchards or arable fields – this is not applicable to this site. The site is comprised of ordinary grassland, with mostly good quality hedgerow boundaries which allow only limited visibility from public areas.
- 2.4 The surrounding area is residential in character and comprises a mixture of large, detached houses and bungalows, and more recently has seen the development of new-build semi-detached family homes. The site is located adjacent to the sites of two recently approved schemes for 9no. new dwellings on the former nursery site (MC/18/3168) and for 8no. residential dwellings allowed at appeal (MC/22/1339).

#### Recent Pre-Application Advice – July 2024

- 2.5 A pre-application scheme that is based on the site allocation proposals was submitted to the Council in March 2024, and a meeting held online with Officers of the Council in July 2024. The subsequent written response found no technical issues with the proposed development and considered that in the absence of a Landscape and Visual Impact Assessment (LVIA), a full understanding of the impacts on the ALLI could not be arrived at. The council's written response is included in Appendix A, and the visuals that demonstrate the limited visibility of the proposed development are included in Appendix B.
- 2.6 A further pre-application meeting is proposed for October 2024 to test the impact of the proposals, or lack thereof, on the ALLI, and to demonstrate compliance with Policy BNE34 of the current Local Plan.

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### **Previous Representations – October 2023**

2.7 As part of the previous Regulation 18 Consultation in August 2019, the Site was promoted for allocation. The previous representations stated that it was necessary to:

- Ensure that the Local Plan met the full objectively assessed need and ensure that housing delivery is clearly identified within the Council's "Vision" for the Plan and a Strategic Objective.
- Ensure that the identified supply of suitable housing sites is deliverable and reliable, and that the pipeline includes available sites that are capable of delivery early in the Plan period. The representations were clear in that the supply should include small sites and not be reliant upon strategic sites for the majority of housing supply.

It concluded that:

- The absence of a preferred Growth Strategy was a concern, and that the primary preferred spatial strategy option should comprise 'suburban expansion' in recognition of the generally unconstrained nature of such sites and their generally strong ability to provide affordable housing and supporting infrastructure contributions.
- The emerging Plan should allocate a pool of reliable, unconstrained greenfield sites, especially where sites exist close to settlement confines, which are capable of delivering housing early within the Plan period. The Site demonstrated it could be aligned with the suggested 'suburban expansion' strategy and that there were extensive site-specific justifications for allocation.

### **Medway Land Availability Assessment - September 2023**

2.8 In September 2023, the Council published their Land Availability Assessment in which the Site was identified as Site RD: RN17.

### **Wider Context**

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2.9 The surrounding area has been subject to significant change with a pattern of suburban growth emerging comprising of development that spreads west away from Berengrave Lane towards Bloors Lane. These are summarised below.

#### **Phase 1**

2.10 MC/18/3168 which sought planning permission for the 'Construction of nine residential dwellings comprising 6no. 3-bedroom houses, 2no. 4-bedrooms houses and 1no. 5-bedroom house, with associated access, amenity areas and associated garaging and parking for the proposed and existing dwelling. Demolition of the existing garage and outbuildings. This was approved with conditions.

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## Phase 2

- 2.11 MC/22/1339 which sought planning permission for the 'Construction of 8 residential dwellings; detached garages to plots 2, 3 and 8 together with private amenity space, landscaping and associated parking'. This was recommended for approval by officers, was overturned and refused by planning committee.
- 2.12 This application was refused by Members for the following reason:
- "The proposed development would result in an intrusion of built form into the countryside and erosion of openness detrimental to the landscape value of the Area of Local Landscape Importance contrary to Policies BNE25 and BNE34 of the Medway Local Plan 2003 and paragraph 174 of the NPPF 2021."*
- 2.13 The Officer's report referred to Policy BNE25 and Policy BNE34 as relevant and that the exceptional circumstances alluded to in BNE25 would not apply to the proposals. However, the council's report also acknowledges these policies are out-of-date and can only be afforded limited weight as they do not accord with the NPPF, which applied the presumption in favour of sustainable development (paragraph 11). In addition, the Council are unable to demonstrate a 5-year housing land supply which means permission should be granted.
- 2.14 The Officer's report considered that the proposals would result in the loss of an area of countryside and would have an impact on the character of the local landscape. However, the report also noted the constrained nature of the site and that the land would appear to be more of an "infill than intrusion into the countryside". Its conclusion on this matter is clear; that the development is not considered to have a detrimental impact on the character and appearance of the countryside.
- 2.15 The report acknowledged that the proposals would provide employment during construction and attract people to the area thereby supporting existing services and facilities in the area. The scheme would also include areas of tree planting and landscaping and would therefore contribute to the ecological value of the area. And finally, the proposals would have a social benefit in providing much needed housing. The scheme was therefore considered to accord with the economic, environmental and social objectives of the NPPF.
- 2.16 The application was subsequently appealed and allowed (appeal ref. APP/A2280/W/23/3316780. The Inspector outlines the provisions of Policy BNE25 which limits development to certain categories outside settlement boundaries and states that none of the categories would apply to the proposals. He also states that in accordance with policy, schemes are also required to maintain the character, amenity and functioning of the countryside and offer a range of transport modes. However, in considering this, the Inspector states the scheme would cause no significant harm to the area's

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character and appearance, or to the landscape of the Gillingham Riverside ALLI, thus avoiding conflict with Policy BNE34.

- 2.17 With respect to Policy BNE34, the Inspector acknowledged that some changes to the landscape have occurred since the adoption on the Local Plan in 2003, but that the broad-brush description of the ALLI still appears generally accurate and relevant. The report considered that Policy BNE34 is generally aligned with the aims of the NPPF which states that planning decisions should contribute to and enhance the natural environment by protecting and enhancing valued landscapes, and by recognising the intrinsic character and beauty of the landscape (NPPF paragraph 174). In addition, paragraph 175 of the NPPF states that plans should distinguish between the hierarchy of international, national and locally designated sites.
- 2.18 The Inspector stated that local policy seeks to recognise the role of certain landscapes that are considered locally important and gives a measure of protection whilst not imposing a blanket ban on development. He then considered BNE34 as generally consistent with national policy and afforded it full weight in decision making. That said, and as acknowledged by the Inspector, the policy seems to protect the character of the ALLI as a whole, rather than each and every parcel of land within it.
- 2.19 The Inspector also noted the design of the proposals which were considered to be of a relatively modest size and height, reasonably well spaced on the site with adequate room for gardens, parking and landscaping, concluding that the design and landscaping were unobjectionable and would help to further minimise the development's overall impact. The scheme was considered not to harm the landscape character and function of the ALLI, and nor would it materially harm the character or appearance of the area in any other way. The development was therefore considered not to conflict with Policy BNE34 or any other identified policy.

#### **Berengrave Nursery**

- 2.20 In 2017, planning permission was granted for the redevelopment of the Berengrave Nursery site (ref: MC/17/3867). Officers acknowledged that the delivery of homes would represent a "strong material social consideration" and recognised the other benefits of the scheme including job creation during construction and the additional local spend from new occupiers.
- 2.21 The landscaping scheme for the site was considered by officers to meet the objectives of Policy BNE34 with a softening and minimising of the impact of the development. The landscape buffer was considered to create an attractive high-quality amenity and enhance the visual appearance of the site.
- 2.22 The assessment of the character of the area, the impact of development on the ALLI, and the planning balance of the two applications must be a material consideration in the assessment of the suitability of the Site for allocation.

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### Notable Developments

- 2.23 We are aware that the lower Rainham area has been subject to a number of residential-led applications, with the following three key approvals being within the same Lower Rainham Farmland ALLI designation.
- 2.24 In 2020, planning permission was granted for 76 dwellings at Land West of Station Road, Rainham (ref: MC18/2898). The site is equally as accessible to Rainham town centre, and Officers noted that in sustainability terms, the site would facilitate pedestrian, cycle and vehicular access through the land from east to west and west to east, (from Lower Rainham Road to Station Road and visa-versa) in order to reduce traffic flow and potential congestion at the northern end of Station Road, while facilitating access to public transport Rainham Town Centre.
- 2.25 The site is particularly relevant in the assessment of impact upon the Lower Rainham Farmland ALLI and the sustainability of the development. The Committee Report notes:

*“Environmental – While the site is outside of the built-up area of Rainham and within the countryside and an Area of Local Landscape Importance (ALLI), the proposed indicative layout shows that pockets of landscaping and amenity areas can be provided along the eastern and western parts of the site to enhance the local landscape, contribute to the ecology of the area and integrate with its surrounding.*

*The site is also bounded to the south, and north by existing residential development; to the west by a site that has permission for residential development and to the east by Station Road across which is the Bakersfield site. In addition the site in its existing condition has limited landscape value.*

*It is considered that while the proposal would result in the loss of open countryside and some adverse impact on the character of the local landscape; the impact will be limited and will be diminished over time as new landscaping will gradually establish and mature across the site.*

*In traditional sustainability terms, the site would facilitate pedestrian, cycle and vehicular access through the land from east to west and west to east, (from Lower Rainham Road to Station Road and visa-versa) in order to reduce traffic flow and potential congestion at the northern end of Station Road, while facilitating access to public transport and Rainham Town Centre facilities to the housing development approved to the west under MC/18/3160. This link would provide positive social and environmental benefits.*

*Having regard to the above, it is considered that the proposal in this location is capable of forming a sustainable development that would be in accordance with NPPF guidance and acceptable in principle.”*

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- 2.26 This permission was followed by a later permission on the land to west of the above site under ref: MC20/1800 in April 2021. Officers noted that the proposals delivered a much-needed mix of market and affordable dwellings of different sizes, types and tenure required to meet the needs of a mixed community in a quality an attractive environment and will assist in delivering and enhance infrastructure in the locality.
- 2.27 This site is also particularly relevant in the assessment of impact upon the Lower Rainham Farmland ALLI and the sustainability of the development. The Council's Committee Report noted:

*“The application site is outside of the built confines of Rainham and within an Area of Local Landscape Importance. Policies BNE25 and BNE34 of the Local Plan therefore apply. Those elements of the policies which seek to control the supply of land for housing are considered to be out of date, as the LPA cannot demonstrate a 5-year supply of deliverable housing land. However, those parts of the policies which seek to set out particular landscape characteristics that should be protected are relevant.*

*Taking the 3 objectives of sustainable development in turn:*

*Economic – the proposal will provide employment during construction and will bring new people into the area with additional spending to help support existing services and facilities. In relation to the impact on existing infrastructure, including roads and services such as schools and health, these will be considered in detail in later paragraphs but in principle can be addressed through S106 contributions.*

*Social – the proposal will provide much-needed market and affordable housing. In principle, a well-designed and healthy scheme can be provided but the details will be considered in later paragraphs.*

*Environmental – While the site is outside of the built-up area of Rainham and within an Area of Local Landscape Importance (ALLI) and there is an important local nature conservation area along the western boundary of the site, the proposed layout shows that a landscaping buffer can be provided along the east, west and northern boundaries of the site in order to enhance the local landscape of the area. In addition, a financial contribution will also be made toward ecological enhancement and management of the Nature Reserve site.*

*In traditional sustainability terms, the site could connect pedestrian, cycle and vehicular access through the land to the east to connect Station Road to Lower Rainham in order to reduce traffic flow and potential congestion at the Station Road/ lower Rainham Road roundabout while also improving access to public transport and Rainham Town Centre facilities.*



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*The Landscape Visual Impact Assessment submitted as part of the application assesses minor adverse effects on local landscape character is inevitable. However, the impact will decrease over time as landscaping on the site over time would establish and mature.*

*It is therefore considered that having regard to the above the proposal in this location is capable of forming a sustainable development that would be in accordance with NPPF guidance and acceptable in principle.”*

2.28 In both instances, it is plainly evident that the Council consistently considers that:

- Areas that are within 1 mile from Rainham town centre to be sustainable locations, given the accessibility to public transport, services and shops.
- The ALLI designation does not preclude development and that low quality ALLI is capable of residential redevelopment – subject to the submission of a LVIA that demonstrates the visual impacts of the proposal.
- Landscaping features and planting buffers can be used to ameliorate any perceived landscape harm.
- There are social benefits from the delivery of housing to meet an identified need, and economic benefits resulting from the construction phase of development.

2.29 Given that there have been positive discussions with the Council in pre-application meetings which have narrowed focus to the impact on the ALLI, and there are clear comparable recent permissions in local area, we believe that we are moving towards a positive recommendation from the Council,

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### 3. THE NPPF

- 3.1 The Medway Council's Regulation 18 Local Plan consultation 2024 must be understood in the context of the NPPF (2023), and the current consultation proposals that seeks to reshape the NPPF.

#### **Plan Led Approach**

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- 3.2 The National Planning Policy Framework states that the planning system should be genuinely plan-led. Plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that all plans should promote a sustainable pattern of development that seeks to:

- meet the development needs of their area.
- align growth and infrastructure.
- improve the environment.
- mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects.

- 3.3 This provision of the Framework and specifically how the development of the individual sites, and the wider SGO, will assist the Council in delivering a sustainable pattern of development is considered in detail at Section 7 of these representations.

- 3.4 The NPPF is clear in that Plans should:

- a) be prepared with the objective of contributing to the achievement of sustainable development.
- b) be prepared positively, in a way that is aspirational but deliverable.
- c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees.
- d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.
- e) be accessible through the use of digital tools to assist public involvement and policy presentation; and

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- f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)
- 3.5 Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for housing, infrastructure, community facilities and conservation and enhancement of the natural, built and historic environment. These policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs<sup>1</sup> over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area.
- 3.6 Medway will be expected to apply the mandatory Standard Methodology approach to establishing the housing need in the area and will not use a lesser housing requirement figure in their Local Plan, given that there are no areas or assets of particular importance that restrict development. The emerging Standard Method approach requires a housing target of 1,644 homes per annum, whereas the previous methodology requires a housing target of 1,658 homes per annum.

## **Housing**

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- 3.7 The significant boost to the supply of housing is the Government's key focus, and the NPPF explains that sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.
- 3.8 Regarding the identification of land for housing, the NPPF explains that plan making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:
- a) specific, deliverable sites for five years following the intended date of adoption; and
  - b) specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period.

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<sup>1</sup> The current NPPF consultation proposes the new Standard Method (SM), in which the housing need is calculated on the basis of 0.8% of the housing stock for the area, and applies an uplift based on a three-year average of the median workplace-based affordability ratio with an increase of 15% for every unit above four.

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3.9 The NPPF acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. To promote the development of a good mix of sites, local planning authorities should:

- a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved.
- b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing.
- c) use tools such as area-wide design assessments, permission in principle and Local Development Orders to help bring small and medium sized sites forward.
- d) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and
- e) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

#### **Deliverable and developable**

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3.10 The National Planning Policy Framework (2023) is clear, that plans should be prepared positively, in a way that is aspirational but deliverable. For plans to be found sound at examination, they must be:

- Positively prepared – that is to meet the area’s objectively assessed needs, including unmet need from neighbouring areas by agreement with other authorities.
- Justified – provide an appropriate strategy, considering reasonable alternatives and based on proportionate evidence.
- Effective – plans should be deliverable over the plan period, based on effective joint-working on cross-boundary strategic matters.
- Consistent with national policy – enable the delivery of sustainable development in accordance with other policies of the Framework and other relevant strategic policies for the area.

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## **Emerging NPPF and Proposed Planning Reforms**

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- 3.11 It is recognised that the publication of the revised National Planning Policy Framework (“NPPF”) for consultation has coincided with the publication of this Regulation 18 consultation. However, it is still important for the Council to progress with producing a new plan and we would urge the Council to ensure that the potential changes to the NPPF do not cause delays to this process.
- 3.12 The key changes to the NPPF include a clear emphasis to deliver significantly greater numbers of new homes, recognising the issues in the market compounded by an historic undersupply and the ability of the housebuilding industry to make a substantial contribution to boosting economic growth.
- 3.13 The Standard Method to calculating Local Housing Need (“LHN”) is also proposed to change, however, for Medway, the change is minimal with the LHN decreasing slightly from 1,658 dwellings per annum (“dpa”) to 1,644dpa. The new NPPF is clear that local authorities should plan to meet this need.
- 3.14 The Government is also making it clear that the starting point for local authorities is to meet the LHN in full. Local authorities will also be required to review Green Belt boundaries in order to meet this need, if sufficient land cannot be found outside it.
- 3.15 Another significant proposed change is the introduction of the “grey belt”, which would allow development to come forward more easily on land currently designated as Green Belt which comprises previously developed land or land which makes a limited contribution to the purposes of the Green Belt.
- 3.16 The Government is also keen to encourage cross-boundary and regional approaches to delivering housing and associated infrastructure, noting how this can play a vital role in delivering sustainable growth and addressing key spatial issues. This is important for Medway given the previously identified unmet need from Gravesham and the boroughs surrounding Medway are all seeing increases in the LHN following the revised Standard Method calculation.
- 3.17 In terms of plan-making, the Government has stated that all local authorities should have a plan submitted for examination by December 2026. Medway is currently on track to meet this deadline; however, it is essential that progress is maintained to meet or precede this deadline in order to realise the benefits of a plan-led system.
- 3.18 Based on the text within the consultation version of the NPPF, the Council will need to prepare its plan under the new NPPF unless the Regulation 19 version of the Local Plan is published within one month of the new NPPF being published.

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- 3.19 On 30 July 2024, the Housing Minister, Matthew Pennycook MP wrote to the Planning Inspectorate regarding the necessity for local plans to be sound prior to submission, limiting the extent to which plans can be ‘fixed’ during the examination process.
- 3.20 Principally, he states that “pragmatism” should not be used to address fundamental issues with the soundness of a plan, which would be likely to require pausing or delaying the examination process for more than six months overall.
- 3.21 This means that deficient plans which cannot easily be fixed at examination may be found unsound. Therefore, it is imperative that Medway’s emerging Local Plan meets the tests of soundness ahead of submission to the Secretary of State.

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## 4. HOUSING DELIVERY

- 4.1 The Council has acknowledged that there are not enough brownfield sites to deliver the number of homes required in the Plan period and there is a requirement for some greenfield land to be released. Further, the Council acknowledges that overreliance on brownfield sites can negatively impact the range of homes delivered due to land constraints and viability concerns. The NPPF at Annex 2, states that for sites to be considered deliverable (i.e. brought forward within five years), the site should be available for housing now. For sites to be considered developable (i.e. beyond five years and within the plan period), there should be a reasonable prospect that the site will be available.
- 4.2 Tables 8.14 and 8.15 of the Sustainability Appraisal provide a list of development sites and the reasons why they have been selected or rejected as part of the development strategy. When comparing this with the October 2023 Land Availability Assessment (“LAA”) Interim Report, there are a significant number of sites selected for development which are either not in the LAA or have not submitted for consideration as part of the Call for Sites.
- 4.3 Without publishing an update to the October 2023 LAA, it is not possible to fully interrogate the site selection as part of the chosen spatial strategy to determine whether they are available. In addition, without a housing trajectory, it is not possible to determine whether the Council can maintain a rolling five-year housing land supply and the deliverability of individual sites.
- 4.4 The Council has also not provided any detailed information which underpins the capacity of the brownfield sites chosen as part of the spatial strategy. Without this, it is not possible to determine whether the estimates of housing numbers can be considered accurate or sound.
- 4.5 In addition, a large proportion of the sites set out in tables 8.14 and 8.15 are noted in the October 2023 LAA as having extant planning permission. It is not clear whether these sites should be considered as being commitments rather than allocations and included within the 5,363 homes of existing supply commitments and anticipated windfall supply set out at paragraph 3.2.1 of the Sustainability Appraisal, or within the required yield of 22,491 homes. If they are to be considered as allocations, then there are questions as to why these sites have not already come forward for development if they benefit from planning permission. In order for the Plan to be considered positively prepared, effective, justified and consistent with national policy, this should be clarified and further evidence produced which allows for sufficient interrogation of the sites selected, and which are expected to underpin the Plan.

### **Housing Trajectory, Deliverability and Supply**

- 4.6 As previously noted, the Council needs to produce a detailed housing trajectory of all the sites chosen for allocation, in order for them to be scrutinised sufficiently to be considered sound. This detail

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needs to be provided in order to determine whether the Council will have a five-year housing land supply, upon adoption of the Local Plan, and can maintain this throughout the plan period.

- 4.7 This is crucial given the Council's historic record of delivery and supply. The most recent Housing Delivery Test results (published December 2023) show that the Council is only delivering 79% against its current need. Whilst this is up from the previous monitoring years, it shows persistent issues with delivery within Medway. The Council's Acton Plan (June 2024) predicts that the Council will not pass the Housing Delivery Test before the adoption of the emerging Local Plan.
- 4.8 This is particularly pertinent given that the Council's latest published housing land supply shows that as of 31 March 2023, the Council can only demonstrate 3.3 years of housing land supply. Further, the housing trajectory contained within the 2023 Authority Monitoring Report ("AMR") at page 32, shows a significant tailing off in housing delivery post 2026/27.
- 4.9 The Council's Housing Action Plan (June 2024) notes that a third of the land within Medway is designated as international or national importance for the environment, which presents a significant constraint on development. In addition, it notes that development on brownfield sites has taken longer to build out.
- 4.10 At paragraph 2.10, it states that there has been a notable decrease in permissions granted, with only two sites over 100 dwellings being permitted in the monitoring year 2022/23 and that this trend is expected to continue in 2023/24. This will mean that delivery rates are likely to also decrease without consenting sites which can deliver early on in the plan period.
- 4.11 The Action Plan, at paragraph 3.48, notes that the Council plans to allocate additional sites of similar size as St Marys Island and Rochester Riverside. Both of these are dated permissions, originally from the late 1980s and early 1990s, and their delivery rates raises significant concerns about the selection of brownfield land for housing delivery within the early stages of the plan period to address the chronic housing delivery and supply issues which Medway faces.
- 4.12 As noted previously, the Council has not presented any detailed evidence which sets out the capacity of these brownfield sites, clearly showing the constraints and how these constraints are to be overcome in order to deliver homes consistently across the plan period. Without this information, the Plan cannot be considered sound.



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## 5. SPATIAL STRATEGY

5.1 The Council's Vision for Medway 2041 is underpinned by four Strategic Objectives.

- Being prepared for a sustainable and green future
- Supporting people to lead health lives and strengthening our communities.
- Securing jobs and developing skills for a competitive economy
- Boost pride in Medway through quality and resilient development.

5.2 Whilst it is agreed that the Strategic Objectives are positive, we are concerned that meeting the significant housing need is not explicitly included. The emerging Local Plan should firstly plan for aspirational growth in terms of overall housing delivery and secondly through delivering a range of typologies and tenures through a portfolio of sites which will maintain the delivery of a five-year housing land supply upon adoption. The spatial strategy should therefore prioritise taking a growth-led approach to meeting housing needs to help realise this critical pillar of the Plan.

5.3 The Spatial Development Strategy set out within Section 2.3 of the Plan states that it prioritises regeneration, making best use of previously developed land and directing investment into urban waterfront and centre opportunity areas. Berengrave Lane 2 Ltd is supportive of this strategy in principle but there are concerns regarding the deliverability of this strategy and how this achieves mixed and balanced communities and is in line with suggested expanded Vision.

5.4 The Plan states that the spatial strategy provides for a range of development needs through growth in urban, suburban and rural areas. Outside of the urban regeneration areas, the Plan states that the Council will support the expansion of identified suburban neighbourhoods and villages, where the principles of sustainable development can be met, and where unacceptable impacts on infrastructure and the environment can be avoided. We support this position, but for reasons explained in the following Chapters, believe that the North Rainham SDS and the site-specific assessment within the ISA must be revised due the flawed methodology and consideration. The Site is clearly sustainable development – as demonstrated by the Council's recent approach to nearby residential development – and the focal issue is the impact upon the ALLI.

5.5 The Councils preferred Strategic Growth Option, SGO 3, blends regeneration and greenfield development, and is their indicative preferred option. There is a 'brownfield first' focus with regeneration in urban centres and waterfront locations, complemented by range of sites in suburban and rural areas. The Council anticipates that approximately half of the development would be on

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brownfield land with the remaining half coming from the sustainable suburban location. For rural and suburban areas, the Council notes that:

*“The rural and suburban areas are considered to offer potential for development, and there has been strong promotion of sites by the private sector on greenfield sites in these locations. As Medway has a high level of housing need, the Council needs to consider large and strategic scale development allocations in the Local Plan to address the community’s needs for homes, jobs and services. This heightens the sensitivity of potential greenfield allocations, as small urban, or village extensions, are not sufficient to provide for development needs. Larger developments will need to provide significant uplifts in services, such as new schools and health centres, and mitigate infrastructure constraints, including transport. Much of the undeveloped land adjacent to existing settlements in suburban and rural areas adjoins farmland of the best and most versatile quality. There are also large areas designated of international and national environmental importance. In considering potential development allocations in suburban and rural areas, the Council acknowledges the need to conserve and enhance the important habitats and landscapes, and to plan at an appropriate scale to support effective infrastructure delivery. In defining options, the Council has considered all potential locations, including land in the Metropolitan Green Belt”.*

5.6 The Council’s SGO has been underpinned by an ISA report which considers that this option is likely to offer the best balance of sustainability considerations by integrating urban regeneration, suburban and rural development, promoting sustainable travel and ultimately directing the majority of new development to sustainable locations.

5.7 Taken in the round, we conclude that:

- The Council’s Vision for Medway 2041 fails to be underpinned by an appreciation of the importance that a sustainable supply of housing has to the success of the Plan, culminating in the omissions of this pillar from the four Strategic Objectives:
- Both the Spatial Development Strategy and the preferred Spatial Growth Options are generally positive and aligned with our objectives, but ultimately needs to be underpinned by a reliable supply of housing which is capable of delivering the housing numbers that are identified in the Plan. This is not currently evidence and, in any event, should not rely upon substantial brownfield allocations, which have historically failed to meet the housing supply needs of the Council over the past 20 years. The supply of housing needs to come from a range of locations, sources and scales and be underpinned by allocations which are plainly deliverable throughout the Plan.
- As the Plan process progresses, it must demonstrate, with unambiguous reliance, that the allocations sites, including this Site, are capable of delivery.

- The SGO must acknowledge the contribution that smaller, yet deliverable, sites have towards meeting a mixed and balanced housing supply, particularly in the early life of the Plan.

5.8 In addition to a review of the Council's proposed Spatial Strategy and the Spatial Growth Option, a response is provided to specific questions raised by the Council:

**Question 2 - Do you consider that the Council should seek to go beyond the statutory minimum of a 10% increase in BNG? What evidence can you provide to support your view?**

5.9 An approach to increasing beyond the statutory minimum of 10% increase in BNG would fundamentally affect the soundness of the Plan. We have reviewed the Viability Assessment of Biodiversity Net Gain in Kent (June 2022), prepared by SQW and which has been commissioned by Kent County Council to respond to Kent Nature Partnership's promotion of a 20% BNG target for Kent.

5.10 The Assessment demonstrates that for 25-unit greenfield sites, the contributions are as follows:

Typology	15% onsite per dwelling	20% onsite per dwelling	15% offsite per dwelling	20% offsite per dwelling
5,000 unit greenfield - houses	+£55.79	+£92.29	+£631.85	+£778.69
500 unit greenfield - houses	+£85.56 <i>Additional land</i>	+£216.31 <i>Additional land</i>	+£1,062.85	+£1,167.95
100 unit greenfield - houses	+£943.00 <i>Additional land</i>	+£1,071.57 <i>Additional land</i>	+£394.70	+£458.54
25 unit greenfield - houses	+£5,549.96 <i>Additional land</i>	+£5,913.31 <i>Additional land</i>	+£874.76	+£1,077.59

**Figure 1: Comparison of BNG costs £ per dwelling, Table 1, Viability Assessment of Biodiversity Net Gain in Kent (June 2022)**

5.11 We strongly disagree with the conclusions of the Assessment that there are nominal differences between the 15% and 20% onsite scenarios. On-site net gains of 15% or 20% on-site would render sites such as this unviable. Furthermore, the additional costs in achieving 15% or 20% off-site are wholly underestimated.

5.12 The commentary in para. 7.24 of the Assessment is fundamentally incorrect and based on no commercial reality, whereby:

*"In reality increasing land take may result in the lowering of average housing densities, so more land may be required to Viability Assessment of Biodiversity Net Gain in Kent deliver housing. However the majority of this burden relates to the mandatory 10% BNG and the increase to get to 15% and*

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*20% BNG are comparably small, this therefore should not be seen as a reason for not going beyond the 10% but is a consideration for LPAs.”.*

The Council cannot adopt a 20% BNG policy requirement without running a local viability assessment without supporting it. We have substantial concerns that requiring a mandatory increase beyond the statutory requirements would render many of the potential allocation sites unviable and further stymie delivery.

A more reasonable and sound approach should be to require developers to achieve the mandatory 10% BNG, and then be encouraged to achieve 15% and 20% BNG in areas of biodiversity deficit, where development viability supports such a provision, and where scheme delivery will not be comprised by the absence of sufficient off-site locations.

**Question 4 - Do you consider that Medway Council should identify landscapes of local value as an additional designation in the new Local Plan. What should be the criteria for designation? Are there areas that you would identify as justifying a local valued landscape designation – where and why?**

- 5.13 The Landscape Character Assessment (2024) has clearly been drafted to underpin a series of policies that seek to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital. Given the SGO, it is evident that the Council will require some existing landscape areas to evolve in the face of the substantial housing pressures.
- 5.14 In direct response to the Landscape Character Assessment, it is suggested that if landscapes of local value are designated in the new Local Plan that this should be balanced against the role that landscapes that are at the lowest local value, and which have the least functional contribution within an area, can have in meeting the wider strategic needs of the Plan.
- 5.15 Upon drafting, any replacement for current Policy BNE34 should acknowledge that an Area is an evolving concept and that a blanket approach to protection, or application of Policy, does not fully consider the ranging qualities of the Areas. Furthermore, any new Policy should set out the requirement for a Landscape Visual Impact Assessment which would allow the Council to consider whether development materially harms both the character and appearance, and function of the Area.

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**Question 11 - Do you agree with having a 10% requirement for affordable housing on urban brownfield sites and 30% requirement for affordable housing on greenfield sites and higher value urban locations? What do you consider would represent an effective alternative approach? Do you agree with a varied approach for affordable housing requirements based on the different value areas across Medway**

- 5.16 We support the strategic objective of the Plan in ensuring that all Medway residents have access to homes that are affordable. Clearly, the Council acknowledges that Registered Providers are unable to take on modest affordable housing schemes – a scheme of 32 units would provide 10 affordable units, of which 5 would be Social / Affordable Rent and 5 would be Affordable Home Ownership properties.
- 5.17 The cascade principle assists in achieving a solution, and in the event that a Registered Provider cannot deliver the necessary affordable housing, a financial payment in-lieu of on-site affordable housing should be given similar weight to delivery on another site (an approach which is impractical and infeasible).
- 5.18 The financial payment in-lieu should be benchmarked against a Viability Assessment that is subject to independent review, rather than the Council's own benchmarking that is set by policy or Supplementary Planning Guidance.

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## 6. EVIDENCE BASE DOCUMENTS

6.1 The Council has based its draft Local Plan on a series of documents, notably:

- Interim Sustainability Assessment
- Landscape Character Assessment

### **Interim Sustainability Assessment**

6.2 As part of the Evidence Base used to underpin the draft Local Plan, the Council has prepared an Interim Sustainability Appraisal ('the SA'). The SA assess the draft policies and options (or 'reasonable alternatives') and includes options for:

- Housing and employment growth (growth options).
- Broad locations for new development (spatial delivery options).
- The overall spatial distribution of new growth (spatial growth options).
- Development sites

6.3 The Growth Options ('the GOs') proposed two options:

- Option 1 – Meet Medway's Local Housing Need and Initial Objective Assessment of Employment Land Need of c.22,643 homes and 274,663m2 employment land.
- Option 2 – As for Option 1, plus meeting Gravesham's unmet need of c.2,000 homes.

6.4 GO1 has been identified as the most sustainable.

6.5 The Spatial Delivery Options ('the SDOs') includes capacity testing of 12 SDOs, with the North of Rainham Area having capacity for 2,029-2,319 homes, and the Suburban SDO having capacity for 495-779 homes. It is assumed the Site was considered in the former, SDO but it should have been assessed in both. We have significant concerns that the impacts of the site allocation are unduly balanced in the wider geography of the North Rainham SDO, and consequently the assessment criteria result in a substantially more negative outcome for the Site. The SDOs are subject to the

potential for impacts<sup>2</sup> against 12 Sustainability Criteria, and North of Rainham is considered to perform accordingly:

**Table 4.14:** Summary impact matrix of spatial delivery options

Spatial Delivery Option	1 Climate change mitigation	2 Climate change adaptation	3 Biodiversity and geodiversity	4 Landscape and townscape	5 Pollution and waste	6 Natural resources	7 Housing	8 Health and wellbeing	9 Cultural heritage	10 Transport and accessibility	11 Education	12 Economy and employment
Capstone Valley	--	0	-	--	-	--	++	-	0	-	--	+
Chatham Docks	--	--	-	0	-	0	++	+	0	++	0	+
Cliffe and Cliffe Woods	-	0	--	-	-	--	+	--	0	--	-	+
East of Rainham	-	0	-	--	-	--	+	--	-	-	+	+
Employment	+/-	--	--	-	-	-	0	--	-	--	0	++
Hoo Peninsula	--	0	--	--	--	--	++	--	--	--	-	+
Medway City Estate	-	--	-	0	--	-	+	-	-	0	-	+
Medway Valley	-	-	--	--	--	--	+	--	-	0	--	+
North of Rainham	--	-	-	--	-	--	++	-	-	0	-	+
North of Strood	-	0	-	--	--	--	+	--	-	0	-	+
Suburban	-	0	-	-	-	0	+	0	0	+	+	+
Urban	--	--	-	0	--	0	++	++	--	++	++	+

**Figure 2: Spatial Delivery Options Assessment**

- 6.6 The SDO for North Rainham therefore is considered to perform poorly for matters of Climate Change Mitigation, Landscape and Townscape Effects, impact on Natural Resources, but have a major positive impact on Housing. With regards to the impacts from Climate Change Mitigation, the effect results “from the large-scale residential development which would significant increase GHG emissions”. Clearly this would impact would not arise be from such a minor suburban expansion as proposed on this Site.

<sup>2</sup> Defined by the significance of effects, as Table 2.4 of the SA explains. The scale ranges from double positive, through no impact (as there is no relevant consideration), neutral to double negative.

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- 6.7 It should be noted that the majority of SDOs that are included in the preferred SGO include similarly harmful impacts on Landscape and Townscape, however, this is caveated that:

*“There are significant impacts on the landscape at a large proportion of SDOs, especially where many are situated on previously undeveloped land in rural areas, where new development is expected to lead to a significant change in landscape character and result in increased urbanisation of the countryside. It is acknowledged that masterplanning and considerate design may reduce these impacts to some extent, and some SDOs are more likely to provide opportunities for redevelopment and enhancement of local character.”*

- 6.8 In particular respect to the North of Rainham SDO, the Council is concerned that *“development at this location would result in a loss of the open and rural character and has potential to impact the setting and views of the Country Parks”*, therefore harming the Landscape. Clearly, again the development would have limited impact on the open rural character – the development being read as an extension of the earlier Phase 1 and Phase 2 development, with little or no visibility from the public domain, and would certainly not harm any views of the nearest Country Park which is approximately 1m to the northwest.

- 6.9 The development would change the landscape character but would not harm the most valued locations within the ALLI, and the Council has recently approved larger, and arguably more intrusive schemes within the ALLI (as referenced in the Notable Development section in Chapter 2).

- 6.10 Lastly, under the impact on Natural Resources, the Council considers that *“comprises undeveloped land classed as ALC Grade 1, which represents BMV agricultural land. The proposed development at this location would result in a significant and irreversible loss of land with potential environmental and agricultural value”*. Whilst the Site might be ALC Grade 1 land, it has no current agricultural function and will have no future agricultural land value. The Site cannot be accessed for agricultural purposes and the landowner has no intention of bringing the Site into agricultural use.

- 6.11 For those reasons, the Site is materially different from other potential sites within the North Rainham SDO. None of the negative impacts or the conclusions that have been raised for the wider SDO are applicable to this Site.

- 6.12 As part of the SGO assessment, Option 3 (the preferred approach), the SA notes that:

*“(SGO 3) is likely to offer the best balance of sustainability considerations by integrating urban regeneration with suburban and rural development, promoting sustainable travel, and addressing the needs of diverse communities. Although, some adverse impacts are likely, including potential for localised adverse effects on the landscape through loss of undeveloped land (SA Objectives 4 and 6), and generation of pollution and waste (SA Objective 5). Careful coordination and planning would*



*be needed to ensure that investments and infrastructure can be directed to address the diverse needs of the community. On the whole, this option is likely to ensure a diverse range of housing types and tenures can be provided across Medway (SA Objective 7) and economic needs can be met (SA Objective 12) whilst directing the majority of new development to sustainable locations.”*

- 6.13 We agree that the SGO is the most sustainable option, and that some suburban expansion is acceptable within the Plan.
- 6.14 Lastly, the Development Sites, of which 359 were assessed, include this Site. The SA is clear in that the purpose of this assessment is to identify the impacts on that would need to be overcome for development to optimise sustainability performance. For this Site – continued to be identified as RN17 - we provide the following commentary against the conclusions of the SA:

Site ref.	Site use	1 Climate change mitigation	2 Climate change adaptation	3 Biodiversity and geodiversity	4 Landscape and townscape	5 Pollution and waste	6 Natural resources	7 Housing	8 Health and wellbeing	9 Cultural heritage	10 Transport and accessibility	11 Education	12 Economy and employment
RN17	Residential led	+/-	--	-	-	-	-	+	-	0	-	-	+

**Figure 3: Impacts of all reasonable alternative non-strategic sites (pre-mitigation)**

SA Criteria	Reasonable Alternative Site Assessment	Response
SA Objective 1 – Climate Change Mitigation	Carbon Footprint	N/A
SA Objective 2 – Climate Change Adaption	Flood Zone - positive.  SWFR - negative  Flood defence - neutral	The topography of the site has the potential to disperse surface water, however the proposals are appropriately mitigated. The pre-application scheme (and the proposed layout as shown in Figure 5) have been subject to an infiltration test which has shaped the layout of the development. The central landscaped area is in the area that presently has the highest

		<p>run-off rates, and the SUDS features will ensure that surface water is minimised, and any harm is mitigated. Subject to the mitigation – SWFR consideration would be <b>neutral</b> at worst. Officers have concluded the proposal is acceptable in principle at pre-application advice</p>
SA Objective 3 – Biodiversity	<p>Neutral or no impacts, apart from negative on European Sites, SSSI, LNR, Priority Habitats</p>	<p>The Council has a financial contribution that is levied upon developments to protect European Sites and SSSI from harm. Therefore, the planning application, subject to the contribution would ensure that there would be <b>neutral</b> impacts.</p> <p>The Council considers that the site would have negative impacts upon the Local Nature Reserve (LNR). It is not understood how this can be the case, when no harm to the LNR was identified in the previous Phase 1 and 2 applications, or the two developments to the east of the site off of Lower Rainham Road. It is argued that the site would have a <b>neutral</b> impact in a without mitigation scenario.</p> <p>The Council also has concerns that the redevelopment of the Site would lead to the loss of Priority Habitats. Preliminary</p>

		<p>Ecological Surveys have been undertaken and there are no such Habitats on site. This impact would be a <b>no impact</b> in a without mitigation scenario.</p> <p>The Council has previously raised no such concerns in the pre-application meeting or follow up letter received in July 2024 (Appendix A)</p>
SA Objective 4 – Landscape	Neutral or no impacts, apart from negative on Country Park, Landscape Character Assessment, Views from the PROW Network, Views experienced by local residents	<p>The Site is a significant distance from the Lower Rainham Country Park and offers no visibility nor impact. There is a <b>no impact</b> on this criterion and no mitigation is required.</p> <p>The site has been preliminarily assessed and there is limited visibility of the proposals from within the LCA area. This information is presented in Appendix B. The proposals have limited visibility but this part of the current ALLI designation – for the reasons explained elsewhere – has limited value and contribution to the ALLI. The development would be read as a natural expansion of Phase 1 and 2 – both of which were in, and remain visible from, the ALLI. Without mitigation, the impact upon the ALLI would be <b>negative</b>, at worst, and with</p>

		<p>mitigation, the impact would be <b>neutral</b>.</p> <p>A PROW crosses diagonally to the west of the Site and views are limited to glimpses of rooftops, i.e. the same as the existing views of Phase 1 and 2. Any low-level negative impact of views from the PROW would be ameliorated by planting along the western site boundary to create a <b>neutral</b> impact.</p> <p>The same impact and mitigation would relate to the visibility of the site from local residents. It is argued that this Impact should have no material consideration in any sustainability or planning assessment, i.e. view is plainly not a planning test in any event.</p> <p>Again, the lack of visibility of the proposed Allocation is demonstrated in <b>Appendix B</b>.</p>
SA Objective 5 – Pollution and Waste	<p>Neutral or no impacts, apart from Air Pollution.</p> <p>The SA states that <i>“131 sites proposed for residential use have capacity for the development of between 10 and 99 dwellings, and 19 sites are proposed for employment-led end use and comprise</i></p>	<p>The broad assessment is fundamentally flawed. There are no known air pollution issues in this location and therefore the conclusions should be a <b>neutral</b> or <b>no impact</b> in a no mitigation scenario.</p>

	<i>between 0.1 and 1ha. The proposed development at these 150 sites could potentially have a minor negative impact on air pollution in the local area. – no local understanding”.</i>	
SA Objective 6 – Natural Resources	<p>Previously developed land – negative, on the basis that sites <i>“are likely to contain areas of environmental value such as hedgerows, trees and scrub that would be expected to be lost to development.”</i></p> <p>Agricultural Land Classification – negative</p> <p>Mineral Safeguarding Areas - neutral</p>	<p>The proposals would not reduce any hedgerows, trees or scrub and would increase the biodiversity potential through the introduction of additional hedgerows and trees. An initial BNG Assessment has been made which does result in a net reduction, however the statutory 10% BNG can be achieved through mitigation on other sites. Given the statutory requirement of BNG, the use of Previously Developed Land is <b>a neutral or minor positive</b></p> <p>No formal assessment of the agricultural classification of the Site has been undertaken to date. However, there is no potential for the Site to be used for agriculture in the future – either from a practical (access, size, proximity to adjacent residential properties), or ownership perspective.</p> <p>There is substantial retained BMV land within the suburban and North Rainham SDO, the SGO 3 and other Development</p>

		<p>Sites. We note that the Pump Lane appeal – ref APP/A2280/W/20/3259868 – considered the loss of BMW land, and that there would be a negative effect on the provisions of such land, but this Site is materially different insofar as the land is currently not in agricultural use, and will never have any agricultural value.</p> <p>In combination, the impact upon the Agricultural Land Classification should be <b>neutral</b> at worst.</p>
SA Objective 7 – Housing	Housing - positive	We agree, the allocation for housing would be a <b>double positive</b> .
SA Objective 8 – Health and Wellbeing	<p>NHS hospital – positive</p> <p>GP surgery – negative</p> <p>Leisure facilities – positive</p> <p>Access to public greenspace – positive</p> <p>Net loss of public greenspace – no impact</p> <p>PROW / cycle network - positive</p>	<p>Of the Health and Wellbeing impacts, the Council concludes that Sites that are over 800m from a GP surgery result in a negative impact. This is a flawed methodology. The assessment should be whether there is capacity in local services. Given that the Council has consistently sought funding from applications in the lower Rainham area towards service improvements, there is no known deficit of GP surgery or services in the local catchment area. Without mitigation, the impact should be <b>neutral</b>, and</p>

		with mitigation, i.e. any financial contribution to an identified shortfall, this impact should be <b>positive</b>
SA Objective 9 – Cultural Heritage	No impact on any heritage assets	N/A
SA Objective 10 – Transport	<p>Bus stop – positive</p> <p>Railway station – positive</p> <p>Pedestrian / cycle network – negative. Of the pedestrian / cycle network, the Council states <i>“that 65 sites currently have poor access to the existing footpath network. The majority of these are located in the rural areas of Medway. The proposed development at these sites could potentially have a minor negative impact on local accessibility, and pedestrian/cyclist access would need improvement to be considered a viable transport option.”</i></p> <p>Local services – negative. Of the access to local services, the Council states <i>“94 sites are located wholly or partially outside of the 600m sustainable distance to local services. The majority of these are located in the rural areas of Medway. These sites are likely to have a minor negative</i></p>	<p>We strongly dispute whether the Site has poor access to footpaths. The Site would connect to Phase 2 and Phase 1, which access out onto Berengrave Lane. Footpaths exists to connect to services. National Cycle Route 1 – North Sea Cycle Route – runs along Berengrave Lane, and this connects, via Childscroft Road, to Station Road, Rainham to the south, and west from Bloors Wharf along the Thames Coastal Path. The pedestrian and cycle connectivity of the Site is therefore a <b>double positive</b>.</p> <p>By application of the 600m to local services threshold, the Site is outside of the area. Nevertheless, given the pedestrian and cycle connectivity, the distance outside of the 600m threshold does not prejudice future occupiers in connectivity to local services. Furthermore, Rainham town centre is well served by local shops and services. The proximity to the</p>

	<p><i>impact on access to local services for site end users.”</i></p> <p>Public transport accessibility – no impact</p>	<p>town centre is therefore <b>neutral</b> at worst.</p> <p>We maintain that the Council must assess the Sustainability of the Site in the same context as the permission stated in paras. 2.19 – 2.25, as well as the Phase 1 and Phase 2 development. All four permissions were considered sustainable by way of their location.</p>
SA Objective 11 - Education	<p>Primary School – negative</p> <p>Secondary School – positive</p> <p>Further education – no impact</p>	<p>As with the Health and Wellbeing impacts, the Council concludes that Sites that are over 600m from education result in a negative impact. Again, this is a flawed methodology. The assessment should be whether there is capacity in local services. Given that the Council has consistently sought funding from applications in the lower Rainham area towards education improvements, there is no known deficit of primary schools or services in the local catchment area. Without mitigation, the impact should be <b>neutral</b>, and with mitigation, i.e. any financial contribution to an identified shortfall, this impact should be <b>positive</b></p> <p>As above, the Council has previously considered four</p>



		similar developments to be “sustainable development”.
SA Objective 12 - Economy	Employment Floorspace Provision – no impact  Access to major employment location - positive	N/A

**Table 1: Response to Interim Sustainability Appraisal of the Site Impacts**

6.15 We are therefore concerned that the methodology used in the ISA fails to consider the site specifics, and the generalisations suggest that the Site would perform worse in sustainability terms than the reality of the development potential.

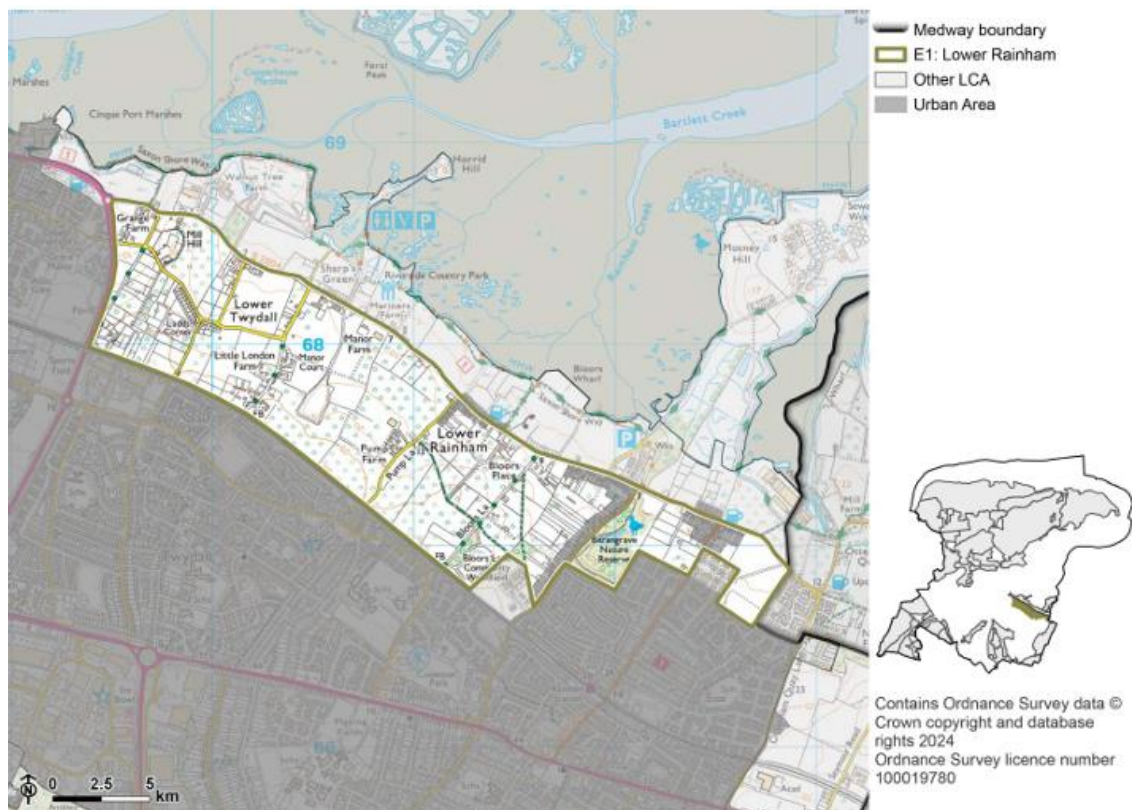
6.16 Taken in the round, we maintain that the following:

- SA Objective 1 (Climate Change Mitigation) – no change
- SA Objective 2 (Climate Change Adaptation) – with mitigation, impacts become neutral, or minor positive
- SA Objective 3 (Biodiversity) – with mitigation, impacts become neutral, or minor positive
- SA Objective 4 – (Landscape) – no impact upon Country Parks, with mitigation on BNG impacts become minor positive. Impacts on Priority Habitats is no impact.
- SA Objective 5 – (Pollution and Waste) – neutral or no impacts on Air Quality
- SA Objective 6 – (Natural Resource) – with mitigation on BNG, impacts on previously developed land become neutral, or minor positive, and neutral impact on ALC
- SA Objective 7 – (Housing) – no change
- SA Objective 8 – (Health and Wellbeing) – without mitigation, neutral impact on GP surgeries, and with mitigation (where deemed necessary through s.106 contributions), positive impact on services
- SA Objective 9 – (Cultural Heritage) – no change

- SA Objective 10 – (Transport) – without mitigation, double positive on pedestrian and cycle access, and neutral on access to local services.
- SA Objective 11 – (Education) – without mitigation, neutral impact on primary schools, and with mitigation (where deemed necessary through s.106 contributions), positive impact on services
- SA Objective 12 – (Economy) – no change

### Landscape Character Assessment

- 6.17 As part of the Evidence Base used to underpin the draft Local Plan, the Council has prepared a draft Landscape Character Assessment ('the LCA'). The Site falls within Landscape Character Area E1: Lowe Rainham. The Area is characterised as *"low-lying, flat to gently undulating landscape supporting several orchards"*.



**Figure 4: Location of LCA E1**

- 6.18 We note that the LCA E1 boundary includes the aforementioned relevant recent permissions (Berengrave Nursery, and the two sites south of Lower Rainham Road. None of these have been considered in the context of the LCA, which simply states that the *"landscape has become fragmented by urban fringe influences, including ribbon development along Lower Rainham Road, Berengrave Lane and Station Road"*.

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- 6.19 Instead, these are substantial schemes which demonstrate the changing character of the edges of the ALLI, and which demonstrates the expanding suburbanisation of the ALLI. These developments must be considered in the final LCA.
- 6.20 The Key Sensitivities and Values within the LCA E1 are plainly not applicable to the Site or the immediate surrounding areas.
- 6.21 The Issues and Changes within the LCA E1 acknowledge the:
- Suburbanisation in the east, with recent expansion of the urban area into the landscape (such as development east of Bloors Lane Community Woodland and on Bloomfields east of Station Road).
  - Threat of further expansion of urban edges from the south and west
  - Loss of distinctive settlement identity of Lower Rainham; ribbon development along Lower Rainham Road to the east of the hamlet is leading to a reduction in physical and perceived separation between it and the urban area of Rainham (including the former separate hamlet of East Rainham).
- 6.22 The distinctive settlement identity of Lower Rainham is questioned given that this is fairly common suburban area which maintains physical separation to key landscape areas within the LCA E1.
- 6.23 The draft Development Management Guidance seeks to:
- Avoid large scale urban/housing extensions within this working rural agricultural landscape characterised by its low-density dispersed settlement pattern.
- 6.24 The proposed site allocation is modest suburban expansion which does not affect the rural agricultural landscape pattern, nor is there a low-density dispersed settlement pattern in this location.
- 6.25 We suggest that:
- The existing and emerging development pattern should be revisited and included within the final LCA E1.
  - The landscape qualities of the LCA E1 (and all LCA areas) must include acknowledgement that there are areas, such as this Site, that at the edges of the LCA boundary, and / or which have no landscape or functional importance.
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- That the primary focus of the Development Management Guidance is clarified to ensure that inappropriate development, i.e. schemes that materially harm the function and character of areas of the most important, in terms of landscape quality and function, are resisted, but that sustainable development in areas of limited landscape quality is supported.
  - The principle of the LCA must acknowledge the significant housing pressures that the Council is under, and that some sites can forward for residential development. Without this appreciation in the LCA, or any subsequent Policy that refers to the final version of the LCA, the application of the document as drafted could substantially inhibit the Council in delivering the required housing.

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## 7. PROPOSED SITE ALLOCATION

### Overview of Allocation

- 7.1 As outlined in Section 2, the Site represents a logical progression of the Phase 1 and 2 development and is unconstrained by any current fundamental planning policy designations. The location of the Site represents a logical suburban expansion and follows a well-established development pattern of such growth in the area. Given that the SGO includes greenfield development opportunities, the promotion of this Site will align with the direction of Plan travel.

### Proposed Development

- 7.2 In July 2024, a pre-application meeting was held with Officers of the Council for a residential scheme of 32 residential units (see Figure 2 – Proposed Layout on page 44). The pre-application response received on 24<sup>th</sup> July 2024 (included in Appendix A) was largely positive in relation to aspects such as highways, drainage, ecology, sustainability, design and layout etc. but officers explained that whilst the proposal would *“deliver much needed housing and employment (sic) there are concerns relating to encroachment into the countryside and overdevelopment in this rural location. At present it is felt that the economic and social benefits of the proposed development do not outweigh the priority to conserve the landscape.”* This was caveated on the basis officers did not feel they had been provided with sufficient information to fully assess landscape aspects, and therefore a further pre-app will be held which will focus on the visibility and impacts of the development on the ALLI
- 7.3 The Council’s application of the stated Policies is flawed however, insofar as that BNE25 has proven to have no weight given the Council’s five-year housing supply, and BNE34 has limited weight. In any event, the Area of Local Landscape Importance that Policy BNE34 seeks to manage is substantially over considered in the Council’s position. The proposed development would have no harm to the landscape character and function of the ALLI, and nor would it materially harm the character or appearance of the area in any other way.
- 7.4 Even if Policy BNE34 were to be applied in full, the broad-brush protection of the ALLI, rather than assessment of each parcel of land within it, is flawed, and previous Inspector have noted that land adjoining the subject Site (for Phase 2), *“was flat, featureless and visually unremarkable,”* and he *concluded that the site is well contained and was only considered visible from the turning head of Queenscourt Close and only in the context of surrounding built development.”*
- 7.5 In approving the Phase 2 development at appeal, the Inspector stated that:

*“I appreciate that the proposal to develop the present appeal site, following after the Queenscourt Close site, might be said to represent part of an incremental approach. But these two developments seem to me to be reasonably well coordinated. And there is no suggestion that the scheme now*

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*proposed would hinder or prevent the future development of any other adjoining land, if that were considered to be appropriate in the light of future housing needs.*

7.6 Furthermore, as demonstrated in the developments referenced in para. 2.23 – 2.28, the Council has consistently supported res

7.7 This sets a clear baseline for acceptability of an allocation on the terms of:

- Is the Site Allocation consistent with the SGO:
- Are the residential proposals “sustainable development” as defined by the NPPF:
- What are the Council’s housing needs and does the development of the Site assist in meeting these needs?
- Does the residential proposals comply with the terms of Policy BNE34 (i) or ii), and / or, how does the development relate to the ALLI designation:
- Are there any technical impediments to development?

#### **Spatial Growth Options**

7.8 Development of the submission site would primarily be consistent with SGO and would contribute to the delivery of sustainably located new homes adjoining the existing urban areas of Medway, such as Rainham.

7.9 This spatial growth option is identified within the consultation document for its potential to deliver new housing in locations conducive to sustainable travel options. Suburban expansion is additionally identified to likely comprise primarily greenfield sites, and which would be expected to be built out quickly, responding to market demand by virtue of their generally more limited site constraints than brownfield sites.

#### **Sustainability**

7.10 In this regard, the Council and Planning Inspectors have considered Phase 1 and 2, and Berengrave Nursery to be sustainable development, and the Phase 3 site can result in no alternative conclusion. Similarly so, the recent approvals in the Lower Rainham area have all concluded that developments in the vicinity are inherently sustainable.

7.11 The Site is located immediately adjacent to the existing built-up area and is in an edge-of-settlement context, surrounded by development on three sides. The Site is further located within easy access

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to day-to-day services and facilities by sustainable travel modes and will contribute positively to the creation of sustainable and accessible neighbourhoods.

### **Housing Needs**

- 7.12 The adjacent Phases have recently been subject to two recent planning applications, with Phase 1 delivered and Phase 2 current being built out. There are no impediments to the Site being identified for potential development commencing within the 0-5 years of the Plan period. Combined with an appropriate scale and number of wider allocations in Medway, this would assist in ensuring a steady delivery of housing in Medway across the majority of the Plan period, and most importantly, allow early delivery within the life of the Plan. We have raised concerns that the reliance upon large brownfield allocations risks under delivery and therefore the Site can contribute positively to the identified housing needs of the Plan.

### **ALLI**

- 7.13 As set out in Section 2, there must be clear consistency in the Council's application of Policy BNE34, and their approach to assessing the impacts of development on the ALLI. It is evident that the ALLI does not preclude residential development, and that the overall sustainability of the development, the impacts on the character and function of the ALLI, the fragmented quality of the ALLI and the benefits of the scheme are all relevant to the consideration. For this Site, the quality and functionality of this part of the ALLI are particularly poor and development would have limited material impact upon the areas within the ALLI which have the highest quality.
- 7.14 The minor mitigation needed to offset the limited visibility of the development within the ALLI – as demonstrated in the unverified visualisations included in Appendix B – demonstrate the limited impact upon the ALLI. Furthermore, the sustainability credentials of the development, and the significant benefits of the allocation would ensure that the objectives of the current ALLI policy are met.

### **Technical Considerations**

- 7.15 There are no technical impediments to the delivery of the Site. There are no known ecological species or habitats on Site, and a Surface Water Drainage strategy is proposed to neutralise water run-off. The development has been laid out to ensure no harm to neighbouring amenities, consistent with Phase 1 and 2. The Council has already confirmed in pre-application discussions that no issues are raised with access to the public highway, and sufficient capacity exists on the local highway network to accommodate the minor uplift in vehicles. There are no known hazardous risks, pollution or contamination. There are no known potential impacts on infrastructure, services and wider ecological designations, and any shortfalls can be mitigated via the Council's approach to s106 contributions.

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## Conclusions

- 7.16 We therefore suggest that the allocation is demonstrably consistent with the Council's preferred SGO on the basis that the site is adjacent to the urban area of Rainham and would form a natural and logical development north of the settlement with excellent accessibility to day-to-day services and amenities via active travel modes within Rainham itself and convenient access to public transport infrastructure for onward travel to the wider Medway towns. The residential allocation would make a positive contribution to the housing land supply for the district, for both market and local needs affordable housing.
- 7.17 Finally, in respect of suitability there are no physical limitations or problems such as access, infrastructure, flood risk, hazardous risks, pollution or contamination.
- 7.18 Given the clear consistency of our Client's site with the SGO and the established nature of the wider site as a suitable location for housing, we submit that land to the rear of Berengrave Lane should be allocated with capacity for circa. 32 new homes within the emerging Local Plan.



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## 8. CAPACITY TESTING AND VISION

8.1 Working with our development team, we have test various layout options for the residential development of the Site. As set out in the previous Chapter, this testing has considered:

- The existing landscape features, and topography of the Site:
- The relationship to adjacent landowners and residential properties:
- The optimum residential layout and density, which reflects the scale, character and density of the adjacent Phase 1 and Phase 2 development:
- The opportunity to reduce surface water flows across the Site and to adjacent land:
- The importance of providing green infrastructure in the Site, and optimising the potential for achieving biodiversity net gain:
- Ensuring that sufficient car parking is provided on Site, but that this is not located at the expense of the design and layout quality of the proposed development:

Phase	Strategy	Timescales	Land Uses-	Density, Heights and Capacity	Suitability	Available	Achievable
Phase 3	Site Allocation, Planning Application	Delivery within 5 years	Residential	21 dph, 2 storeys (potentially with accommodation within the roof of dwellings), 32 dwellings, each with private gardens and a maximum of 2 car parking spaces.	Text	This Phase is available to develop now.	The proposed development within this Phase is entirely achievable. Subject to sufficient

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Phase	Strategy	Timescales	Land Uses-	Density, Heights and Capacity	Suitability	Available	Achievable
							density and a viable quantum of affordable housing, the Phase is economically developable.

Table 2 – Indicative Land-Uses and Capacity



**Figure 5 – Proposed Layout (32 Residential Units)**

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## 9. CONCLUSION AND NEXT STEPS

- 9.1 These representations are submitted based of continued engagement with the Council in the drafting of the new Local Plan. The development represents a natural progression of suburban expansion and builds upon the principles established in Phases 1 and 2.
- 9.2 The Council's SGO talks of a combination of brownfield development and suburban and rural development. The allocation would represent a sustainable development that causes no harm to the existing low-quality landscape character, and would have no technical, viability or legal impediment to delivery within the early life of the Local Plan.
- 9.3 We look forward to working with the Council and its teams to ensure that the aspirations and objectives of the representations are reflected in a deliverable site allocation for 32 dwellings within the emerging Local Plan.

September 2024

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**APPENDIX A – PRE-APPLICATION RESPONSE RECEIVED 24<sup>TH</sup>  
JULY 2024**

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## Pre-Application Advice Response

1	<b>Site Address: Land Rear Of Berengrave Lane, Rainham, Kent, ME8 7FG</b>	<b>Ref No: PRE/24/1042</b>
2	<b>Our description of your proposal:</b> Construction of Access road, residential development and associated landscaping and car parking.	
3	<b>History: Adjacent sites</b>  MC/18/3186 - Construction of nine residential dwellings comprising 6 no. 3 bedroom houses, 2 no. 4 bedroom houses and one 5-bedroom house, with associated access, amenity areas and associated garaging and parking for proposed and existing dwelling. Demolition of the existing garage and outbuildings. Decision: Approval with conditions Decision date: 29 April 2019  MC/20/1319 Construction of four detached chalet dwellings with associated access, vehicle parking/garaging, refuse and cycle storage areas as amended by revised drawings received on 17/09/2020 Decision: Refused Decision date: 22 October 2022  MC/22/1339 - Construction of 8 residential dwellings; detached garages to plots 2, 3 and 8 together with private amenity space, landscaping and associated parking Decision: Granted at appeal	
	<b>Main Considerations</b>  <b>Principle</b> The application site is located outside of any defined urban area as designated by the Local Plan and therefore is in a countryside location, an Area of Local Landscape Importance (ALLI) and Lower Rainham Farmland character area from the Medway Landscape Character Assessment 2011.  As a site located within the countryside, the principle of the proposed development would fall outside of the development strategy as set out in the Local Plan, which directs development to brownfield sites. Policies S1 and S2 of the Local Plan seek to prioritise development within the existing urban fabric, and then strategically sustainable development using a sequential approach to the location. Policy BNE25 of the Local Plan directs that development in the countryside will only be permitted on a site allocated for that use; development	

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essentially demanding a rural location, or the re-use or adaption of an existing built-up area. whilst policy BNE34 of the Local Plan seeks to prevent development which would materially harm the landscape character and function of the area.

It is in considering these Local Plan policies that the proposal, as a predominantly residential scheme is in principle unacceptable. It would be deemed contrary to the strategic direction of the Local Plan highlighted in Policy S1 and S2 which direct development to brownfield sites, then sustainable sites, and are supported by Policy BNE25 and BNE34 of the Local Plan that restricts development in the countryside.

However, it is acknowledged that the Local Plan is of some age, being adopted in 2003, and the Council does not currently have a five-year housing land supply (paragraph 74 of the NPPF). As such there is non-conformity between the restrictive Policies S1, S2, BNE25 and Policy BNE34 within the Local Plan and the more recent NPPF. Footnote 8 of the NPPF states that 11(d) also allows for applications involving the provision of housing, and where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74).

The NPPF seeks to pursue sustainable development, including countryside sites where appropriate, in a positive way through a presumption in favour of sustainable development, unless the policies within the NPPF provide clear reasons for refusing development, or if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, as set out in paragraph 11. Paragraph 60 of the NPPF also seeks to boost the supply of housing by bringing forward a variety of land to meet specific housing requirements.

Having regard to the above, whilst the proposal would deliver much needed housing and employment there are concerns relating to encroachment into the countryside and overdevelopment in this rural location. At present it is felt that the economic and social benefits of the proposed development do not outweigh the priority to conserve the landscape.

### **Design and Landscaping**

As the pre-application submission is an emerging proposal, a detailed drawing package has not been provided at this stage. But from the submitted information the indicative layout and materials are considered acceptable.

However from a landscaping point of view it is felt that the site is reliant upon land outside the red line for providing visual mitigation of the development which cannot be relied upon long-term. In the absence of wider contextual information, including the undertaking of a Landscape Visual Appraisal it has not been possible to fully assess the application

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**Amenity****Future Occupiers**

The proposed dwellings would need to meet requirements of the national space standards for Gross Internal Floor Areas (GIA), room sizes and ceiling heights. All habitable windows require suitable outlook.

Medway Housing Design Standards (MHDS) for houses indicates gardens should be a depth measured from rear elevations of 10m and 7m from the living space where constraints exist.

**Neighbour amenities**

To be fully assessed at the application stage regarding impacts on sunlight, daylight, outlook and privacy.

There are a number of residential properties in the area that could be impacted during construction and a Construction Environment Management Plan (CEMP) would be required to be secured.

**Highways/Parking**

The existing access of Queens court Road onto Berengrave Lane is expected to be sufficient, modelling of this junction is recommended to support any forthcoming planning application.

A TRICS-based traffic attraction assessment will be required. The actual impact of the proposals would not be expected to be significant in other contexts, however the narrow roads of Queencourt Close and Berengrave Lane are causes for concern. A robust assessment of increased traffic is therefore requested, including modelling (or an alternative thorough impact analysis) of the Queencourt Close / Berengrave Lane junction. Modelling must reflect all three development sites fully occupied.

Internal highway layouts must be designed to encourage 20mph speeds, prioritise pedestrians and be built to adoptable standards. Vehicle tracking is required to demonstrate that the site is accessible by a refuse vehicle and emergency service vehicles.

The accessibility of the site by non-car modes is poor, with shops, schools and frequent bus routes outside of an easy walking distance. The bus stops to the south of the site on Berengrave Lane are poorly served. The bus stops to the north of the site on Lower Rainham Road would require access via the footpath through Berengrave Nature Reserve – which is outside of the highway boundary and so Medway are not able to upgrade the footpath to be suitable for access by (for example) wheelchair users or the partially sighted. It is clear that a robust mitigation strategy will be required to make this development acceptable from a sustainability perspective, as otherwise this site will be car-oriented and counter to sustainable transport planning policy

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### Internal Pedestrian Arrangements

The highways scoping information provided by SLR is positive on pedestrian facilities within the site, setting out a vision including 2m footways, 4.8m carriageways, a low-speed environment and raised crossing points. It would be beneficial to see all of these items adopted within the final design for submission.

### Cycle Provision

As the development comprises houses, it is expected cycle parking would be provided by way of sheds in rear gardens – it should be noted that sheds are required to be a minimum of 1.4m x 2m to provide sufficient space for cycle storage.

### Vehicle Parking

Parking bays are proposed at a greater size of 2.5m x 5m – this is supported. Parking is also proposed to reflect Medway Standards exactly, including the additional visitor parking – this is also supported and accepted. Note that any parking bays without a 6m clearance to their rear are required to have vehicle tracking provided that demonstrates that the bay is accessible.

### **Flooding/Drainage**

The Flood, Drainage and Special Projects Officer has confirmed that they are happy with the proposed method of providing an FRA and Drainage Strategy.

### **Trees**

Paragraph 131 of the NPPF recognises the important contribution trees make to the character and urban environments, as well as the impact they can have on mitigating and adapting to climate change. This policy also states that policies and decisions should ensure that new streets are tree lined and opportunities are taken to incorporate trees elsewhere within the development. Tree should feature a mixture of native and nonnative tree species. There is a requirement for street trees being planted either in the adopted highway or in public space to be maintained by a management company. Trees and Landscaping should also be integrated to SuDS schemes strengthening the ecoservices infrastructure of the site.

In addition, any proposed tree planting within the site would need to take account of the presence of street lighting and any underground services, as well as the space needed (above and below ground) to allow these trees to establish. Should an application be made Tree planting should be represented both graphically and at expected mature canopy sizes (after a 25-year period).

<https://www.nationalgrid.com/sites/default/files/documents/Sense%20of%20Place%20National%20Grid%20Guidance.pdf>

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**Ecology/Biodiversity**

BNG is now a requirement and should be addressed at the time of submission of any application and the development would need to incorporate a minimum of 10% BNG. An early BNG assessment should be undertaken to inform the detailed layout of the proposed development, to help address the requirement for BNG in the most appropriate manner. The statutory biodiversity metric must be used and sufficient information to address this matter included at the application submission stage. A link to relevant advice is given below, KCCs email address is [biodiversity@kent.gov.uk](mailto:biodiversity@kent.gov.uk) should you wish to discuss any proposals with them directly.

**Refuse storage**

Refuse storage would need to be provided in line with Medway Council's Waste Management Requirements for new developments (see link at the bottom). Should an application be submitted details of this should be submitted with the application

**Contamination**

As the land has been used for agricultural purposes with the potential for contamination any application would need supported with a desk top study for consideration.

**Climate Change and Energy Efficiency**

The Council has recently declared a climate emergency and we as officers need to specifically cover climate change and energy efficiency in the officer's report. We require the applicants/developers to submit a statement setting out what measures they are including to tackle climate change and energy efficiency. This has been incorporated into our 2021 Validation Checklist which is out for consultation, and I have copied the relevant section in below:

"The Climate Change Statement should seek to include details of the proposal regarding the following:

- Sustainable design principles
- Energy and carbon reduction methods
- Biodiversity net gain
- Water efficiency and recycling
- Waste reduction
- Sustainable transport methods
- Air quality Improvement measures
- Education or new resident/occupier information pack"

**Bird Mitigation**

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

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	<p>(SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest.</p> <p>Natural England has advised that an appropriate tariff of £328.27 per additional unit, should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries or information shall be submitted to allow an appropriate assessment to be undertaken.</p> <p><b>Affordable Housing</b></p> <p>Medway's adopted local plan sets out a requirement for 25% affordable housing, with 60% affordable rent and 40% for intermediate (affordable homeownership of which shared ownership is the preferred option). Where sites are being considered under these policies, a minimum of 25% of affordable homes should be First Homes. 5% of the Affordable Housing should be delivered as wheelchair user dwellings as per part M4 (3) of the Building Regulations.</p> <p>Based on the provision of 8 units the policy compliant mix should therefore be;</p> <ul style="list-style-type: none"> <li>• 2 first homes</li> <li>• 1 shared ownership</li> <li>• 5 for affordable rent.</li> </ul> <p>The affordable Homes should be physically indistinguishable from the equivalent market homes in terms of quality and size. Currently, First Homes delivered in Medway are subject to the National Criteria: 30% discount against the market value and a price cap of £250,000 (after the discount is applied). More information regarding First Homes is available from the Council's website;</p> <p><a href="https://www.medway.gov.uk/firsthomes">https://www.medway.gov.uk/firsthomes</a></p> <p>As discussed in the meeting further details in relation to affordable homes will need to be discussed and agreed with the Council's Affordable Housing Officer in taking this application forward.</p>
5	<p><b>S106 Contributions</b></p> <p>Please refer to the guide to the developer contributions (currently version 5 – updated April 2022), which sets out Medway Council's policy relating to developer contributions. The guide provides comprehensive advice on how to determine contributions and includes technical details for services for which contributions may be sought. A request for S106 contributions will be issued when the application is received.</p> <p>If the current proposal were to proceed to a full planning application, we would seek developer contributions which would likely include the following:</p> <ul style="list-style-type: none"> <li>• Highways</li> </ul>

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	<ul style="list-style-type: none"> <li>• SAMMs – Bird Mitigation</li> <li>• Open Space and sports facilities</li> <li>• NHS</li> <li>• Education</li> <li>• Community facilities</li> <li>• Public realm</li> <li>• Waste and recycling</li> <li>• Youth provision</li> </ul> <p>The total contribution is currently £16,254.01 per dwelling as outlined in the Medway Guide to Developer Contributions and Obligations.</p>
<b>6</b>	<b>Screening or Scoping?</b> <p>Not required</p>
<b>7</b>	<b>Information in support of an Application</b> <p>Full application and drawings as per validation checklist.</p> <ul style="list-style-type: none"> <li>• Completed Application Form and certificate</li> <li>• Planning Statement</li> <li>• Design and Access Statement (including Landscaping)</li> <li>• Location Plan (1:1250 / 1:2500)</li> <li>• Site Plan (1:500 / 1:200)</li> <li>• Block Plan (1:100 / 1:200)</li> <li>• Existing and proposed plans, drawings and sections (1:50 / 1:100)</li> <li>• Proposed Streetscene</li> <li>• Affordable Housing Statement</li> <li>• Biodiversity net gain (BNG) calculation and statement.</li> <li>• Flood Risk Assessment and Sustainable Drainage (SUDs)</li> <li>• Transport Assessment</li> <li>• Assessment of the public transport amenities and services</li> <li>• Travel Plan</li> <li>• TRICS-based traffic attraction assessment</li> <li>• Confirmation of the access route to the public highway</li> <li>• Refuse and emergency vehicle tracking</li> <li>• Contamination Desk Top Study</li> <li>• Noise impact assessment</li> <li>• Waste and Servicing Management Plan</li> <li>• Climate Change and Energy Efficiency Statement</li> <li>• LVIA</li> <li>• Landscape Strategy</li> <li>• Hard and Soft Landscape General Arrangement Plan</li> </ul>

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	<ul style="list-style-type: none"> <li>• Boundary Treatment Plan</li> <li>• Proposed &amp; Retained Services Plan</li> <li>• Lighting Plan</li> <li>• Tree Survey, Tree Constraints Plan, Arboricultural Impact Assessment, and any other relevant information as set out in Table B1 of BS 5837.</li> <li>• Detailed Planting Plans and Planting Schedule.</li> <li>• Soil buildup information, including a Soiling Plan (if necessary).</li> <li>• Tree Pit Details for hard and soft planting environments</li> <li>• Landscape Management and Maintenance Plan for all hard and soft landscape components, including play equipment.</li> </ul>		
<b>8</b>	<b>Consultation</b>  As part of a planning application, neighbouring properties and any relevant departments and statutory consultees would be consulted as well as site notices and press notices being posted.		
<table border="1"> <tr> <td><b>Case Officer: Arron Nicholls</b></td> <td><b>Date: 23/07/24</b></td> </tr> </table>		<b>Case Officer: Arron Nicholls</b>	<b>Date: 23/07/24</b>
<b>Case Officer: Arron Nicholls</b>	<b>Date: 23/07/24</b>		

## Links

### ***Developer Contributions/Birds/Waste***

[https://www.medway.gov.uk/info/200147/applying\\_for\\_planning\\_permission/1015/planning\\_applications/4](https://www.medway.gov.uk/info/200147/applying_for_planning_permission/1015/planning_applications/4)

### ***Medway Local Plan 2003***

<https://www.medway.gov.uk/downloads/200133/planning>

### **National House Space Standards:**

<https://www.gov.uk/government/publications/technical-housing-standards-nationallydescribed-space-standard>

### **Medway Housing Standards (interim) 2011:**

[https://www.medway.gov.uk/downloads/file/595/medway\\_housing\\_standards\\_interim\\_adopted\\_nov\\_2011](https://www.medway.gov.uk/downloads/file/595/medway_housing_standards_interim_adopted_nov_2011)

### **Parking Standards:**

[https://www.medway.gov.uk/downloads/file/2326/interim\\_residential\\_parking\\_standards\\_2009](https://www.medway.gov.uk/downloads/file/2326/interim_residential_parking_standards_2009)

### **Waste Management Requirements for new developments:**

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[https://www.medway.gov.uk/downloads/file/2338/waste\\_management\\_requirements\\_new\\_developments](https://www.medway.gov.uk/downloads/file/2338/waste_management_requirements_new_developments)

**Validation Checklist**

[https://www.medway.gov.uk/downloads/file/7949/planning\\_permission\\_validation\\_checklist](https://www.medway.gov.uk/downloads/file/7949/planning_permission_validation_checklist)

**Biodiversity Net Gain advice**

<https://www.gov.uk/guidance/biodiversity-net-gain#about-biodiversity-gain>

**Officer contact details**

[REDACTED]

Environmental Protection – [env.planning@medway.gov.uk](mailto:env.planning@medway.gov.uk)

This opinion is given on an informal basis at officer level only, without prejudice to any formal decision that may be made by the Local Planning Authority.

The opinion given will be current at the time of giving the advice, but changes in planning circumstances can occur which may then affect the advice given. Any changes in planning circumstances should be taken into account when preparing for the submission of a planning application

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## **APPENDIX B – VISUAL ASSESSMENT OF PROPOSED ALLOCATION**





**Key View 1**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham



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info@onarchitecture.co.uk

01227 634334

Client Details

Oakwood Group

Project Title

Land to the Rear of 143 Berengrave Lane, Rainham, Kent, ME8 7UJ

Drawing Title

Key View 1

Scale

NTS

Date

AUG 24

Drawn

DM

Checked

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Project Number

24.073

Drawing Number

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Drawing Revision

Canterbury Studio: Logan House, St Andrews Close, Canterbury, CT1 2RP





**Key View 2**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham



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Client Details

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Drawing Title

Key View 2

Scale

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Date

AUG 24

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Project Number

24.073

Drawing Number

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Drawing Revision

Canterbury Studio: Logan House, St Andrews Close, Canterbury, CT1 2RP





**Key View 3**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham

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Key View 3

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Drawing Number

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Drawing Revision

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**Key View 4**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham

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Client Details

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Drawing Title

Key View 4

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Project Number

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Drawing Number

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Drawing Revision

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**Key View 5**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham



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Client Details

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Drawing Title

Key View 5

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Project Number

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Drawing Number

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Drawing Revision

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**Aerial View 1**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham

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Client Details

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Project Title

Land to the Rear of 143 Berengrave Lane, Rainham, Kent, ME8 7UJ

Drawing Title

Aerial View 1

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Project Number

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Drawing Number

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Drawing Revision

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**Aerial View 2**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham

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Client Details

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Project Title

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Drawing Title

Aerial View 2

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Project Number

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Drawing Number

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Drawing Revision

Canterbury Studio: Logan House, St Andrews Close, Canterbury, CT1 2RP





**Aerial View 3**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham

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Client Details

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Land to the Rear of 143 Berengrave Lane, Rainham, Kent, ME8 7UJ

Drawing Title

Aerial View 3

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Date

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Project Number

24.073

Drawing Number

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**Aerial View 4**  
24.073 Land to the rear of 143 Berengrave Lane, Rainham

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Drawing Title

Aerial View 4

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Date

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Drawn

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Project Number

24.073

Drawing Number

63

Drawing Revision

Canterbury Studio: Logan House, St Andrews Close, Canterbury, CT1 2RP





Sent by email to: [planning.policy@medway.gov.uk](mailto:planning.policy@medway.gov.uk)

06/09/2024

Dear Sir/ Madam

### **Medway Local Plan**

1. Thank you for consulting the Home Builders Federation (HBF) on the Medway Local Plan. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of discussions with our membership of national and multinational corporations through to regional developers and small local housebuilders. Our members account for over 80% of all new housing built in England and Wales in any one year.
2. Before providing detailed comments on the proposed plan the HBF welcomes the positive approach the Council have taken in seeking to meet housing needs in full. We recognise that the preparation of a plan that seeks to deliver a significant number of new homes and their supporting infrastructure has been challenging and encourage the Council to move quickly to regulation 19 and submission of the local plan for examination.
3. However, before moving forward with the local plan there are, as the Council will no doubt be aware, still significant gaps in the evidence base that will need to be addressed. The Council are still to publish a Transport Assessment, Infrastructure Delivery Plan, up to date viability assessment or a cumulative ecological assessment to support the HRA. Alongside this the evidence on housing land supply was limited and provided limited evidence as to the deliverability of the council's chosen spatial strategy over the plan period. Therefore, whilst HBF urges the Council to move forward quickly it must still have the requisite evidence to support the plan if it is to ensure the plan is sound.

### **Consultation on the NPPF**

4. At the end of July, the Government commenced a consultation on a number of amendments to the NPPF. The proposed revisions will make significant changes to the current document and there is a strong possibility that Medway and many of its neighbours will be required to prepare plans that are consistent with the changes being proposed, should they be adopted. In particular, the Council will need to consider how the proposed policy changes to Green Belt will need to be taken into account and any decision that is made with regard to reviewing the Green Belt in Medway. Alongside the changes to the NPPF the Government have consulted on a new standard method. This will see Medway's local housing needs assessment stay broadly similar at 1,644 dwellings per annum (dpa). However, in the neighbouring authorities of Gravesham and Tonbridge and Malling would see their LHNA increases by 32 dpa and 237 dpa and the Council will need to work with these authorities to ensure housing needs across the sub-regional housing market are met in full.

### **Plan period**

5. HBF considers a plan period ending in 2041 will not be consistent with paragraph 22 of the NPPF which requires local plans to look forward for at least 15 years from the point of adoption. The Council's Local Development Scheme (LDS) states that the Council expect the plan to be adopted in Autumn of 2026 will mean that the plan looks forward for slightly less than 15 years and as such the plan period should be extended to 2042 to ensure consistency with national policy.

### **Housing needs and requirement**

6. The Council state that using the standard method the housing need for Medway is 1,658 dwellings per annum (dpa). This results in a housing need across the plan period of 26,528 homes. While HBF support the Council's decision to meet this level of housing need, which is consistent with current standard set out planning practice guidance, the Council will need to:
  - a) Increase overall all supply by a year to reflect the longer plan period required by national policy. This would increase overall need to 28,186; and
  - b) Consider, as required by paragraph 11 and 60 of the NPPF, whether there are unmet needs arising in other neighbouring areas and if additional land can be identified in order to meet some of these housing needs.
7. The issue of unmet housing needs is not one considered in the local plan but is mentioned in the Sustainability Assessment (SA) with one of the growth options considered including

an uplift to minimum, needs of 2,000 homes to meet some of Gravesham Borough Council's (GBC) unmet housing needs. It is not clear whether this is the most up to date figure supplied by GBC, as no statement on the duty to co-operate or Statement of Common Ground with Gravesham has been published as part of this consultation. However, given the constrained nature of GBC and scale of their housing needs the Council will need to give full consideration as to whether additional land could be allocated to accommodate some of Gravesham need.

8. However, alongside considering GBC's unmet needs the Council will also need to work with other neighbouring authorities where unmet housing needs may arise. For example, Tonbridge and Malling Borough Council (TMBC) is currently preparing a new local plan and is constrained by the Green Belt and the Kent Downs National Landscape. Given that TMBC are midway through the preparation of their new plan with a housing need that will increase by over 400 dpa if the new standard method is adopted, the Council will need to have discussions with TMBC to ascertain their position with regard to housing delivery and consider whether some of these unmet needs could be addressed in Medway.
9. In her letter to Local Planning Authorities the Deputy Prime Minister has stated that the Government want to ensure that that the right engagement is occurring to address any unmet housing needs that may arise. It is therefore vital that the Councils co-operate and work proactively to consider all options for meeting housing needs in full. This work will need to include considerations as to the potential for Green Belt boundaries to be amended in the most sustainable locations in order meet housing needs – a point we will return to later on in this response.

### **Housing supply and spatial growth options**

10. The Council state that SGO3 is their preferred option at this stage. This is a blended strategy and could deliver, according to the Sustainability Appraisal (SA), an additional 23,733 homes over the plan period. When this is added to the roughly 4,000 homes from windfall and sites with existing planning permission<sup>1</sup> it is expected that supply over the plan period would be circa 27,700 homes – roughly 4% more than the 26,528 homes needed across the proposed plan period but nearly 500 homes short of housing need across a policy compliant plan period.

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<sup>1</sup> Based on data in paragraph 3.1.2 of the Sustainability Appraisal.

11. Firstly, the Council will need to ensure that it has sufficient land and flexibility in supply to ensure that housing needs to 2042 are met in full. This will require the council to ensure that there is not only sufficient land to meet needs over this amended plan period but also that there is a buffer of between 10% and 20% to ensure that any delays in the delivery of strategic sites or under delivery on those sites does not compromise the soundness and deliverability of the local plan. As the Council will be aware strategic developments, that will form a significant part of the council's land supply, are rarely built out as expected. Therefore, in order to ensure the plan is effective and deliverable across its plan period there must be sufficient flexibility in land supply to take account of the uncertainties arising from such sites.
12. Secondly, the Council have stated in the SA that the proposed growth option will deliver up to 23,733 new homes. However, HBF could not find any evidence as to when delivery on these sites is expected to start and the number of homes these sites are expected to deliver each year. Without this information it is impossible to say whether the Council's expectations are realistic. The Council must provide a trajectory for each of the sites that are expected to deliver homes over the plan period showing when they will start and how many homes, they will deliver each year. These estimates must be realistic and that the Council does not seek to overstate start times and delivery rates in order to reduce the number of sites that are required to meet needs.
13. In particular the Council will need to provide detailed justification as to the potential for urban regeneration to deliver over 7,000 new homes across the plan period. HBF is supportive of such schemes and local plans proactively promoting regeneration, but such schemes are difficult to deliver with multiple land owners, high development costs and challenging viability that can delay the delivery of new homes in complex urban environments. HBF would therefore suggest that the Council is cautious as to how many homes will be delivered through urban regeneration as it moves forward with this local plan.
14. Thirdly, when considering the number of homes that can be delivered on each site the Council will also need to ensure that it has fully considered the implications of sites delivering a 10% net gain in biodiversity. HBF understand that that Natural England would like to see more robust assessments as to how BNG will be delivered on allocated sites and while our concerns are different, we would agree with this position. Delivery of this statutory requirement on site can impact on the number of homes that can be built and it will be

important that this is properly assessed in order to justify the capacities of each site and their overall deliverability.

15. Finally, the chosen spatial strategy should seek deliver homes consistently across the plan period and not push back housing delivery to the back end of the plan; in order to meet acute levels of housing need that exist in Medway now. While HBF recognise that PPG permits the use of stepped trajectories, this is only in very specific circumstances. The aim of any spatial strategy should be to avoid pushing back delivery until later in the plan period reducing the impact of any uplift in supply required by the standard method. Even if a step is required this should be minimised with the Council seeking to allocate small and mediums sized sites that deliver early in the plan period.
16. To conclude, HBF are concerned that the Council have not provided sufficient evidence to conclude that the chosen spatial strategy will deliver the number of homes required to meet Medway's housing needs. While HBF would not disagree with the blended strategy being proposed by the Council it will be necessary for further sites to be allocated in order to ensure Medway's housing needs are met in full across a policy compliant plan period. In preparing the next iteration of the local plan it will therefore be essential that:
  - There is full transparency on the site selection process that informs the spatial strategy adopted.
  - That the site selection process is linked to back to the SA and the assessment of sites and any evidence that support their availability and whether they are developable or deliverable.
  - That the approach consistent and based on the application of specified criteria to ensure that all interested parties understand why particular sites have been selected. This will in turn ensure that the chosen spatial strategy comprises the most sustainable sites, which in turn ensure vision put forward in the local plan is deliverable.
  - The Council considers how the chosen strategy could address any unmet needs that arise in neighbouring areas - including amendments to Green Belt boundaries.

#### *Green Belt boundaries amendments*

17. Question 8 in the consultation document asks whether consultees consider exceptional circumstances exist to justify a review of the Green Belt. This question is asked in relation to policy S7, however HBF consider it more appropriate to respond to this question in

relation to chosen spatial strategy. In considering this question it is necessary to consider two issues:

- Can Medway realistically meet its own needs without amending Green Belt boundaries
- Whether exceptional circumstances exist within a wider sub regional to support boundary amendments given the green belt washes across the boundary between GBC, TMBC and Medway.

18. As set out above HBF are concerned that Medway will, on the basis of the proposed spatial strategy, have insufficient land to meet its own housing needs in full. There is a lack of evidence to support ambitious delivery expectations on key brownfield sites and limited understanding as to how biodiversity net gain for example will impact on the developable area of allocated sites. As such there is a strong likelihood that the Council will not meet its housing needs in full and should, as a matter of course, undertake a Green Belt boundary Review to identify additional sites that could be allocated in the local plan. While HBF consider a shortfall in housing needs should be considered sufficient justification for amending Green Belt boundaries it is also important to note that such sites are likely to deliver greater benefits to Medway such as affordable housing.
19. The Council note in paragraph 6.3.8 of the regulation 18 local plan that the LHNA identified affordable housing need to be around 55% of total housing needs in Medway. While the HBF does not expect the council to meet this level of need it is important for the council to recognise that more could be done to meet those needs if more land were allocated on green field sites. The Council acknowledges in policy T3 that brownfield urban sites, a focus for much development in Medway, will at best deliver 10% of those homes as affordable units. Given the difficulties faced by the council in securing sufficient affordable homes to meet needs HBF argue that the ability of green field sites to deliver more affordable homes is additional justification to undertake a Green Belt review and amend Greenbelt boundaries.
20. With regard to unmet housing needs it appears that both GBC and TMBC will struggle to meet their own needs. Medway have considered, and rejected, an option to increase supply to meet some of Gravesham's unmet housing needs. This suggests that on the basis of the chosen strategy it would not be possible to address the unmet needs of neighbouring areas solely from sites in Medway which are outside the Green Belt and, in accordance with

paragraph 146 of the NPPF consideration can be given as to whether exceptional circumstance exist to amend Green belt boundaries.

21. Both these areas face issue of affordability and struggle to meet the need for more affordable homes. For example, in GBC median house prices are 9 times the median income with this increasing to 12 in TMBC. A failure to increase housing supply will inevitably see this worsening as well as placing additional pressure on housing markets in adjacent areas such as Medway where the median affordability ratio has risen from 6 in 2013 to 8.5 in 2023. HBF therefore consider that exceptional circumstances arise justifying amendments to the Green Belt boundaries in all three LPAs to ensure housing needs are met in full. As such it will be incumbent not only on GBC and TMBC but also Medway to consider where the Green Belt can be amended to deliver sustainable development that will ensure housing needs are met in full.
22. While it will be important for Medway to co-operate with GBC and TMBC on these matters, the Council must ensure that this does not slow plan preparation. Amending Green Belt boundaries does not necessarily need a joint evidence base as long as there is consistency between the approaches taken between neighbouring authorities. It is possible for Medway to progress its local plan with amendments to the Green Belt boundary without undertaking a joint Green Belt Review.

*Supply on sites of less than one hectare.*

23. As the Council will be aware paragraph 70a) of the NPPF states that local planning authorities should: *"identify through the development plan and brownfield registers land to accommodate at least 10% of their housing requirement on sites of less than 1ha"*. However, it is not clear from the plan or supporting evidence whether this requirement will be met.
24. In meeting this requirement, the Council will need to ensure that these are identified with as an allocation in the local plan or in the Brownfield Register and does not consider small site windfalls as contributing to the 10% requirement. Whilst it will be important to promote more small sites to come forward over the plan period as windfall, as mentioned in part d of paragraph 70 of the NPPF, this is distinct from the 10% requirement set out in part a of paragraph 70 of the NPPF. Further clarification that the 10% should not include windfall



development is in the glossary where windfall is defined as “*Sites not specifically identified in the development plan*”. (our emphasis)

25. It is important to recognise that the allocation of small sites is a priority for the Government and stems from the Government's desire to support small house builders by ensuring that they benefit from having their sites identified for development either through the local plan or brownfield register. The effect of an allocation is to take some of the risk out of that development and provide greater certainty that those sites come forward. This in turn will allow the SME sector to grow, deliver homes that will increase the diversity of the new homes that are available as well as bring those homes forward earlier in the plan period.
26. The Council should also recognise that allocating small sites and supporting SME house builders not only ensures a stronger supply in the short term but also improves the diversity of choice within local housing markets, support local and regional supply chains and are often pivotal in bring forward innovation and supporting jobs growth locally, with 1 in 5 of the SME work force comprising of apprentices. A failure to allocate small sites will contribute to the continued decline in small and medium sized house builders. Recent research by the HBF has found that there are 85% fewer small house builders today than there was 20 years ago and that of a survey of SME house builders 93% said that planning was a major barrier to SME growth. Whilst this decline is due to a range of factors more allocations of small sites would ease the burden on many SME developers and provide more certainty that their scheme will be permitted, allowing them to secure the necessary finance that is often unavailable to SMEs until permission is granted.
27. Therefore, in order for the plan to be consistent with national policy the Council should not just seek to maximise delivery from the small sites that do come forward but to actively promote these through allocations in the local plan.

## **Development Management Policies**

### **S2: Conservation and enhancement of the natural environment**

28. In response to Q2 HBF do not consider it justified or necessary for the Council to go beyond the 10% minimum Biodiversity Net Gain (BNG). There is still significant uncertainty as to how the 10% minimum will impact on viability both in terms of direct costs and, as mentioned above, the developable area of a site and in many areas where offsite credits will be

delivered and how much these will cost. For example, many viability assessments for local plans base their costs on the Government's Impact Assessment undertaken in 2019. This included costs for offsite delivery at around £11,000 per biodiversity credit. However, our members are experiencing much higher costs with units selling between £30,000 and £50,000. The expectation is that these costs will reduce but if Council's require a higher level of BNG demand for credits will increase limiting, or negating, any expected reduction in price. Rather than seek to push beyond what will for some development be a challenging target we would suggest that the council seeks to support the delivery of 10% BNG before seeking to go beyond this statutory minimum.

### **Policy T1: Promoting High Quality Design**

29. HBF are concerned that the Council are proposing to require development to fully embrace the National Model Design Code. Whilst this may be a reasonable starting point for more urban forms of development it champions higher densities that are often not appropriate for a development on greenfield, suburban and rural sites and can impact on the housing mix of some sites. As such the HBF would suggest that development should have regard to the aims of the NMDC rather than fully embrace its contents.
30. The final bullet point of this policy is suggesting that development demonstrates its "sustainability criteria" by meet a range of different requirements including BREEAM very good for energy and water efficiency and Building with Nature Standards. HBF consider this to be unnecessary given that development coming forward under this plan will already achieve a high level of energy efficiency by being built to the Future Homes Standard, meet the higher water efficiency target of 110 l/p/d as defined in building regulations and deliver a 10% net gain in biodiversity. As such it is not clear what additional benefit will be achieved from meeting the criteria in this bullet point. It is therefore considered to be ineffective and unjustified and should be deleted.

### **Policy DM6: Sustainable design and construction**

31. The third bullet point will require developers to use design principles founded on locally sourced and or recycled material. HBF understand the council's desire to support these principles but there must be flexibility where it is not possible to deliver this approach and result in a significant increase in costs and/or delays. HBF would suggest that the bullet

point is amended to read “*Where possible design principles should be founded on local sourced and/or recycled materials*”.

32. The final bullet requires all residential development to detail in their application how they are seeking facilitate working from home including access to high-speed broadband/internet. The Council are no doubt aware that Part R of the Building Regulations: Physical Infrastructure and network connections to new dwellings (2022 edition) require all new build dwellings to be installed with the gigabit-ready physical infrastructure connections subject to a cost cap of £2,000 per dwelling. These requirements mean that it is unnecessary for the Council to include policies in the local plan relating to new broadband or telecommunications infrastructure. As for the provision of high-speed internet connections to the development itself this is for the infrastructure providers to deliver and for the council to facilitate through the local plan as it is beyond the developers control to delivery these improvements.

### **Policy T3: Affordable housing**

33. In response to Q11, HBF supports the Council’s general approach to include a differential affordable housing rate between greenfield sites and brownfield sites. However, we are concerned that this is based on a viability assessment from 2021 that does not reflect the costs facing development coming forward under this local plan. Most significantly the plan viability assessment was undertaken prior to the removal of the £170m that was expected from the Housing Infrastructure Fund to deliver key infrastructure improvements in Medway. Without this funding these costs are likely to fall on development across the Borough, significantly altering the viability of development and potentially its ability to delivery affordable housing at the rate set out in policy T3. The Council must update the viability evidence and the IDP to reflect this position, as well as reconsidering its costs relating to BNG and the Future Homes Standard, and where necessary reduce contributions for affordable housing in order to ensure that the plan as a whole remains deliverable.

### **T9 – Self build and custom housebuilding**

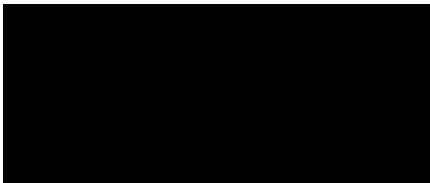
34. HBF welcome the decision to allocate sites for self-build development. However, in addition the Council are proposing to require sites for 100 or more unit to provide 4% of plots as self-build units. However, there appears to be limited evidence to support such an approach in future. On the basis of the self-build register demand for self-build in Medway is not strong

with on average 16 new requests to join the register each year since 2016. In addition, the Council do not appear to have reviewed this list to understand whether anyone on the register is still looking to build their own home or indeed actually has the financial resources to build their own home. In order to justify the proposed approach, the Council will need to provide further evidence as to the demand for self-build in Medway alongside the number of self-build plots that it would expect to be delivered from this policy to ensure that there is no oversupply with plots being left unnecessarily empty. With this in mind HBF would also suggest that the marketing period is reduced to 6 months. If the Council are confident that there is demand for self-build plots, then the 12-month marketing period can be reduced.

### **Future engagement**

35. I trust that the Council will find these comments useful. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry if that would be helpful. The HBF would like to be kept informed of the progress and adoption of the Local Plan. Please use the contact details provided below for future correspondence.

Yours faithfully



Mark Behrendt MRTPI  
Planning Manager – Local Plans  
Home Builders Federation



## KITEWOOD ESTATES RESPONSE TO MEDWAY LOCAL PLAN CONSULTATION [REGULATION 18]

Kitewood Estates Limited ('Kitewood') welcomes the opportunity to respond to the formal Regulation 18 Local Plan consultation that will run until the 8<sup>th</sup> of September 2024.

Kitewood recognise that the consultation is running over the Summer period because there is now a strong desire to ensure that a legally compliant and 'sound' Plan can be submitted for Examination by June 2025. This is very much a desire shared by the development sector as certainty is needed to ensure that much-needed homes, other development and infrastructure is delivered without delay.

The Council's positive approach is very much aligned with our new government's aspiration to get the country building again and to deliver the homes that are much needed.

It is understood that this consultation document builds on the consultation held in Autumn 2023 on 'Setting the Direction for Medway 2040' and that responses are now sought on the Regulation 18 draft Local Plan and the evidence base reports.

It is acknowledged that the Regulation 18 draft Local Plan has been informed by an interim Sustainability Appraisal and Habitats Regulation Assessment, and a wide evidence base.

**As Kitewood is a residential led property development company our main comments relate to the promotion of Site HW11 for residential use, housing need for the plan period and the spatial strategy.**

### **Broomfield Farm (Site: HW11)**

Kitewood has an agreement with the landowner of Broomfield Farm, Hempstead Road, Hempstead to promote the site for development.

A Planning Performance Agreement (PPA) was entered into with the Council in April 2024 and pre-application discussions are on-going with the Council. *We intend to submit a full planning application comprising the demolition of the existing building and structures and the erection of 60 dwellings associated parking and Open Space in October 2024.*

The current draft scheme (refer to **Appendix 1**) comprises 60 houses with rear gardens and extensive Open Space provision. This site is anticipated to deliver at least 10% Biodiversity Net Gain, 25% Affordable Homes and s106 contributions in accordance with the Developer Contributions and Obligations SPG.

Kitewood intend to deliver the site without delay should planning permission be granted. The site is therefore available, suitable for residential development and deliverable within the early years of the emerging Local Plan period. It is anticipated that should detailed planning permission be granted in Q1 2025, the first dwellings could be delivered in Q1 2026 and completed by Q2/Q3 2027.

It is acknowledged that the Council's reference for the Broomfield Farm site is; **HW11** throughout the consultation documents.

### **Housing Need**

Kitewood support Medway Council's ambition to meet the borough's high level of housing need in full. This positive approach is welcomed to provide certainty to the development

sector and more importantly, to ensure that there are the homes that the people of the borough require now, and into the future.

It is recognised that the Council is using the Standard Method for calculating Local Housing Need as of March 2024 and the defined need is currently **1,658** homes a year.

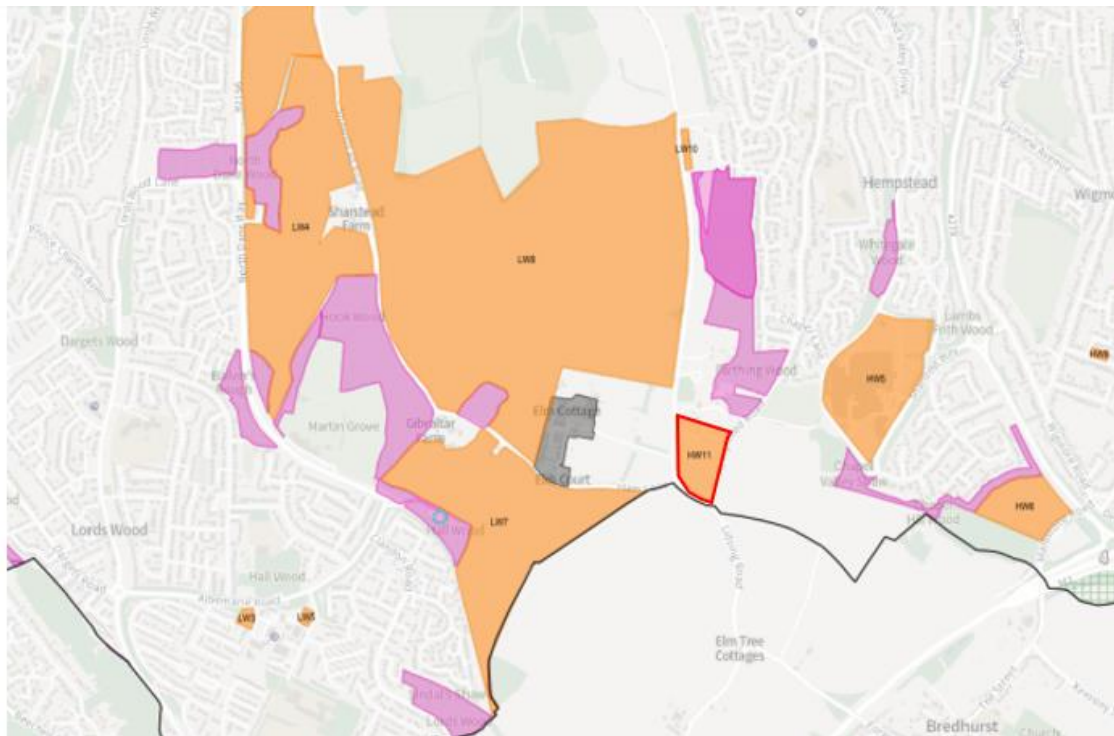
The government is currently consulting on a new Proposed Method for calculating Housing Need and this would result in a marginal change for Medway Council; to **1,644** homes a year.

## **Spatial Strategy**

Kitewood support the inclusion of Site HW11 as an 'indicative Preferred Site (Resi-led)' in the **Policies Map** that is also being consulted on.

Site HW11 is outlined in red on the extract from the South West Polices Map below.

**Fig 1: Policies Map (South West)**



Kitewood recognise that the purpose of the **Draft Sustainability Appraisal** (*currently being consulted on*) is to assess the draft policies and options (or 'reasonable alternatives') as presented in the Medway Local Plan Regulation 18 2024 Consultation document. This includes options for:

- Housing and employment growth (growth options);
- Broad locations for new development (spatial delivery options);
- The overall spatial distribution of new growth (spatial growth options); and
- Development sites.

Kitewood recognise that the Council is consulting on three spatial growth options (which constitute reasonable alternative spatial strategies):

- **Option 1 – Urban regeneration focus;**
- **Option 2 – Dispersed growth; and**
- **Option 3 – Blended strategy.**

Kitewood agree with the overall findings of the Draft SA relating to Option 3 (Blended strategy) and the preferred Option outlined in the Regulation 18 Local Plan. We broadly support the conclusion of the SA at Para E22;

***“Option 3 is likely to offer the best balance of sustainability considerations by integrating urban regeneration with suburban and rural development, promoting sustainable travel, and addressing the needs of diverse communities. Although, some adverse impacts are likely, including potential for localised adverse effects on the landscape through loss of undeveloped land (SA Objectives 4 and 6), and generation of pollution and waste (SA Objective 5). Careful coordination and planning would be needed to ensure that investments and infrastructure can be directed to address the diverse needs of the community. On the whole, this option is likely to ensure a diverse range of housing types and tenures can be provided across Medway (SA Objective 7) and economic needs can be met (SA Objective 12) whilst directing the majority of new development to sustainable locations.”***

## **Appendix 1-**

### **Draft Scheme relating to Site HW11 (Broomfield Farm, Hempstead Road)**



Notes:

All contractors must visit the site and be responsible for taking and checking Dimensions.

All construction information should be taken from figured dimensions only.

Any discrepancies between drawings, specifications and site conditions must be brought to the attention of the supervising officer.

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Key		
Homes Typology	Number of Homes	%
2 bedroom house	19	32%
3 bedroom house	35	58%
4 bedroom house	6	10%
TOTAL	60	100%


D01	18.07.24	Pre-Application Issue	ABL	DEC
Rev	Date	Description	Drawn	Chkd

Drawing Status

PLANNING

Client

Kitewood

JTP Studios  
Unit 5, The Rum Warehouse  
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Project  
Broomfield Farm, Hempstead

Drawing Title  
Illustrative Site Plan

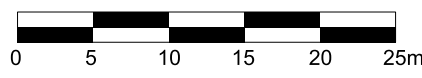
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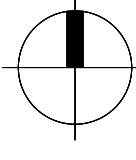
Job Ref. 02077

Drawing No. 02077

Revision D01

Scale Bar







6 September 2024

**Delivered by email only**

Medway Council – Planning Policy  
Gun Wharf  
Dock Road  
Chatham  
Kent  
ME4 4TR

Dear Sir/Madam

## **THE MEDWAY LOCAL PLAN (REGULATION 18, 2024)**

### **WRITTEN REPRESENTATIONS ON BEHALF OF TELEREAL SECURITISED PROPERTY GP LIMITED**

We write on behalf of our client, Telereal Securitised Property GP Limited (hereafter: “our client”), with respect to the Council’s Reg. 18 Public Consultation on the emerging Medway Local Plan (2024) [hereafter: “Draft Local Plan”] and specifically regarding Medway Telephone Exchange, Best Street, Chatham, ME4 4AB (Indicative Site Allocation CCB49). This submission follows previous representations made in relation to the earlier Reg. 18 consultation in October 2023 (see **Appendix 1**).

#### ***Introduction & Background***

Our client is the landowner of the Medway Telephone Exchange, Best Street, Chatham, ME4 4AB (“the site”). As set out in our previous submission, the site constitutes brownfield land in a sustainable development location, is under single ownership and expected to be surplus to operational requirements by 2031 (or earlier). As such, it will become available for redevelopment over the Draft Local Plan period.

The Draft Local Plan is of significant importance to our client who has a strong interest in ensuring that it creates a strong, flexible and ambitious planning framework to facilitate the sustainable growth the Council requires and maximises the development potential of suitable sites and areas as set out in its preferred spatial growth option (‘SGO3’).

As the Council will be aware, for Local Plans to be found sound, we note that in line with **Paragraph 35** of the National Planning Policy Framework (“NPPF”, 2023) it is important that they are:

- ***Positively prepared***: Providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- ***Justified***: Based on an appropriate strategy, taking into account the reasonable alternatives, and proportionate evidence;

Brownlow Yard  
12 Roger Street  
London  
WC1N 2JU

 turley.co.uk

- **Effective:** Be deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- **Consistent with national policy:** To enable to delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

### **3.2 Spatial Growth Options, Sustainability Appraisal Appendix E & Emerging Policies Map (Site CCB49)**

The Council identified a series of Spatial Growth Options in Section 3 of the Draft Local Plan setting out that its preferred option is SGO3 comprising a blended urban regeneration and greenfield approach. In light of the evidenced need for housing (and the Government’s proposed revised standard method to determining such need set out in the consultation on modifications on the NPPF in July 2024), it is considered that SGO3 is the only realistic option to achieve the required growth and housing numbers.

It is positively noted that, following the previous Local Plan consultation, the site has been identified as preferred indicative site allocation **ref. CCB49**. Our client wishes to reiterate that it is the sole landowner of the site which is deemed *deliverable, suitable, available and economically viable* (in line with the definition of deliverable housing sites set out in NPPF Paragraph 69 and its Glossary). Whilst currently operational as a telephone exchange (*sui generis*), it is anticipated to become surplus to BT’s operational requirements by 2031 or earlier which requires a forward-thinking strategy to ensure this brownfield site is effectively used once vacated by the current occupier and therefore avoids a long-term period of vacancy. This should be awarded significant weight in line with NPPF **Paragraph 121**.

The site is considered to be capable of making a significant contribution towards the Council’s housing target, particularly as the site constitutes previously developed, brownfield land to which Chapter 11 of the NPPF seeks to direct future development (and intensification) with a view of making as much use as possible of previously developed land (**Paragraph 123**) and giving substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs (**Paragraph 124**). This is further emphasised in the consultation on changes to the NPPF published on 30<sup>th</sup> July 2024.

To demonstrate its commitment to bringing the site forward once its current operation ceases (either directly or via a development partner/developer), our client has undertaken initial feasibility and viability studies to assess likely development capacities and scenarios. This study has considered the site’s main constraints/surroundings (including its topography and proximity to surrounding heritage assets likely necessitating a heritage- and design-led approach) and developed high-level development scenarios ranging from demolition and redevelopment (**Option 1**) to conversion and, where appropriate, extension alongside new build elements within the wider site (**Option 2**).

Realistically, and taking into account current sales values and development viability considerations, it is considered that the site may either come forward as a conversion/extension or full-scale redevelopment, as set out above. However, it is too early at this stage to determine the most realistic and viable development option.

Therefore, to avoid an overly prescriptive site allocation (i.e. targeting a capacity which may neither be deliverable nor viable) which may undermine the viability of one of the future development options, it is strongly recommended to consider safeguarding both options at this stage alongside **revised capacity assumptions of circa 50 (conversion/extension) to 100 (full-scale redevelopment) new homes**.

Having reviewed *Appendix E: Reasonable Alternative Site Assessments* of the Sustainability Appraisal (June 2024; “the SA”) accompanying the Medway Local Plan, our client considers that carrying forward an indicative development capacity of 50-100 new homes should be maintained to take into account both development options for the site as well as development viability at the time of a planning application coming forward (i.e. there may be changes in build costs, sales values, etc. which will have an impact on the overall approach).

Clarifications, where necessary, on the SA's assessment of the site in its Appendix E are however provided below:

- **Climate Change Adaption:** Subject to an appropriate flood risk and drainage strategy which ensures that surface flooding is not increased outside the site's boundary it is not considered that this should affect the future redevelopment potential of the site.
- **Biodiversity & geodiversity:** The site is sufficiently distant from European sites and SSSI with any impact likely to be mitigated at application stage.
- **Landscape & townscape:** It is agreed that there are no significant townscape or landscape constraints affecting a future redevelopment of the site.
- **Pollution & waste:** It is noted that all sites capable of delivering 100+ new homes are shown as having a potential adverse impact on air quality/pollution. However, it is considered that air quality impacts can be fully considered and mitigated through an air quality (neutral) assessment at application stage. In addition, based on our commentary above, it is considered that a more realistic development capacity of 50-100 new homes may mitigate this risk further and allows the Council to assume that no potentially adverse impact on air quality/pollution will be caused by this site.
- **Health & wellbeing:** The site is identified as being >1.5km from the nearest leisure centre. This is noted, however, it should be recognised that Medway Park Sports Centre is only marginally (+600m) further away than the identified threshold and easily reachable by foot and bicycle. The pedestrian route to the leisure centre leads through open space (Great Lines Heritage Park) and therefore constitutes a welcoming access route with limited exposure to road traffic. It is considered that the site should be assessed as having a minor positive impact in this regard.
- **Cultural heritage:** The site is assessed as potentially altering the setting of and/or having a minor negative impact on nearby heritage assets (Conservation Area; Grade II listed building). It is considered that this risk is not significant and can be adequately mitigated through a heritage- and design-led approach to redevelopment or, even more so, in a conversion scenario (including potential extensions and/or lower scale new build elements within the wider site). Cultural heritage is therefore not considered to have a significant impact on the acceptability of a redevelopment of the site.
- **Transport and accessibility / Education:** As noted by the Council, the site is in a very sustainable development location having excellent access to public transport and education provision.
- **Economy and employment:** The site is identified as having a potentially adverse impact on employment floorspace provision (assumed due to the perceived loss of such floorspace). However, it should be noted that the site provides limited on-site employment currently. Whilst most telephone exchanges (including this site) are a key part of the UK's communication infrastructure via their copper and fibre networks and have historically provided ancillary offices and related accommodation (such as catering facilities), the ancillary office elements have not been (or only been in limited) active use. This is also the case for the Medway Telephone Exchange. Openreach engineers and other Communication Providers who have equipment located at site simply attend the property to maintain, upgrade or install their equipment (in irregular or regular intervals).

Any office-based staff are located in separate fit-for-purpose office buildings. The site is therefore much more similar to a data centre accommodating communication equipment (racks, cable chambers, plant, etc.). With Openreach withdrawing copper-based technology in favour of fibre in

the coming years, it will result in a consolidation of BT's Exchange portfolio, including the decommissioning and closure of Medway Telephone Exchange.

As such, the site has been underutilised and mostly empty in terms of (ancillary) office use for a significant amount of time, not accommodating any regular on-site employment. Any redevelopment of the site, due to the reasons set out above, will therefore not result in a loss of active or existing employment floorspace.

Given the wider assessment of the site in the SA, the information provided in **Appendix 1** in October 2023 and clarifications set out above, it is therefore considered that the site should be allocated in the next iteration of the Draft Local Plan for residential-led conversion or redevelopment with a site capacity of at least 50-100 new homes. A site allocation not only demonstrates that the site is capable to make a significant contribution towards meeting, or indeed exceeding, the Council's minimum housing target, but also to provide comfort to our client and/or a future developer that a conversion/redevelopment of the site is supported in-principle once its operation as a telephone exchange ceases in 2031.

A short description of development and design principles to be secured in a future draft site allocation is set out below:

## ***Proposed Site Allocation Design and Development Principles***

- **CCB49: Telephone Exchange, Best Street, Chatham, ME4 4AB**
  - (i) Description: *Comprehensive Residential-led conversion (with extension/new build elements) or redevelopment of the site once its current use as a telephone exchange ceases (in 2031 or earlier)*
  - (ii) Justification for option: *The conversion or redevelopment of the site could help to meet the need for new homes and/or other non-residential uses (subject to need/demand) in the borough.*
  - (iii) Anticipated phasing of development: *Post-2031*
  - (iv) Evidence of deliverability: *Site surplus to operational requirements from 2031 (or earlier).*
  - (v) Indicative number of homes: *50-100*
  - (vi) Design Principles:
    - Any conversion or redevelopment of the site should take into account the setting of surrounding heritage assets and consider a heritage-led approach to design, height and massing to protect and enhance their setting. Taller elements should be set back from the Lord Duncan Public House.
    - Subject to a redevelopment being the most viable and desirable option, the site is considered suitable for tall building elements with final building heights to be confirmed at planning application stage and subject to robust heritage, townscape and environmental testing. Impacts on local townscape should be mitigated through high quality architecture.
    - A conversion or redevelopment should take into account the level difference between Best Street and New Road and work with the site's topography to ensure both primary frontages are positively addressed and activated.
    - Opportunities to improve the pedestrian connectivity between New Road and Best Street should be explored.

## **Conclusion**

Overall, it is therefore considered that the site offers an ideal opportunity to facilitate a sustainable future development proposal in an appropriate, brownfield site, particularly when considering that the *fall-back position* constitutes a vacant telephone exchange once its existing operation ceases.

The site is considered to be suitable, available, deliverable and economically viable to deliver new housing during the Draft Local Plan period. As such, it is recommended to include the site in the emerging Draft Local Plan in the form of a Draft Site Allocation for residential-led conversion or redevelopment, maintaining flexibility to consider the most viable approach to development as and when a planning application will come forward.

Our client and we are willing to engage in positive and pro-active discussions with Medway Council where this would assist in preparing a justified, sound, and deliverable new Local Plan.

Please do not hesitate to contact my colleague Alex Christopher [REDACTED] or myself at this office should you require any further information or wish to discuss these representations.

Yours sincerely

Christopher Schiele  
**Associate Director**

[REDACTED]

cc.

Alex Christopher, Director, Head of Planning London, Turley  
James Allan, Development & Disposals Manager, TT Group (acting on behalf of Telereal Securitised Property GP Limited)

## Appendix 1: Reg. 18 Representations in relation to the site (October 2023)

### Site Promotion - Medway Telephone Exchange, Chatham

In addition to the sites assessed under the Land Availability Assessment Interim Report (September 2023), our client (Telereal Securitised Property GP Limited) would like to inform the Council that their land holding at the Medway Telephone Exchange, Best Street, Chatham, ME4 4AB, will become available for residential-led redevelopment during the Medway Local Plan 2040 plan period. As set out below, the site constitutes brownfield land in a sustainable development location, is under single ownership and expected to be surplus to operational requirements by 2028-2031.

Item	Commentary / Response
Agent	Christopher Schiele Turley Brownlow Yard 12 Roger Street London WC1N 2JU [REDACTED]
Site Details	Medway Telephone Exchange Best Street CHATHAM ME4 4AB
Site Ownership	Telereal Securitised Property GP Limited (100%) ("our client")
Existing Use	Telephone Exchange (Sui Generis)
Site size	c. 0.54 ha
Relevant Planning History	A review of the Council's online planning register did not identify any planning applications relevant for a future redevelopment of the site.
Proposed Site Use	Residential (C3) Other uses not currently considered viable.
Site Availability	5-8 years
Is the site suitable for residential development?	No significant constraints affect the suitability of the site for residential-led redevelopment. The site is located in a sustainable development location, constitutes brownfield land and has excellent links to the strategic transport network (Chatham station, c.400m; local bus stops) and other social infrastructure, and is therefore in a suitable location for residential-led redevelopment.  The site is in Flood Risk Zone 1 (with a low probability of flooding), neither locally nor statutorily listed, and not subject to any TPOs.

	<p>The site's proximity to a number of heritage assets is noted and will need to be factored into any future redevelopment proposals.</p> <p>There are no known contamination constraints (which could not be overcome via a suitable remediation strategy). The site further has access to key utility services.</p> <p>Note: The site has not been subject to any active marketing at this stage.</p>
<p>Commentary and Reasons for Site Promotion (for inclusion in next iteration of the Medway Local Plan), including its achievability and availability</p>	<p>The site is subject to a strategic asset review undertaken by our client and expected to become available / surplus to BT's requirements by 2028-2031.</p> <p>Whilst located in close proximity to a number of heritage assets, it is our understanding that the site is neither statutorily / locally listed nor subject to any other significant designations or constraints which would affect its potential for future redevelopment.</p> <p>To date, no capacity testing has been undertaken. However, taking the existing scale/massing (and topography) of the Telephone Exchange into account as well as the key constraints and designations set out above, it is considered that approx. 80-150 new homes can realistically be delivered on this site, subject to detailed feasibility testing and depending on unit mix, tenures, height/massing, and layout. This assumes a flattened redevelopment which is considered acceptable given the site's location in the urban centre of Chatham.</p> <p>The site therefore has the potential to make a significant contribution to the Council's identified housing need of up to 29,000 homes (see Para. 5.12 of the Reg. 18 Local Plan).</p>
<p>Recommendation</p>	<p>The decision for the site to become available by 2028-2031 has been made following the Council's original Call for Sites in February 2023. However, given the ambitious housing targets Reg. 18 Local Plan, recent delivery rates in Medway Council, and the brownfield nature of the site in a sustainable development location, it is considered that the site can make a significant contribution to the Council's evidenced housing need over the Medway Local Plan 2040 plan-period.</p> <p>The fall-back position would be a vacant, unallocated former telephone exchange site which by 2028-2031 is no longer serving any meaningful purpose, resulting in a significantly underutilised brownfield site in a sustainable development location.</p> <p>As such, it is recommended to consider the site for inclusion in the emerging Medway Local Plan 2040 in the form of a Site Allocation for residential-led redevelopment.</p> <p>Our client is willing to cooperate with the Council in the next stages of the plan-making process to ensure a future site allocation meets both the Council's as well as our client's objectives and ambitions.</p>



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Site Location Plan

Title Plan provided as separate file.

---

**Contact**

Alex Christopher

[REDACTED]

Christopher Schiele

[REDACTED]

31 October 2023

planning  
transport  
design  
environment  
infrastructure  
land

# **Medway Council Regulation 18b Consultation Response**

**Land at Blowers Wood, Hempstead**

**Medway Submission ID: 2645**

**LAA SITE REF:** HW6

**CALL FOR SITES FORM SUBMISSION ID:** 239

**CALL FOR SITES RESPONDENT ID:** 399

**REGULATION 18a CONSULTATION ID:** 1554

**CLIENT:** REDROW HOMES SOUTH EAST

SEPTEMBER 2024

DHA/16849



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# 1 LAND AT BLOWERS WOOD

## 1.1 SUMMARY

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- 1.1.1 This representation has been prepared on behalf of our client, Redrow Homes South East, in respect of the ongoing Medway Council Regulation 18b Consultation ('Medway Local Plan 2041') and with specific reference to Land at Blowers Wood.
- 1.1.2 The current consultation builds on the responses to the consultation 'Setting the Direction for Medway 2040' in Autumn 2023 (i.e. Regulation 18a), in defining the vision and strategic objectives for the new Local Plan. The current consultation provides more information on proposed policies and options for a development strategy, including the potential sites and broad locations that could form allocations for development in the new Local Plan covering the period up to 2041.
- 1.1.3 The land which is the subject of this response is also the subject of a live planning application (MC/23/0284) which seeks full planning permission for the construction of 88 dwellings (including 25% affordable units) together with associated parking, access, open space, landscaping and SUDS.
- 1.1.4 Representations have previously been prepared in respect of this site for the Regulation 18a consultation in 2023, and the earlier call for sites submissions. The Land at Blowers Wood site is identified as a proposed allocation in the Regulation 18b version of the Plan as part of the 'blended regeneration' strategy for growth, and the inclusion of the site in that respect is supported through this representation.
- 1.1.5 The comments made on Regulation 18B version of the plan deal directly with the inclusion of the site in question, whilst including some general points about the approach the plan takes to delivering housing.

## 1.2 SECTION 2.1 VISION FOR MEDWAY 2041

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- 1.2.1 As a general comment we consider that as currently worded the "Vision" does not identify the provision of housing as an important component of the Plan as set out in the vision under paragraph 2.1.1 of the consultation document.
- 1.2.2 The vision focuses on the employment needs and the existing employment as being the main drivers behind the vision, particularly directing employment opportunities to Kingsnorth and the Isle of Grain on the Hoo peninsular. Whilst this is a central part of Medway's vision, it does not justify the specific lack of reference to housing. Delivering an authority's housing need is a central component of any Local Plan and a determinative matter for the spatial strategy.

- 1.2.3 In not expressing the amount of development that is to be delivered in relation to housing and new employment, the Plan also fails to be positively prepared to provide a suitable framework for addressing housing and employment needs. The "Vision" should be amended to reference housing and employment provisions.
- 1.2.4 The Interim Sustainability Appraisal sets out in Table 5.1 the proposed growth options for Medway, of which Strategic Growth Option 3(SGO A3), the Blended Strategy, is the Council's preferred approach which sets out that Medway can deliver up to 23,733 homes across the plan period. This is 4,267 homes under the need of around 28,000 homes set out in the executive summary of the regulation 18b consultation document and 4,579 dwellings below the previously anticipated in the previous Regulation 18a consultation document.
- 1.2.5 Based on the evidence provided, we do not feel there is justification for the plan to not provide for the full assessed need.

### 1.3 SECTION 2.2 STRATEGIC OBJECTIVES

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#### *Prepared for a sustainable and green future*

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- 1.3.1 Notably, no strategic objective deals expressly with the amount of housing that needs to be delivered. In the absence of clearly setting out what the housing requirement is and whether the Plan is looking to meet Medway's needs (which it should), the process of using the currently drafted objectives to inform the Council's assessment of different sites and locations for development cannot be considered as "Positively Prepared" or "Justified", contrary to the NPPF (para 35).

#### *Supporting people to lead healthy lives and strengthening our communities*

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- 1.3.2 Whilst it is acknowledged that, in general terms, the objective of "Supporting People to Lead Healthy Lives and Strengthening Our Communities" mentions housing generally, it does not set out how much housing will be provided. This is a determining factor in deciding what is the most appropriate spatial strategy is and should inform the basis of future strategic policies, as required by the NPPF (para 20 and 23).
- 1.3.3 We submit that the Council should seek to meet their needs in full and therefore we consider that there should be clarity provided in this strategic objective as to the housing requirement across the plan period and to demonstrate that the plan is positively prepared and justified in accordance with paragraph 35 of the NPPF.

#### *Securing jobs and developing skills for a competitive economy*

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- 1.3.4 The principles of the strategic objectives are supported. However, the lack of clarity in housing and employment growth in numerical forms required to meet

local needs across the plan period must be expressed as an objective since many of the other objectives are dependent on the delivery of housing, including the ambitions for improved employment floorspace and higher-value employment opportunities, which are also reliant on providing enough housing.

#### **1.4 SECTION 2.3 SPATIAL DEVELOPMENT STRATEGY**

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- 1.4.1 Given the nature of the housing need, it is considered that a blended strategy will need to include additional sites than those already indicatively allocated as 'suburban expansion' and 'greenfield sites' in order to realise the objective to meet the objectively assessed need in full as set out in the national policy.
- 1.4.2 It is highlighted that the as 'suburban expansion' and 'greenfield sites' such as the site at Blowers Wood will be available and deliverable in the earlier years of the plan period with brownfield sites generally coming forward in the latter years of the Plan Period as they can have additional constraints affecting deliverability, such as existing uses and remediation. In that respect the blended strategy is an appropriate approach to deliver the growth required across the plan period whilst balancing the use of greenfield and brownfield land.
- 1.4.3 The growing need for both market and affordable housing emphasises the need for the Council to plan to meet its full objectively assessed need, as required by the NPPF (para 11b and para 23), supporting the Government's objectives to significantly boost the supply of homes (NPPF, para 60).
- 1.4.4 The Council should also work with Gravesham Borough Council to determine if it needs to and/or can accommodate any of its needs (up to 2,000 homes) to ensure the Plan is "Positively Prepared" (NPPF, para 35).

#### **1.5 SECTION 3.2 PREFERRED SPATIAL GROWTH OPTION**

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- 1.5.1 Our client supports SGO 3 (Blended Strategy) as it is considered to be an appropriate and balanced growth strategy and one which seeks to deliver the submitted allocated site at Blowers Wood; a site which is submitted to be available and deliverable for development early within the plan period, as demonstrated by the current live planning application.
- 1.5.2 However, this growth option does not deliver the 28,000 homes required to fully meet the district's housing needs. The Council needs to allocate additional sites across the district to deliver the additional 4,267 dwellings across the plan period to fully meet their needs in accordance with para 23 of the NPPF.

## 1.6 POLICIES MAP – SOUTH EAST

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- 1.6.1 We note the inclusion of site HW6 on the South East section of the Policies Map, which is the site to which this representation relates. We support the inclusion of that site as an indicative preferred 'resi led' site for development. As set out in this representation, and as fully explained in the live planning application, the site in question is considered to be logically and appropriate located to deliver residential development, given its location in respect of wider built development and its proximity to the services and facilities provided in the local area, including at Hempstead Valley. The proposal site can bring forward residential development in a sustainable location, on a site which is available and deliverable for development.

## 1.7 OVERALL SUMMARY

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- 1.7.1 The Blowers Wood site is capable of delivering some 88 residential units to help meet the housing needs of Medway Council in a sustainable and suitable location being in close proximity and with direct pedestrian links to the Hempstead Valley Shopping Centre and wider Medway towns. As a greenfield site the Land at Blowers Wood would be able to deliver housing early in the plan period, with its availability and suitability for development evidenced by the current live planning application which has been made by a national housebuilder.
- 1.7.2 Our client therefore supports SGO 3 (Blended Strategy) as it is considered to reflect the most appropriate approach to delivering growth within the district, including the development of sites such as the land at Blowers Wood.
- 1.7.3 The Council's preferred approach, the Blended Strategy, sets out that Medway can deliver up to 23,733 homes across the plan period. This is 4,267 homes under the need of around 28,000 homes set out in the executive summary of the regulation 18b consultation document and 4,579 dwellings below the previously anticipated in the previous Regulation 18a consultation document.
- 1.7.4 This growth option does not fully deliver the homes required to meet the Council's housing needs, and therefore the Council needs to retain draft allocations such as the Blowers Wood site as well as allocating additional sites across the district to deliver the additional dwellings across the plan period to fully meet their needs in accordance with para 23 of the NPPF.



# **Medway Local Plan Regulation 18 Consultation Representations**

**September 2024**

On behalf of **Goodman**

Project Ref: 15144 | Date: September 2024

Registered Office: Buckingham Court Kingsmead Business Park, London Road, High Wycombe, Buckinghamshire, HP11 1JU  
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## Document Control Sheet

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**Project Ref:** 15144

**Report Title:** Medway Local Plan Representations

**Doc Ref:** 15144/A5/Representations

**Date:** 06 September 2024

	Name	Position	Signature	Date
<b>Prepared by:</b>	Hardeep Hunjan	Planning Associate	HH	04/09/2024
<b>Reviewed by:</b>	James Finn	Planning Director	JF	06/09/2024
<b>Approved by:</b>	James Finn	Planning Director	JF	06/09/2024
<b>For and on behalf of Stantec UK Limited</b>				

Revision	Description	Author	Date	Quality Check	Date	Independent Review	Date

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# **1 Response to Draft Policy S11 (Existing Employment Provision)**

- 1.1 Policy S11 is intended to protect existing employment sites, however the draft policy text is exclusively focussed on development management criteria for planning applications for non-employment uses.
- 1.2 As the supporting text acknowledges at Paragraph 7.3.2, “protecting viable employment sites will help Medway to grow; to promote a balanced economy, and to protect local services”. We are fully supportive of the intention of this supporting text, because it is consistent with the policy provisions of the National Planning Policy Framework (December 2023) in respect of building a strong and competitive economy. In this context, NPPF Paragraphs 85-87 are key and should be fully taken into account by Medway Council.
- 1.3 We object to Policy S11 as currently drafted, because it fails to state that the full range of employment uses will be supported within Medway’s established industrial estates in general and specifically at London Medway Commercial Park. Such a statement would be of particular importance to Goodman, for the following reasons:
- Goodman is the developer of the London Medway Commercial Park and has delivered major new employment facilities in this location for businesses including Amazon, Noatum, Sicame and Wincanton. These employment facilities have made a significant positive contribution to economic growth and have realised new employment and skills opportunities for local people;
  - Policy S12 of the Medway Local Plan 2003 confirms that London Medway Commercial Park is suitable for the full range of employment uses, including industrial, storage and distribution uses. It has provided a stable and supportive local planning policy context and has successfully underpinned the development at London Medway Commercial Park that has been realised to date;
  - The three remaining undeveloped plots at London Medway Commercial Park (Plots 1c, 2 and 8) all benefit from extant planning permissions that provide for the full range of employment uses. Marketing of these plots is ongoing.

- 1.4 It is acknowledged that Policy S10 seeks to direct new E(g)(ii), E(g)(iii) and B8 uses to locations “on the periphery of Medway” and also energy/port uses to “sites at Kingsnorth and Grain”. It is unclear if and how Policy S10 is intended to apply to London Medway Commercial Park. On the one hand it might not apply, because it appears to be focussed towards new employment allocations as opposed to existing employment allocations. However, if it is intended to apply, it could result in a harmful reduction in the flexibility of London Medway Commercial Park to accommodate the full range of employment uses.

- 1.5 In order to resolve this objection, the following additional text should be added to Policy S11:

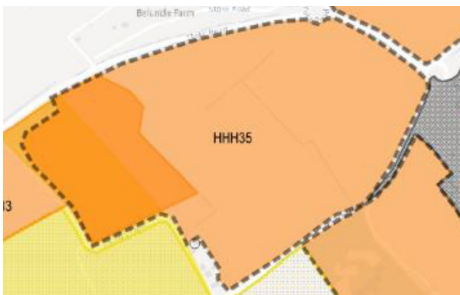
***Where planning permission is required, proposals for employment uses (Classes Eg, B2 and B8) will be supported at Existing Employment Areas identified on the Policies Map.***

- 1.6 In addition, the whole of London Medway Commercial Park (including the areas that are currently identified as HHH37, HHH38 and HHH39) should be identified as an Existing Employment Area on the Policies Map.

## 2 Response to Draft Policy S12 (New Employment Sites)

2.1 Policy S12 is intended to allocate new employment sites, as shown on the Policies Map. The proposed new employment sites in the vicinity of Goodman's London Medway Commercial Park include the following:

- Land to the south of Eshcol Road (ref HHH35)



- Land to the north of Eshcol Road (ref is missing from the Policies Map)



2.2 London Medway Commercial Park is brownfield in nature and has a significant history of previous uses. Between the 1920s and 1970s the land was used by the Berry Wiggins Oil Refinery. The refinery was subsequently demolished and the land was used for various industrial and power station projects. It was subject to significant infilling including dredging from the River Medway and pulverised fuel ash from the Kingsnorth Power Station. The main contaminants associated with the site were fuel oils and tars, alongside elevated metals associated with the pulverised fuel ash.

2.3 London Medway Commercial Park is an established allocation for new industrial, storage and distribution development. Following the 'original' outline planning permission in 2009 (ref

MC/08/0370), it has also been the subject of a series of planning permissions in order to remediate the land and realise the economic development envisaged by the allocation.

2.4 London Medway Commercial Park is currently under development:

- Completed elements include ground remediation, the estate road network, highways upgrades to provide connectivity to the A228 and ecology-led green infrastructure improvements. In addition, the implemented plots have realised high quality and modern commercial facilities for Wincanton, Noatum, Amazon, KKB and Sicame;
- Remaining areas to accommodate additional economic development comprise Plots 1c, 2 and 8. Buildings of a range of sizes can be accommodated within these areas, totalling some 64,500sqm (694,250sqft). These plots are the subject of an ongoing and active marketing process.

2.5 In broad place-making terms, Goodman is supportive of the principle of further growth on the Hoo Peninsula. The right additional development could add to the overall sustainability of the location by providing a critical mass of activity in order to support improved services. It could also help to meet local needs, including new homes and improved connectivity, alongside other economic, social and environmental priorities.

2.6 Nevertheless, it will be vital to ensure that further growth on the Hoo Peninsula does not compromise the continued success of London Medway Commercial Park. In particular, care should be taken in order to ensure that any masterplan provides for appropriate phasing of commercial development in order to prioritise the development of brownfield land.

2.7 We object to Policy S12 as currently drafted, because it fails to include a programme for delivery and there is no phasing plan. No account has been taken of the past trajectory of take-up of employment floorspace at London Medway Commercial Park over the past decade, or indeed the impact on supply associated with the planning permission for additional employment development at the former Kingsnorth Power Station (ref MC/21/0979).

2.8 Given that Policy S12 proposes to release greenfield land for employment uses in the vicinity of London Medway Commercial Park, it is considered that further consideration of the programme and associated phasing is required, for the following reasons:

- In terms of development economics, the greenfield land that has been identified for employment uses is relatively unconstrained. It is therefore cheaper to develop than London Medway Commercial Park, which is restoring and regenerating contaminated brownfield land;

- London Medway Commercial Park is an established commitment for Medway Council;
- Failure to put in place proper phasing safeguards would mean that the completion of the brownfield London Medway Commercial Park allocation would be halted, because it would be commercially undercut by cheaper greenfield land.

2.9 It should be highlighted that the NPPF supports making effective use of brownfield land and this must be an important consideration for Medway Council when plan-making and when determining planning applications. Paragraph 123 states, *“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land”*.

2.10 In order to resolve this objection, Policy S12 should be amended to make clear that greenfield sites (such as the land to the north and south of Eshcol Road) will be phased after brownfield sites (such as at London Medway Commercial Park and the former Kingsnorth Power Station).



### 3 Response to Draft Policy S22 (Hoo Peninsula)

- 3.1 Policy S22 makes reference to the potential for growth on the Hoo Peninsula. The draft Policies Map includes 'residential-led preferred sites' to the east of the existing village of Hoo, in the vicinity of Stoke Road and Ropers Lane (refs HHH22 and HHH33).
- 3.2 In broad place-making terms, Goodman is supportive of the principle of further growth on the Hoo Peninsula. The right additional development could add to the overall sustainability of the location by providing a critical mass of activity in order to support improved services. It could also help to meet local needs, including new homes and improved connectivity, alongside other economic, social and environmental priorities.
- 3.3 Nevertheless, it will be vital to ensure that further growth on the Hoo Peninsula does not compromise the continued success of London Medway Commercial Park. In particular, care should be taken in order to ensure that any new residential development is distributed in such a way that it avoids conflict with London Medway Commercial Park.
- 3.4 The vehicular access to London Medway Commercial Park for commercial traffic (including HGVs) connects to the A228 by means of Stoke Road and Ropers Lane. This route is additionally used by staff cars and other visitors. A dedicated footway/cycleway is also provided.
- 3.5 Major upgrades to Stoke Road and Ropers Lane have been delivered by Goodman over the past decade. The upgrades were secured as part of the S106 Agreement for the 'original' outline planning permission. The upgrades ensure the provision of safe and appropriate 24-hour access to London Medway Commercial Park for vehicular traffic, cyclists and pedestrians.
- 3.6 The upgrades to Stoke Road and Ropers Lane have also provided significantly improved connectivity for Goodman's neighbours, including Damhead Creek Power Station, Kingsnorth Industrial Estate and the former Kingsnorth Power Station.
- 3.7 However, it is noted that the draft Policies Map includes residential-led preferred sites immediately alongside Stoke Road and Ropers Lane (refs HHH22 and HHH33). In place-making terms, there is clear potential for conflict between this potential new development and the existing commercial traffic, to which we object:
- The proximity of new homes to the existing commercial traffic, including a high proportion of HGVs, gives rise to potential danger for pedestrians – particularly young children;

- The environmental effects of the existing traffic on the new development have not been assessed at this stage. There may be resultant noise, air quality and lighting impacts requiring mitigation.

3.8 It will be essential to ensure that the continued 24-hour access to London Medway Commercial Park is not in any way fettered by new development. The NPPF stresses the importance of this consideration by means of the ‘agent of change principle’. Specifically, Paragraph 193 states, *“Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established [...] The applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed”*.

3.9 In light of these comments and in order to address Goodman’s objections, Policy S22 should be amended as follows:

1. Policy S22 should make clear that unrestricted 24-hour use of Stoke Road and Ropers Lane will be safeguarded for users of London Medway Commercial Park and other employment activities in the wider Kingsnorth Area;
2. The mix and distribution of proposed uses should avoid the potential for conflict between the new development (i.e. residents) and existing commercial traffic;
3. Provision should be made for buffer areas and screening between Ropers Lane and Stoke Road and the proposed residential development. The buffer areas and screening should be of an appropriate depth and incorporate effective soft landscaping including tree planting, together with acoustic fencing if necessary. The buffer areas and screening should also be supported by up-to-date technical assessments in respect of noise, air quality and lighting in order to ensure that the design of any mitigation measures is fit for purpose.

## **4 Response to Draft Policy T24 (Urban Logistics)**

- 4.1 This policy resists the loss of existing B8 (Storage or Distribution) uses unless it can be demonstrated that the site is no longer suitable for such use. Whilst this principle of safeguarding existing B8 uses is supported, we consider that it would be more logical for the principles of the policy and supporting text to be included within the Economic Development section of the Local Plan rather than the Transport section.
- 4.2 We consider that a separate policy is not required and should be combined with Policy S11 (Existing Employment Provision) which should seek to protect existing employment sites. Please refer to our previous comments in section 1 regarding the amendments required to Policy S11 to ensure that existing employment sites are adequately protected for such uses.

**STANTEC UK LIMITED**

6 September 2024

Dear Sir/Madam,

**Representations to the Medway Local Plan (Regulation 18, 2024)**

Trenport Investments Limited (TIL) prepared these representations to Medway Council's ('the Council') Regulation 18 Local Plan consultation in relation to Land to the east and west of Church Street, Cliffe, Rochester ('the Site'). TIL welcomes this step by the Council in advancing a new Local Plan and for the opportunity to make comment on its contents.

TIL has supported the Council's plan-making process for over 20 years and remain of the view that a flexible, adaptable and dynamic Local Plan will assist the planning of the council in the future.

**Background**

TIL is a privately owned investment and development company with an active portfolio of property and development projects throughout the country. TIL own a large portfolio of land in Kent, including Medway, which includes land lying to the south, east and west of the village of Cliffe. TIL act as both a "master developer" securing planning permission, implementing all necessary strategic infrastructure and disposing of serviced land to housebuilders. TIL also has its own housebuilding subsidiary, Rosechurch Homes, who also deliver high quality new homes as part of the implementation strategy.

**Current Development Proposals**

TIL submitted an outline planning application in January 2022 (LPA Ref: MC/22/0254) at the Site for the following:

*"Outline application with all matters reserved except for (access) for a residential development of up to 250 dwellings and a mixed-use community hub together with associated infrastructure including public open space and community facilities comprising a replacement sports ground and pavilion, with accesses from Church Street, Cooling Road and Buttway Lane."*

This application was approved on 28 November 2023 following a public inquiry appeal. TIL have agreed a Planning Performance Agreement with MC and are currently working towards the implementation of the consent through the discharge of the pre-commencement planning conditions.

We have enclosed the illustrative masterplan submitted with the application. The development will deliver the following:

- Up to 250 new homes including 25% affordable housing.
- High quality design seeking to retain the existing character of the village.
- New accesses to the residential parcels.
- Highway improvements including an enhanced parking scheme along Cooling Road, Station Road and Church Street for existing residents
- Creation and enhancement of cycleway and footpath linkages throughout the development and beyond.
- Approximately 4.8ha of amenity green space and sports/recreation provision, exceeding the Council's standards.
- Creation of approximately 9.22ha of semi natural open space for recreation purposes.
- Total provision of all open space amounts to just over 14ha, which represents approximately 60% of the total site area.
- Provision of a community hub that will rejuvenate the local area.

- Replacement sports ground and pavilion as part of a package to relocate and enhance the existing sport facilities.
- Biodiversity net gain of greater than 20%.
- Improvements to local bus service.
- Provision of electrical charging points to all new properties, with some spaces available for the existing community.
- Provision of broadband access to enable easy access to local home delivery services and home working.
- Comprehensive Section 106 Agreement of financial contributions providing more than £2.5Million towards improvements to local services and facilities.

In terms of policy designations, the site is:

- Not subject to any national or local environmental designation.
- Not a designated habitat site or SSSI.
- Not Green Belt (or subject to any similar allocation).
- Not within an Area of Outstanding Natural Beauty, a “local green space” or identified as a “valued landscape”.
- Not a designated heritage assets or those of archaeological importance.
- Not in area at risk of flooding or increasing the risk of flooding elsewhere.

#### **Comments on Regulation 18 Local Plan Consultation**

The Regulation 18 Local Plan sets out the framework for the area’s growth up to 2041 and where and how new development can take place. TIL support the preferred blended strategy for growth (as set out at paragraph 3.2.1) and identification of sites for development, as shown on the proposal’s map.

Land to the east and west of Church Street, Cliffe is identified as Site SR51 in the emerging plan in accordance with the approval of planning permission LPA Ref: MC/22/0254, this is welcomed by TIL who are currently working to implementation of this planning permission and the delivery of 250 homes in the next 3 – 5 years.

It is noted that the Interim Sustainability Appraisal, June 2024, states at table 8.15: Outline reasons for selection / rejection of reasonable alternative non-strategic sites for the MLP, in relation to the Site:

*“The development would help to deliver the vision and the strategic objectives of the new Local Plan. Opportunity for sustainable development, supporting improved services”.*

It is acknowledged that the Site is considered sustainable development. Cliffe is a sustainable location which should be clearly acknowledged in the emerging local plan.

We trust that the enclosed is in order but if you do have any questions, please contact me on

Yours sincerely,

Eilish Smeaton  
**Director – Trenport Investments Limited**





30 August 2024



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Dear Sir/Madam,

## **REPRESENTATION ON BEHALF OF SUBSTANTIA CAPITAL LTD IN RELATION TO MEDWAY COUNCIL'S REGULATION 18 (LOCAL PLAN) CONSULTATION**

We are instructed by Substantia Capital Ltd, to submit representations to the Regulation 18 'Medway Local Plan 2041', which is subject to consultation until Sunday 8 September 2024. At this stage the Regulation 18 consultation includes details on proposed policies and potential areas for development, including three options for locating development across Medway over the emerging local plan period.

### **Background and Context**

In May 2021, University for the Creative Arts (UCA) announced the closure of their Rochester Campus: Fort Pitt, Rochester, ME1 1DZ ('the Site') as part of a wider transformation plan across their campuses. Earlier this year, Substantia Capital Ltd purchased the Site from UCA with the intent to redevelop and bring the Site back into active use for residential and commercial uses. Substantia Capital Ltd are a real estate developer that celebrates built heritage, adapts buildings for new uses, and plays an active role in the sustainable regeneration of our urban landscape. They are a market leader in adaptive reuse and repurposing of commercial buildings to create thriving new communities.

During the last Regulation 18 consultation, subject to consultation in September and October 2023, UCA submitted representations highlighting an opportunity for the Council to identify the site as an Urban Regeneration Site and to allocate it for residential development. This Regulation 18 'Medway Local Plan 2041' has identified 'Fort Pitt Rochester' as a 'preferred indicative site allocation' for a residential-led proposal (ref: FP6). This representation seeks to comment on this draft site allocation as well as other draft policies in the draft Local Plan.

### **Representations**

This next section sets out our representations to the Regulation 18 'Medway Council Local Plan 2021.' Responses are provided, using the same chapter and policy numbering as the draft plan.

### **Chapter 3 (Spatial Growth Objectives)**

#### Spatial Development Strategy

This Chapter of the draft emerging local plan seeks views on three options for the Spatial Development Strategy to guide where development across Medway should be located over the emerging local plan period. These options are for either an Urban Focus, Dispersed Growth or a Blended Strategy, with the Council identifying a preference for the Blended Strategy of a 'brownfield first' focus with regeneration in urban centres and waterfront locations, complemented by range of sites in suburban and rural areas.

Paragraph 123 of the National Planning Policy Framework (NPPF) (December 2023) sets out that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions through utilising as much use as possible of previously-developed or 'brownfield' land.

The proposed reforms to the NPPF and the accompanying Ministerial Statement published on 30 July 2024 is a material consideration, indicating the direction of travel of national planning policy, notably in regard to the need to increase the supply of new homes on both brownfield land and green belt land and realise the economic potential of key growth areas in the economy. Alongside the proposed reforms to the NPPF, the Government are consulting on proposed changes to the standard method for calculating housing need, which in the case of Medway results in a small decrease in identified housing need required to be delivered over the emerging local plan period (1,644 under the proposed standard method compared to 1,658 homes under the current standard method). As the emerging local plan progresses alongside the proposed reforms to national policy, the emerging local plan must ensure it is consistent with national policy to meet the tests of soundness for the preparation of new local plans in accordance with Paragraph 35 of the NPPF.

Medway Council have set out that their preferred Spatial Development Strategy is the Blended Strategy, prioritising brownfield land first completed by suburban and rural sites. This Spatial Development Strategy is the basis for the preferred indicative site allocations shown on the Policies Map, which includes Fort Pitt, Rochester. It is considered that the prioritisation of a 'brownfield first' focus, with regeneration in urban centres and waterfront locations in and around Rochester and Chatham will support sustainable development in the Borough, maximising the potential for co-location of housing, commercial uses, leisure facilities and jobs in close proximity to one another.

#### Preferred draft site allocation – Fort Pitt Rochester

This Regulation 18 'Medway Local Plan 2041' has identified 'Fort Pitt Rochester' as a 'preferred indicative site allocation' for a residential-led proposal (ref: FP6). Fort Pitt Rochester continues to represent a prime opportunity to deliver a residential-led mixed use development on a brownfield site in a sustainable location, utilising and adapting an existing building.

The Site is located in the urban area of Chatham and is on a brownfield site. Adopted Policy S1 (Development Strategy) is supportive of residential development in the urban area and the re-use of previously developed land and adopted Policy H4 (Housing in Urban Areas) sets out certain development that will be permitted within the urban area including re-use of vacant buildings no longer required for non-residential use. It is considered that the continued inclusion of the Site as a preferred indicative site allocation would be consistent with the objectives of both the adopted and emerging local plan as the reuse and adaptation of the existing building would deliver a significant uplift in residential units and provision of commercial floorspace.

The site is well-located for residential development in an existing urban area in close proximity to existing public transport links with Chatham Train Station located a short walking distance from the site providing connections to Thameslink and Southeastern railway services. Rochester City Centre is also located a short walking distance from the site providing access to nearby shops and services.

It is requested that the Site remains allocated as a preferred site allocation for a residential-led proposal. Any proposals for the Site will comprise a residential-led, mixed-use proposal with some provision of non-residential floorspace due to certain areas of the building not being suitable for residential use comprising large, deep floorplates. The site allocation must ensure flexibility is provided to enable a residential-led mixed-use proposal to come forward on the Site.



## Chapter 6 (Housing)

### Policy T2 (Housing Mix)

Draft Policy T2 (Housing Mix) states that residential development will only be permitted if it encourages a sustainable mix of housing that includes an appropriate range of house types and size to address local requirements, as evidenced through the Medway Local Housing Need Assessment (LHNA), or updated reports. The mix must be appropriate to the size, location and characteristics of the site as well as to the established character and density of the neighbourhood.

We consider that this draft policy provides a localised approach to ensure housing mix delivered across the Borough meets localised housing need, rather than set a blanket housing mix requirement across the Borough, which is welcomed.

The latest Medway LHNA was published in 2021 and sets out recommended dwelling mixes under Table 7.1 across the Borough. The LHNA does not set out recommended dwelling mixes for different areas of the Borough to provide a more localised approach to addressing housing need. It is requested that the LHNA is updated following the adoption of the revised new standard method for calculating housing need and that any future LHNA provides recommended dwelling mixes for different areas of the Borough to support the localised approach set out under draft Policy T2.

### Policy T3 (Affordable Housing)

Draft Policy T3 (Affordable Housing) sets out that the level of affordable housing required is informed by the Local Plan Viability Assessment, which distinguishes between high value and low value/marginal areas. In line with the viability evidence, the requirement will be for:

- In high value areas, including the Hoo Peninsula and suburban greenfield sites, 30% of all residential units proposed.
- In lower value areas, such as brownfield inner urban sites, 10% of all residential units proposed.

It is considered this approach will ensure brownfield, inner urban sites, such as Fort Pitt Rochester, are able to come forward and deliver much needed market and affordable housing, taking into account viability evidence. This will support the wider spatial development strategy, seeking to take a 'brownfield first' approach to the deliver of new housing.

### Policy T4 (Supported Housing, Nursing Homes and Older Persons Accommodation)

Paragraph 61 of the NPPF refers to housing needs for different groups in the community and these fall into two broad groups: housing for people with additional needs and housing for specific household types.

The LHNA (2021) sets out there is housing need for a number of different groups including:

- Age-related housing need, such as housing for older persons;
- Health-related housing need, such as housing for those with disabilities or mental health problems;
- Life experience-related housing need, such as armed forces or asylum seekers; and
- Cultural heritage-related housing need, such as housing for those of specific ethnic and/or religious background.

Draft Policy T4 (Supported Housing, Nursing Homes and Older Persons Accommodation) sets out the policy criteria to support the development of specialist residential accommodation for older people, including care homes, nursing homes, and other specialist and supported forms of housing for those with particular needs.

The explanatory text supporting the draft policy predominantly focuses on housing need for older persons and younger persons and does not mention housing need for other groups such as key workers and those needing emergency accommodation, such as asylum seekers. It is requested that all groups requiring identified in the LHNA (2021) is referred to within the explanatory text supporting draft Policy T4 to ensure Planning Officers do not interpret and apply the policy solely to specialist housing needs for older persons. The housing needs for other groups, such as key workers or those in need of emergency housing, should be clearly identified and supported under this policy.

## **Conclusion**

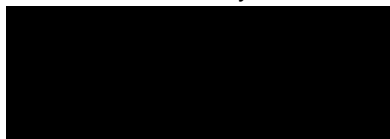
We are delighted to participate in the public consultation on the Regulation 18 Medway Local Plan 2041 and to submit these representations on behalf of Substantia Capital Ltd. In our view, Fort Pitt Rochester continues to present an opportunity to re-purpose an under-utilised building and to bring forward a site that has the potential to provide a substantial residential-led, mixed-use scheme in a highly sustainable location. The allocation of the Site would be consistent with the adopted local plan as well as the emerging Strategic Development Strategy identified in this Regulation 18 consultation. Therefore, we request the Council continues to allocate Fort Pitt Rochester as a preferred site allocation for a residential-led, mixed use development within the emerging Local Plan.

In addition, we request that the emerging local plan develops alongside the reforms to national policy and that draft policies relating to housing mix and specialist housing correspond with the LHNA (2021), and any future updates to this assessment.

Please would you acknowledge receipt of this representation. We reserve the right to supplement this representation.

Please contact either myself or Mark Thomson ( [REDACTED] ) should you have any queries.

Yours faithfully

A large black rectangular box used to redact the signature of Ben Tattersall.

**Ben Tattersall MRTPI**  
**Senior Planner**

# Representation to the Medway Council Local Plan 2041 Regulation 18 Consultation:

## *"Reasonable Alternatives of the Spatial Strategy"*

### Land North of Brompton Farm Road, Strood

#### Representation Statement



On behalf of Brookworth Homes

September 2024

## Contents

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Appendix 1 Appeal on Grounds of Cat Predation on SSSI

Appendix 2 Kent Wildlife Trust & RSPB Representations – Cat Predation

Appendix 3 Chattenden Woods and Lodge Hill SSSI Citation

Appendix 4 Site SR5 – 2019 Appeal Decision

## 1.0 Introduction

- 1.1 We welcome the opportunity to participate in the Medway Council Regulation 18 Consultation on the new Local Plan 2041. The new Local Plan will replace the current development plan including all of the waste and minerals policies from the Kent County plans. It will have a policies map and provide allocations to meet development needs for housing and employment. As set out in the Local Development Scheme (LDS) 2024-2026, this is the second Regulation 18 consultation stage, additionally added to the plan preparation process to provide a more transparent and robust approach to plan-making. As such, this consultation is said to have been informed by an interim Sustainability Appraisal and Habitat Regulations Assessment.
- 1.2 The LDS states that the plan period is 2023 to 2041<sup>1</sup> and this represents an 18 year time horizon. So long as the plan is adopted before the end of 2026<sup>2</sup> this will meet the NPPF paragraph 22 requirement for a minimum of 15 years from adoption.
- 1.3 The Regulation 18 Consultation Document, Executive Summary, states that: "*Medway has a high level of housing needs (1,658 homes a year, using the government's standard method)...it goes on to state that "This consultation considers how the plan could meet housing needs of around 28,000 new homes over the plan period."* For clarity, 1,658 homes per annum for 18 years would require 29,844 new homes over the plan period and 31,336 with a 5% buffer; as such, the Regulation 18 Consultation Draft Local Plan is only proposing to deliver around or just under<sup>3</sup> 28,000 new homes, which will not meet the identified housing needs for the plan period.
- 1.4 This representation has been prepared on behalf of Brookworth Homes and is made in relation to a development site identified within the SHLAA 2023 as 'SR5'; and, about which the Council has specifically welcomed information regarding the site's availability<sup>4</sup>. The Council has signalled in the affirmative for the site proceeding to SHLAA Stage 2. The site forms part of the 'Urban Focus' Spatial Growth Option (SGO) and the 'Dispersed Growth'

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<sup>1</sup> Local Development Scheme (LDS) 2024 to 2026 paragraph 2.1

<sup>2</sup> The LDS has adoption date of Autumn 2026, if there is programme slippage this may not give the required 15 years from adoption

<sup>3</sup> SA para 3.1.2 states 27,854 homes

<sup>4</sup> SHLAA 2023 Interim Report para 3.1.6 and Appendix F site SR5 on 'Map of Unknown Availability'

SGO, although strangely it does not feature within the 'Blended Strategy' SGO, which ultimately has become the preferred option taken forward within the emerging Local Plan.

- 1.5 This representation highlights a number of concerns with the overall approach to growth, with the rationale behind the selection of sites and overall spatial growth strategy, with the robustness of the SA and HRA outcomes.
- 1.6 In summary, the key risk areas presented in this representation are as follows:
- The plan period is too short and results in an under delivery of some 3,482 homes;
  - The SA does not assess the relevant plan period; the SA does not assess commitments and windfall allowance; the SA underplays the ecological impacts of the preferred SGO; there are other reasonable alternatives that must be assessed;
  - The HRA must give specific consideration to the risk of cat predation within 400m of SPA and signpost where same risk arises for SSSIs with ground nesting birds;
  - The Council propose to deliver some 2,600 new homes within 400 metres of the SPA. These would cause likely significant effects due to cat predation which cannot be mitigated; further, approximately 3,000 homes on sites functionally linked to the SPA;
  - The Council propose to deliver between 500 and 1,050 new homes within 400 metres of the Chattenden Woods and Lodge Hill SSSI. These would cause a likely significant adverse effect due to cat predation which cannot be mitigated as per Appeal Ref: APP/A2280/W/23/3325107;
  - All the evidence suggests that the preferred SGO should include the whole 'Urban Focus' SGO;
  - The Council should allocate SR5, an unremarkable greenbelt site demonstrably deliverable through Appeal Ref: APP/A2280/W/18/3214163, in preference to sites which harm nationally and internationally designated sites and in any event to meet its identified housing need.
- 1.7 The next chapter presents an 'Executive Summary' of the findings, which are then presented in more detail in the following chapters.

## 2.0 Executive Summary of Findings

- 2.1 The Spatial Growth Options (SGOs) for the emerging Local Plan are made up of a selection of Spatial Delivery Options (SDOs) and partial SDOs. The partial SDOs are not defined anywhere or assessed in the Sustainability Appraisal (SA) as standalone options. The partial SDOs are not the same between the SGOs; notably, the 'Hoo Peninsula (partial)' that forms part of the 'Urban Focus' SGO is not the same as the 'Hoo Peninsula (partial)' chosen for the 'Blended Strategy', which is actually more akin to the 'Hoo Peninsula (full)' of the Dispersed Growth SGO. Site SR5 is within both the 'North of Strood' and 'North of Strood (partial)' SDOs, but has been left out of the 'Blended Strategy' SGO in favour of a substantial amount of growth on the Hoo Peninsula.
- 2.2 From a review of the Interim SA and Habitat Regulations Assessment (HRA) this outcome is remarkable and unjustified. The Hoo Peninsula is highly sensitive and full of statutory environmental designations. It would appear that the decision to chose the 'Blended Strategy' SGO has elevated the protection of Green Belt land with no other remarkable or important ecological or environmental designations, or close connection to environmentally designated land, over and above the protection of internationally and nationally designated sites of ecological importance and with statutory protection. As such this decision has not had due regard to the results of the SA and HRA.
- 2.3 It is unclear how such a strategy would be sound, legally compliant and consistent with the recommendations of the HRA. The consideration of reasonable alternatives (a legal requirement of Strategic Environmental Assessment (SEA)) is flawed because the partial SDOs have not been defined, are not consistent between SGOs and there has been no standalone assessment of the partial SDOs to inform the assessment of the SGOs. The preferred SGO is not justified by the evidence and is assessed to result in likely significant adverse effects<sup>5</sup> on the conservation objectives of the SSSIs and SPAs on the Hoo Peninsula, which would additionally be highly inconsistent with the NPPF.
- 2.4 The articulation of the 'outline reason for the selection and rejection of alternatives' (an SEA legal compliance component) lacks transparency, consistency and rationality – sites selected are all ostensibly done so for reasons of *"would help to deliver the vision and strategic objectives of the new Local Plan. Opportunity for sustainable development,*

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<sup>5</sup> HRA Screening Conclusion section 4.2. SA assessment of SDOs and sites, Also see Table 8.12: Summary impact matrix of all reasonable alternative strategic sites (post-mitigation)

*supporting improved services.* " whilst certain sites selected possess the same qualities as the reasons given for other sites' rejection i.e. "*BMV agricultural land, close proximity to SSSI, beyond reasonable walking distance, could lead to coalescence*". SA Tables 8.14 and 8.15. Consequently it is not apparent from this exercise why certain sites are selected over others.

- 2.5 For the 'Urban Focus' SGO, the 'Hoo Peninsula (partial)' SDO could reasonably be retitled 'limited' as there is vastly less land identified than for the 'Hoo Peninsula (partial)' found within the preferred 'Blended Strategy' SGO. The preferred SGO appears to include the majority of the 'Hoo Peninsula (full)' SDO that underpins the 'Dispersed Growth' SGO, which is assessed to have significant adverse impacts for biodiversity. This is wholly unsurprising given the proximity of the preferred sites to SSSIs and SPAs.
- 2.6 This situation appears fundamentally at odds with the recent position taken by the Council in respect to the determination of a planning application for residential development in proximity to the same SSSI woodlands. A refusal, upheld at appeal<sup>6</sup> in March 2024, on the grounds of cat predation impacts on the SSSI that were not capable of full mitigation, for 12 self-build dwellings was issued by the Council; and yet a site for 500 dwellings in a proximate location, and wholly within 400m of the SSSI, can be found within the 'Blended Strategy' SGO. There is a raft of published evidence for the risks of cat predation up to 400m from ground nesting birds; and, where such species are on European protected SPAs an exclusion zone from net additional residential dwellings is commonly established<sup>7</sup> within local plans.
- 2.7 It is hard to reconcile these matters when there are sites not taken forward in the 'Blended Strategy' SGO, such as SR5, that have no such constraints. Thus the flaw of the SA/SEA not articulating and assessing each of the partial SDOs has led to choices that cannot be justified in terms of ecological impacts on statutorily protected sites. With the proposed changes to NPPF<sup>8</sup> Chapter 13 *Protecting Green Belt Land* currently under consultation, the need to revisit the decision to elevate the protection of certain Green Belt sites over environmentally designated nationally and internationally important wildlife sites should be urgently returned to.

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<sup>6</sup> Appeal Ref: APP/A2280/W/23/3325107 Land off Lodge Hill Lane, Chattenden MC/20/2980 – attached at Appendix 1

<sup>7</sup> Such as the Thames Basin Heath and the Ashdown Forest SPAs

<sup>8</sup> Particularly newly numbered NPPF paragraphs 142, 144, 147, 152 and 155



2.8 In summary, this representation highlights the following matters arising from the Local Plan Regulation 18 Consultation that will be reviewed again at the next stage of consultation in early 2025:

- The Robustness of the SA and SEA

- The SA/SEA has a plan base date of 2025 and has not accounted for the first two years of the plan period; it does not acknowledge the full plan housing needs, or the impacts associated with delivering the full plan housing requirement; relevant spatial data might be readily available for the two omitted years 2023-2025.
- The Local Housing Need (LHN) identified in the SA/SEA i.e. 26,528, is incorrect and would only cover a 16 plan period. As noted above the LHN is 29,844 for an 18-year plan period. The 5% buffer has therefore been applied incorrectly and the total LHN with 5% buffer would be 31,336 dwellings over the plan period.
- The two high level growth options are not sufficiently distinct as reasonable alternatives; they both "*propose a similar level of growth*"<sup>9</sup>
- The Spatial Growth Options (SGOs) are made up of partial Spatial Delivery Options (SDOs) which need to be defined and assessed within the SA/SEA. The partial SDOs are not consistent between SGOs so it is imperative to define and distinctly label each one. Paragraph 4.4.1 states: "*A combination of SDOs will be required to form a spatial strategy.*" But this is not the whole truth as it is also a combination of undefined and untested partial SDOs that form the Spatial Strategy.
- The SA/SEA has not properly acknowledged the ecological impacts associated with the 'Blended Strategy' SGO in respect of the development sites proposed on the Hoo Peninsula. For instance, individually site HHH12 for 1,800 dwellings is assessed to result in major adverse effects for the SPA and SSSI; and, HHH3 assessed to have major adverse effects for SSSI is wholly within 400m of the SSSI and proposed for 500 dwellings.<sup>10</sup> Yet the 'Blended Strategy' SGO is assessed, without justification, as neutral overall.
- The SA/SEA does not look to have properly considered the findings of the HRA within the assessment of potential impacts of the SDOs, Partial SDOs and SGOs.
- The SA/SEA attributes blanket negative impacts to all sites that lie within a SSSI Impact Risk Zone (IRZ) regardless of whether it is within an inner or outer zone and when the potential for impacts are unknown. Should the assessment caveat at

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<sup>9</sup> Interim SA paragraph E13

<sup>10</sup> Also highly inconsistent with the Council's decision making that refused permission and defended at appeal a refusal on cat predation grounds 12 self-build dwellings next to this SSSI. Inspector upheld this position, impacts could not be fully mitigated. Appeal Ref: APP/A2280/W/23/3325107 Appendix 1

least the outer IRZ sites with an 'uncertain' ('?') next to the assessment of minor adverse? In so doing this would bring a more robust granularity to the assessment, highlight where the potential for mitigation is strongest and aid justification in decision-making.

- The Robustness of the HRA

- The HRA does not appear to adequately consider the effects of cat predation within the assessment of urbanisation impacts. Whilst cat predation is flagged in the methodology, the site assessments make no reference to this even when sites are within 400m of habitat that supports ground nesting nightingales. The focus within the detailed assessment instead appears to be on bird sightlines and construction and recreation disturbance. Specifically HHH12 for 1,800 dwellings is located within 400m of the SPA and SSSI with ground nesting birds and is screened in for likely significant effects from urbanisation impacts but no reference is made to cat predation. As cat predation cannot be fully mitigated this must be a serious concern for these wildlife sites.

- The Justification for the Growth Option

- It is said in the SA that both growth options "*could lead to similar challenges in terms of accommodating the required level of growth whilst avoiding or minimising potential for adverse effects*" (SA E13); so is it justified to chose the lower growth option, rather than the ambition of the 'slightly' higher growth option? SA paragraph 3.2.3: "*Option 1 proposes a slightly lower total number of dwellings...than Option 2...*" In the context of the error in under-reporting the LHN for Medway, growth Option 2 at the least should be pursued.

- The Justification for the 'Blended Strategy' SGO

- The 'Hoo Peninsula' SDO is the "*worst performing SDO*" in the SA (E18) due to "*proximity to sensitive ecological receptors*" (E18), so how is it justified to include such a substantial part of this SDO within the preferred 'Blended Strategy' SGO? Specifically sites delivering some 3,300 dwellings are proposed on sites located within 400m of SSSIs with important assemblages of nightingales<sup>11</sup>. This SDO also predicts major adverse impacts for transport and accessibility.
- It is proffered that 'North Strood (partial)' as shown in the 'Urban Focus' SGO is a significantly more sustainable location for new dwellings and could deliver some 1,400 new homes towards the requirement without significant adverse impacts on

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<sup>11</sup> Bear in mind that Appeal Decision Ref: APP/A2280/W/23/3325107 dismissing appeal against refusal of 12 dwellings adjacent Lodge Hill SSSI states cat predation impacts cannot be fully mitigated by a 'no cat policy' for occupiers, cat proof fencing and/or thorny buffers (para 12). Appendix 1

European or nationally protected wildlife sites. It is also assessed as 'neutral' for transport and accessibility impacts.

- The Justification for the Spatial Development Strategy (SDS)
  - The following element of the SDS: "*The function and extent of the metropolitan Green Belt in Medway will be retained, and the Council will ensure that substantial weight is given to the potential for any harm when considering development proposals in the Green Belt.*" cannot be justified when the same level of protection has not be afforded to the nationally and internationally designated wildlife sites. The SDS advises that: "*These areas have the highest degree of protection from development, and the policies in this plan require their conservation and enhancement.*" Yet development sites directly adjacent to these areas with high likelihood of urbanisation impacts adversely affecting their integrity have been chosen in preference to the release of otherwise unconstrained Green Belt sites. Given the assessed potential for significant harm to SSSIs and SPAs resulting from the 'Blended Strategy' SGO and 'Dispersed Growth' SGO, it is clear that exceptional circumstances would be fully evidenced and justified to release Green Belt land in sustainable locations, i.e. the 'North of Strood (partial)' SDO within the 'Urban Focus' SGO, to meet the identified housing need as per the forthcoming revisions of the NPPF. This would have the additional benefit of delivering alternative accessible green spaces, additional infrastructure and an uplift in affordable housing (as far as viable), following the new NPPF paragraph 155 criteria. The SDS and subsequent policy could make reference to no net increase in dwellings within 400m of the SSSIs with ground nesting birds such as the nightingale. This approach in local plans is an established one for protecting ground nesting birds at the Thames Basin Heath and Ashdown Forest SPAs.

- 2.9 As will be set out in the next chapters, the 'Blended Strategy' SGO and therefore the Spatial Development Strategy has not been robustly established and would not be sound, there are other reasonable alternatives with lower ecological impacts that should be explored. Given the very high ecological sensitivity of the Hoo Peninsula, the decision to not to release Green Belt land through the Local Plan in favour of potentially significant adverse impacts on SSSIs and SPAs should be revisited. Green Belt sites in sustainable locations whose development would result in significantly lesser ecological impacts should be prioritised over sites outside the Green Belt that would significantly adversely impact highly protected and sensitive ecological designations. In this respect it is noted that the Medway Green

Belt Review 2018 is somewhat dated and it is recommended that it is updated in line with the forthcoming NPPF and NPPG updates on this matter.

### 3.0 The Robustness of the SA and SEA

#### Timeframe

- 3.1 A detailed review of the Interim SA incorporating the requirements of the Strategic Environmental Assessment (SEA) Regulations has been undertaken to inform this representation. The first anomaly to note is that the base date for the plan in the SA/SEA is stated to be 2025 and the plan period is given as 2025 to 2041, which excludes the first two years of the plan period as set out in the LDS, which is 2023 to 2041. It is usual for a plan period to have a base date three or more years prior to the anticipated adoption date because there will be commitments and development projects that will carry forward into the new plan. Calculations of the housing and economic land requirements for the new plan will take account of what is already in the pipeline by way of commitments, and unimplemented allocations to be carried forward and these aspects will provide a level of certainty for the early years of the plan trajectory.
- 3.2 The SA/SEA should be assessing the plan as a whole and therefore include all proposed development from the base date of the plan 2023 right through to end date 2041 and, if necessary beyond the end date if the plan's horizon considers larger scale strategic development whose delivery will extend beyond the 2041 'end date' for the plan period. It is highly likely that there will more data available to inform the SA/SEA for the first two years of the plan period than for later plan years and so this should be included for robustness and to ensure the consideration of the in-combination effects over the lifetime of the plan are as well informed as possible. The SA/SEA Baseline was published in September 2023 and so the baseline against which the plan's effects must be assessed, will only contain limited data for the 2023 monitoring year, given that monitoring results are generally published for preceding years. As such the first two years of the plan cannot be written off as 'baseline'.
- 3.3 In neglecting to assess the first two years of the plan period the SA/SEA has failed to assess the full plan it has also failed to assess the existing commitments and anticipated windfall supply in combination with the proposed additional housing to be allocated through the plan. This is considered to be a legal compliance failing of the SA/SEA. Paragraph 3.1.2 confirms that the SA/SEA has considered a "*yield of 22,491 homes to be delivered through the emerging Medway Local Plan.*" Whereas the same paragraph clearly establishes a



need for 27,854 homes to be delivered over the plan period (2023-2041). Evidently a total of some 5,363 homes to be delivered through commitments and windfall allowance have subsequently not been considered further through the SA/SEA. This is despite that there will be locational and site-specific data (including on affordable housing and other infrastructure contributions) that would enable effective assessment of the impacts against the SA Framework.

- 3.4 The SA has not acknowledged that 26,528 is only 16 years' worth of housing need, the plan period housing need is actually 29,844; and, with the 5% buffer 31,336 new homes. The results in a substantial shortfall in required yield to be delivered through the Medway Local Plan identified in paragraph 3.1.2 of the SA; 22,491 homes (plus 5,363 through commitments and windfall allowance) is some 3,482 dwellings short of the requirement of 31,336.
- 3.5 Notwithstanding the missing two years of the plan; Options 1 and 2 subsequently assessed through the SA/SEA do not constitute the full plan requirement (approximately 28,000 dwellings) and the assessments that follow are consequently incomplete. Option 1 for just 22,491 homes is the basis for the ensuing assessment of alternatives. In effect, the SA/SEA has only assessed 89% of the plan period, which equates to only having assessed approximately 80% of the plan's growth target due to the unassessed delivery of 5,363 homes either as commitments or through a windfall allowance.

#### Growth Options

- 3.6 The SA needs to consider and compare all reasonable alternatives. The SA has not assessed an option to meet the full LHN of 29,844 or 31,336 new homes with 5% buffer. Of the two options assessed they are not sufficiently distinct to result in meaningful comparison.
- 3.7 The NPPG advises for the assessment of reasonable alternatives: "*They need to be sufficiently distinct to highlight the different sustainability implications of each so that meaningful comparisons can be made.*" Paragraph: 018 Reference ID: 11-018-20140306. In the SA concluding that "*both growth options propose a similar level of growth...*" and "*both options could lead to similar challenges...*" it is not apparent that the SA is in line with the NPPG. The assessment of differences between these options has suggested slightly worse performance against environmental objectives and slightly better performance against social and economic objectives for the slightly higher growth option, which is a generic response that lacks 'meaningful comparison', and may not be justified given the similarity of the options.

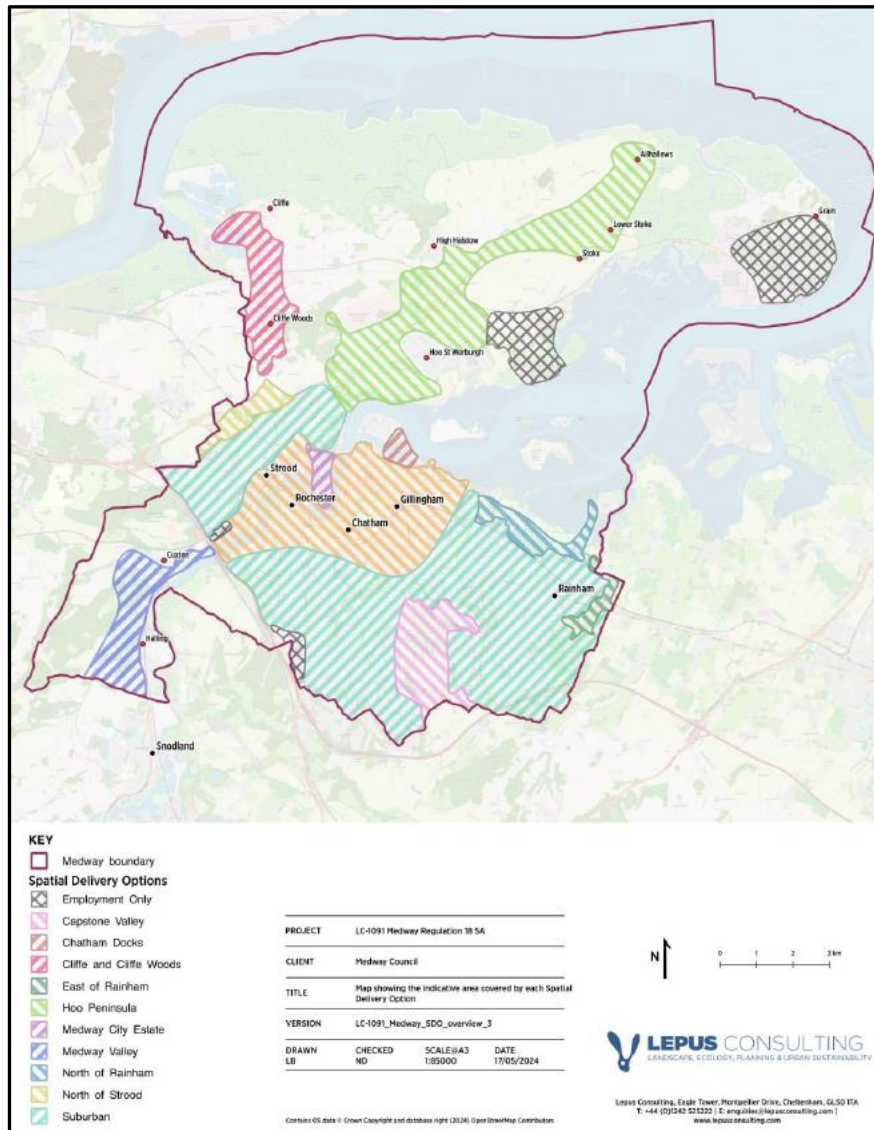
- 3.8 The notion provided in paragraph 3.2.9 that: "*The higher level of growth proposed under Option 2 may increase the need for development in sensitive landscapes such as the Hoo Peninsula, as well as Medway's other existing undeveloped areas such as the Capstone Valley in the south and the Kent Downs National Landscape in the south west.*" when the 'Blended Strategy' has in any event chosen to include the majority of the Hoo Peninsula SDO in preference to the lesser sensitive North of Strood (partial) SDO, is not congruent.
- 3.9 It is not agreed that either Option "...*would provide enough housing to satisfy the identified needs for Medway's population over the Plan period, in line with the requirements of paragraph 35 of the NPPF to positively prepare the Plan.*" If there is a requirement to add 5% buffer to the Local Housing Need (LHN) then the LHN is 31,336 dwellings for the plan period 2023-2041. Taking the higher option, Option 2, for 24,643 dwellings and adding on that subtracted for "*existing supply commitments and anticipated windfall supply...*" i.e. 5,363 dwellings, would still only equate to 30,006 and so is still short of the requirement of 31,336 homes for positive planning for a plan period of 2023-2041.
- 3.10 A more considered assessment of the beneficial impact of the delivery of 2,000 homes for neighbouring Gravesham should be made within the context of the low rates of delivery of affordable housing relative to need in Gravesham<sup>12</sup>. It is agreed there would also be a major positive impact for housing for Option 2 but this should be contextualised for the assessment against the social and economic SA Objectives. It is not agreed that: "*...Option 1 would lead to more sustainable outcomes in terms of access to employment.*" If more homes can be built in sustainable locations through Option 2 then more people will have access to employment; further, economic growth is linked to housing growth and housing growth will increase the labour pool so Option 2 ought to provide more scope for beneficial impacts against the Economy and Employment SA Objective.
- 3.11 The statement of the Council set out in paragraph 3.4.3 "*Option 1 has been shown to perform better compared to Option 2, and therefore Option 1 forms the basis of Medway Council's proposed spatial strategy in the Regulation 18 consultation in July 2024*". Is not robust for the reasons outlined above.

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<sup>12</sup> See Key Sustainability Issues for Gravesham Table 3.1 (p15) in the Sustainability Appraisal of Gravesham Local Plan Stage 2 Regulation 18 Consultation October 2020.  
<https://localplan.gravesham.gov.uk/gf2.ti/f/1210690/83677829.1/PDF/-/Gravesham%20LP%20SA%20Report%20Reg%2018%20Stage%202.pdf>

### Assessment of the Partial Spatial Development Options

- 3.12 The SDOs are based on broad locations and include a range for the indicative yield of new homes that could potentially be delivered across each SDO. Figure 4.1 in the SA shows the indicative broad areas covered by each SDO and an extract is provided below.



**Figure 1:** Extract from SA Figure 4.1 Showing Spatial Extent of SDOs

- 3.13 It is noted that the 'Urban' SDO is not shown spatially on SA Figure 4.1. The range for the indicative yield of new homes within each SDO relates to the whole SDO and presumably allows for factors such as variations in appropriate density, extent of buffers, individual site constraints on layout etc. that would not be determined until detailed site allocation policy stage. The full SA for each full SDO is set out in Appendix B and is based on the minimum yield and so it is not clear that a proper assessment of the maximum yield for each SDO

has been undertaken to inform the SGOs. No partial SDOs are identified either spatially or through indicative yields and there is no standalone assessment of the partial SDOs that make up the SGOs. If the SGOs are intended to have been informed by an assessment of their component parts including spatial elements and indicative yield, this is particularly problematic because, for example, one of the SGOs is based on maximum yield calculations ('Urban Focus') and each of the SGOs has different spatial variations of partial SDOs.

- 3.14 The only way to understand the spatial extent of the various partial SDOs is by visual comparison of the SGOs from Figure 1 in the Consultation Document and Figure 5.1 in the SA. Without having previously defined the various partial SDOs and without colour coding Option 3 the 'Blended Strategy' with the colours of Option 1 and 2, it is not an easy task.
- 3.15 The 'Hoo Peninsula' SDO is by far the worst performing SDO overall, however the 'Hoo Peninsula (partial)' SDO within the 'Urban Focus' SGO only proposes one location on the peninsula that is not immediately adjacent to environmentally designated wildlife site and would presumably score significantly better against a number of the SA Objectives.
- 3.16 On the other hand, the 'Hoo Peninsula (partial)' SDO within the 'Blended Strategy' SGO has nearly as many locations as the full 'Hoo Peninsula' SDO, which is assessed as the worst performing SDO. Without an independent assessment of defined partial SDOs it is hard to follow the justification for the preferred 'Blended Strategy' SGO. The justification for the choice of strategy will be addressed in Chapter 4, however it is considered a failing of the SA that there is not a clear assessment route that guides the formulation and assessment of the SGOs.
- 3.17 It is astonishing, and not entirely credible, that the SA can arrive at an assessment of neutral impacts for biodiversity and for transport and accessibility for the 'Blended Strategy' SGO (Table 5.14) which includes the majority of the 'Hoo Peninsula' SDO, which is itself assessed as having major adverse impacts (Table 4.14) for these two SA Objectives. Perhaps the assessment of the partial SDOs would help explain this outcome. The SA does not appear to have taken on board the outcomes of the interim HRA in this respect, which clearly flags sites within the 'Blended Strategy' within 400m of SPA and SSSIs that are likely to have adverse effects on these sites due to the impacts of urbanisation (such as recreational disturbance, cat predation, noise disturbance etc.).

- 3.18 The SA is wholly incorrect to state at paragraph 5.2.9 that the 'Blended Strategy' SGO *"..could help avoid direct adverse impacts on biodiversity designations and the most sensitive locations."* when it currently proposes a number of sites adjacent to the most sensitive biodiversity designations. The conclusion that *"despite some challenges, the overall impact on biodiversity is assessed as negligible, considering the potential of this option to help maintain strategic gaps between the existing settlement pattern..."*. This may have secondary benefit for biodiversity, however the strategic gap is planning tool used to prevent the coalescence of settlements and maintain their separate identity. The main consideration for the assessment of biodiversity impacts must be the risks of direct and indirect impacts for the sites designated for wildlife, which appears to have been overlooked when assessing the 'Blended Strategy' SGO.
- 3.19 The SA should additionally assess a strategy option that provides a 400m exclusion zone for new residential development within 400m of a designated protected site with ground nesting rare bird assemblages, such as the Chattenden Woods and Lodge Hill SSSI.
- 3.20 As mentioned above, another anomaly that stands out in the assessment of the 'Blended Strategy' SGO when considering the extent of the 'Hoo Peninsula' SDO that is included within this SGO, is the assessment against the SA Objective for transport and accessibility. It is clear from Table 4.14 that the 'Hoo Peninsula' SDO is assessed as having a major adverse effect for this SA Objective, and within the detailed appraisal set out in Appendix B (B.7) it is confirmed: *"The SDO is located beyond the sustainable target distance to railway stations and is mostly located in areas with poor access to existing local services. The SDO is partially accessible to bus services in some areas, although is wholly located outside of the high-frequency public transport routes."* Yet the majority of this SDO is included within the 'Blended Strategy' with a resulting neutral assessment for transport and accessibility. Justification is given in paragraph 5.2.30 that: *"Option 3's blended approach allows for both urban regeneration and suburban/rural development, which could help to enhance connectivity between urban and rural settlements"* This is just not consistent with the assessment of the SDOs. Clear definition and assessment of the partial SDOs may help to clarify the evidence for such statements.
- 3.21 The SA is standing into danger of making a case to fit a preferred outcome, when all it needs to do is provide a robust assessment of the options and document robust reasons for choosing the alternatives selected. There is no requirement for the SA to conclude that



the preferred option is the best performing across the SA Framework, but the reasons for choosing it should be clear and understandable.

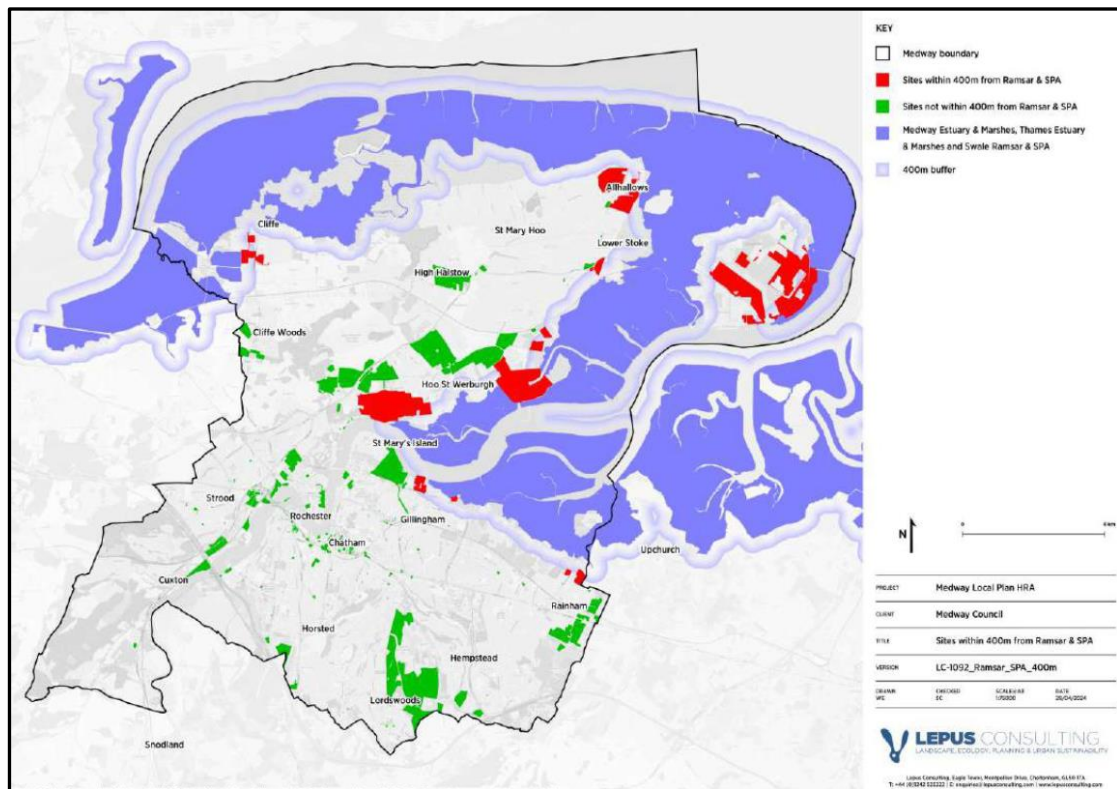
#### 4.0 Robustness of the HRA

- 4.1 Within Section 3.3 *Scoping Impact Pathways* of the Interim HRA, 'urbanisation effects' clearly references the inclusion of cat predation within the impact pathway:

*"Urbanisation effects: Urban development has the potential to result in disturbing activities such as noise, lighting, cat predation and visual disturbance). Disturbance effects may impact upon European sites themselves and also their qualifying features when outside a designated site boundary. It may also result in the fragmentation of connecting habitats and corridors which could hinder the movement of mobile qualifying species when located outside a designated site boundary."*

- 4.2 Paragraph 3.8.1. states: *"Strategic mitigation schemes elsewhere in the UK have set a presumption against development (i.e. no net increase in residential dwellings) on the basis of site-specific evidence to safeguard against these impacts of between 400m and 500m. These distances recognise the distance cat predation is likely to take place and also the increased frequency of visits made by people living in close proximity to a designated site."* Considering the Thames Basin Heath SPA, paragraph 3.8.2 goes on to say: *"The zone extending 400m from the SPA boundary concerns urbanisation (particularly predation of the chicks of ground-nesting birds by domestic cats). The Delivery Framework concludes that the adverse effects of any net increase in residential development located within 400m of the SPA boundary could not be mitigated since this was the range within which cats could be expected to roam as a matter of routine and there was no realistic way of restricting their movements. As such, no new housing is to be located within this zone."*

- 4.3 Figure C.4 in the HRA neatly demonstrates those sites within 400m of an SPA or Ramsar site and an extract of this map is shown below in Figure 2. What this map does not show is where sites are within 400m of a SSSI and this is because SSSIs are nationally, rather than internationally, designated sites and therefore not strictly within the purview of the Habitat Regulations. It would, however, be a useful place to signpost significant effects of urbanisation on these important designations. The Chattenden Woods and Lodge Hill SSSI, where proposed development is within 400m, is designated due to its important assemblage of ground nesting birds and a similar map could be produced to show where the same risk of cat predation exists.



**Figure 2:** Extract from HRA Map C.4 – Showing Sites Within 400m of an SPA & Ramsar

- 4.4 The large red location above St Mary's Island is HHH12 and promoted through the Blended Strategy SGO despite the proximity to ground nesting birds. Further, the green sites to the northwest of HHH12, such as HHH3, are within 400m of Chattenden Woods and Lodge Hill SSSI, designated for its important assemblage of ground nesting birds, including the rare nightingale.
- 4.5 In the assessment table for HHH12, on PDF page 149 of the HRA, this proximity and urbanisation effects has been 'red-flagged' however no specific mention is made of the risks of cat predation, which are widely evidenced to be almost impossible to fully mitigate. Mention is made of the proximity to Cockham Wood SSSI, which is not specifically designated for its ground nesting bird assemblages; however, the Council will no doubt remember the representations made on the withdrawn Core Strategy strategic allocation at Lodge Hill, whereby both the RSPB and the Kent Wildlife Trust<sup>13</sup> highlight that the Tower Hill and Cockham Woods SSSI and the South Thames Estuary and Marshes SSSI , which

<sup>13</sup> KWT and RSPB Representations to Core Strategy Examination appended at Appendix 2.

functionally link to the Thames Estuary and Marshes SPA, have local nightingale populations and these would be vulnerable to cat predation.

- 4.6 When the HRA assesses HHH3, on PDF page 155 of the HRA, reference is made to the Chattenden Woods and Lodge Hill SSSI and nightingales, however again no reference is made to the risks of, and difficulty with adequately mitigating, the effects of cat predation. Given that the allocation of this site would deliver 500 new homes all within 400m of the SSSI, this is concerning. More importance is given to bird sight lines.
- 4.7 Overall it is considered that further detailed information and assessment is required in respect of cat predation on ground nesting birds and signposting where these relate to SSSIs so that these impacts can be picked up separately if not dealt with in the HRA.

## 5.0 Justification for Preferred Approach

### The Growth Options

- 5.1 In starting from the premise that 28,000 new homes are needed over the plan period 2023-2041, Medway Council is falling short of the LHN by 1,844 homes. When a 5% buffer is applied to allow for market flexibility as indicated in SA paragraph 3.1.2, then the Council is falling short of considering the option of planning for their full need with appropriate flexibility, by some 3,336 homes.
- 5.2 Two options are then presented as 'reasonable alternatives', which at 22,643 and 24,643 dwellings, are both set considerably below even the 28,000 identified, despite both stating they will "*Meet Medway's Local Housing Need*" SA Table 3.1, page 21. The options have failed to include commitments and an allowance for windfall, which are not defined in the SA, but would appear to total 5,363 dwellings. Even with this added to the higher option, Option 2, this would only equate to 30,006 dwellings which would meet the LHN but not a 5% buffer for market flexibility.
- 5.3 It is made clear at SA paragraph 3.1.5 that: "*The growth options relate to quanta only and do not include any spatial information.*" The conclusions simply provide that it is easier to avoid adverse impacts on natural environment with less development. The same argument is put forward for pressure on transport and social infrastructure, however this does not recognise that certain thresholds of development fund infrastructure improvements. Ultimately the conclusion is "*...both growth options propose a similar level of growth and would satisfy the local development needs, with benefits for social and economic SA Objectives such as housing and the economy. Given Medway's environmental and transport constraints, both options could lead to similar challenges in terms of accommodating the required level of growth whilst avoiding or minimising potential for adverse effects.*" SA paragraph 3.3.4.
- 5.4 If this is the conclusion, then it is suggested that the ambition should be to deliver the higher growth option using the spatial approach that most appropriately minimises the impacts on the natural environment and ensures the highest contributions towards social infrastructure provision.
- 5.5 Additional options should, however, be considered that address the true need for housing over the full 18-year plan period, which include the growth to be provided through a



windfall allowance and commitments, as well as an inflated total to meet neighbouring Gravesham's unmet need.

#### The Blended Strategy

- 5.6 For the reasons set out in Chapter 2, the SA is not robust in its assessment of the 'Blended Strategy' SGO. There is no requirement for the Council to necessarily proceed with the alternative that performs best across the SA Framework, the Council may choose an alternative option that performs less well but that meets wider Corporate priorities, the Duty to Cooperate or other agreed strategies and imperatives. However it should be honest about the impacts of including such a large proportion of the 'Hoo Peninsula' SDO, within the 'Blended Strategy' SGO that will result in significant adverse effects for biodiversity. The justification of the 'Blended Strategy' on the results of the SA as it stands would not be sound, given the issues identified in this representation.
- 5.7 To be justified the 'Blended Strategy' should revisit the exclusion of the 'North of Strood (partial)' SDO and reexamine the case for Green Belt release. Its wholesale protection cannot be justified at the expense of the areas most important for wildlife, biodiversity and geodiversity. The proposed changes to the Chapter 8 of the NPPF will assist the Council in making the case for the release of land within the 'North of Strood (partial)' SDO, that is included within the 'Urban Focus' SGO, from the Green Belt. The release of sites such as SR5 would not result in the coalescence of settlements, would be sustainably located and could deliver wider social and environmental benefits under the changes proposed to the NPPF without adverse effect on SSSIs and the SPA.

#### The Spatial Development Strategy

- 5.8 The Spatial Development Strategy (SDS), set out on pages 25 and 26 of the Regulation 18 Consultation Document, does not afford adequate protection to nationally important wildlife sites, specifically the Chattenden Woods and Lodge Hill SSSI. The SDS provides no 400m residential development exclusion zone to protect the ground nesting nightingales, for which this SSSI is designated, from cat predation. The SDS states in respect of SSSIs that *"the policies in this plan require their conservation and enhancement."* But, critically, the SDS itself as a spatial planning tool does not afford the highest level of protection by steering development to areas away from these sites; instead it facilitates a growth strategy that proposes a substantial amount of development directly adjacent to this important SSSI and to the Tower Hill and Cockham Woods SSSI (also home to breeding nightingales) and

within 400m of the Thames Estuary and Marshes SPA that contains countless other important assemblages of ground nesting birds.

- 5.9 Areas with the highest degree of protection, due to their national or international importance for wildlife, would have their conservation objectives compromised due to the high level of growth proposed within close proximity. The SDS advises that development would only be supported where unacceptable environmental impacts can be avoided. This is not the case though. The SDS facilitates the allocation of thousands of dwellings on sites within 400m of the Chattenden Woods and Lodge Hill SSSI, designated for its habitat and populations of rare nightingales.
- 5.10 The Chattenden Woods and Lodge Hill SSSI citation<sup>14</sup> provides that the: "*SSSI supports a nationally important number of nightingales (*Luscinia megarhynchos*) during the breeding season. The extensive areas of woodland and scrub within the site will help to ensure that there is always sufficient area of habitat at a suitable stage of maturity to support breeding nightingales in nationally important numbers.*" These are ground nesting birds highly vulnerable, therefore, to cat predation as well as recreational disturbance. It is well known that the effects of cat predation from new development within 400m cannot be fully mitigated. The Council has recently had its decision to refuse an application for 12 self-build dwellings that included a 'no cat policy', cat proof fencing, and thorny buffers on land adjacent to this SSSI upheld at appeal, the Inspector advises:

*"However, whilst some of the proposed mitigation measures would help to somewhat reduce the urbanising impacts of the proposed development on the SSSI, such as disturbance from recreational activities, and minimise cat predation, it would not fully mitigate these issues."* Paragraph 14

*"The proposed development of up to 12 dwellings is not significant in scale with a limited number of additional residents to the area. However, the proximity of the appeal site to the boundary of the SSSI and, without more recent survey data to suggest otherwise, the proximity to a substantial and nationally important number of nightingale territories, would result in significant harm to the wildlife and habitats within the SSSI from the recreational pressures and cat predation as identified above. In accordance with Policy BNE35 of the LP and Paragraph 186(b) of the Framework, development that would materially harm and have an adverse effect on the SSSI should not normally be permitted. Furthermore, in*

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<sup>14</sup> The full SSSI Citation can be found at Appendix 3.

*accordance with Paragraph 186(a) of the Framework, as it has not been demonstrated that the significant harm to biodiversity identified cannot be avoided, adequately mitigated or compensated for, planning permission should be refused.*"Paragraph 15.

5.11 The Inspector concludes at paragraph 20:

*"Therefore, as the proposed development would result in significant harm to the Chattenden Woods and Lodge Hill SSSI, and the wildlife and habitats within it, which could not be avoided, adequately mitigated or compensated for. And where the benefits would not clearly outweigh its likely impact on the features of the site, the proposed development would conflict with Policies BNE35 and BNE37 of the LP and Paragraphs 180 and 186 of the Framework."*

5.12 Whilst there could be a case to be made that more development would deliver greater benefit through the delivery of more homes, it would also deliver substantially more harm, which was stated to be 'significant' to the SSSI from just 12 dwellings. This is nonsensical given the availability of sites not afflicted by this issue. There is strong case to be made for the SDS to include a 400m exclusion zone that restricts any net increase in new residential dwellings within 400m of the Chattenden Woods and Lodge Hill SSSI on the basis of paragraph 186 b) of the Framework.

5.13 In light of the above it is strongly queried whether there is justification for the retention of the full extent of Green Belt within the SDS. As such the following paragraph does not seem justified: *"The function and extent of the metropolitan Green Belt in Medway will be retained, and the Council will ensure that substantial weight is given to the potential for any harm when considering development proposals in the Green Belt."* A review of the Green Belt must be undertaken with a view to the release of the sustainable sites identified in the 'Urban Focus' SGO that lie within the 'North of Strood (partial)' SDO, which are otherwise unconstrained, to take the pressure off inappropriate development on the Hoo Peninsula.

## 6.0 Site SR5 - North of Brompton Farm Road, Strood

- 6.1 The Council's 2023 SHLAA has specifically welcomed information regarding the site's availability and this representation confirms that the site is still available for allocation and for delivery within the first 5 years of the plan. The site could deliver around 122 new homes as a standalone site and could also be considered for comprehensive masterplanning with neighbouring site SNF3, which could potentially deliver some 1,400 to 1,500 new homes across both sites.
- 6.2 A 2019 appeal decision<sup>15</sup> in respect of a development for 122 dwellings on SR5, dismissed the appeal finding that development would be in conflict with the purposes of the Green Belt to check the unrestricted sprawl of large built up areas and to assist in the safeguarding the countryside from encroachment. Nonetheless the circumstances were very different in 2019, than today, the appeal decision refers to potential HIF funding for the Hoo Peninsula which has since been granted and then withdrawn and on which the Council relied to demonstrate it was addressing the housing supply situation. At paragraph 73 the Inspector advises: *"I accept that such investment would take time to put in place and the need for housing exists now. However, it seems to me that considerable effort is being put in to addressing the housing supply situation.... The fact that the Council is not working alone but in a consortium including Homes England is encouraging. Moreover, the proactive efforts of the Council in seeking to expedite problems in consultation with developers and landowners and in securing monies from the HIF to facilitate regeneration and the provision of infrastructure, deserves a chance to bear fruit."* This clearly has not borne fruit.
- 6.3 The appeal decision was also made in the context of the 2015 Written Ministerial Statement, which states that unmet demand for housing *"is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances"*. The 30<sup>th</sup> July 2024 delivered a new Minister's Statement<sup>16</sup>, which is material consideration now and set the context for the proposed changes to the NPPF. It advises *"..we must create a more strategic system for Green Belt release...to make it work for the 21<sup>st</sup> century. Local authorities will have to review their green belt if needed to meet housing targets."* The Consultation NPPF at paragraph 142: *"Exceptional circumstances include, but are not limited to, instances where an authority cannot meet its identified need for housing,.."*

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<sup>15</sup> Appeal Ref: APP/A2280/W/18/3214163 attached at Appendix 4

<sup>16</sup> <https://www.gov.uk/government/speeches/deputy-prime-minister-on-changes-to-national-planning-policy>

*through other means. In these circumstances authorities should review Green Belt boundaries and propose alterations to meet these needs in full, unless the review provides clear evidence that such alterations would fundamentally undermine the function of the Green Belt across the area of the plan as a whole."*

- 6.4 If the only way to deliver the plan growth (without releasing Green Belt Sites) is to accept harm to SSSIs that cannot be fully mitigated, this is not a reasonable outcome. The Council must find itself able to demonstrate 'exceptional circumstances' if it is not able to meet its needs without significant adverse effects on nationally and internationally designated wildlife sites. As such, the Council must undertake a fresh Green Belt review within this context, looking to release suitable, sustainably located sites to meet their identified LHN.
- 6.5 Other conclusions of the Inspector in this appeal decision, outside of Green Belt issues, include that the site is in an accessible location (paragraphs 77, 80, 82), would deliver significant social benefits (paragraph 104), only cause limited harm to landscape character and visual impact (paragraph 105), the loss of best and most versatile agricultural land only attracted limited weight. Of wider green Belt considerations the Inspector concluded: *"No harm caused by the proposal in terms of the purpose of the Green Belt in preserving the setting and special character of historic towns"* (paragraph 24). Of the risks of coalescence between towns (as a function of the Green Belt is to prevent neighbouring towns merging), the Inspector states: *"The development of the site would bring that part of Strood closer to Gravesend, and therefore there would be some conflict with the purpose of preventing merging of the towns. However, this is not the narrowest point between the settlements and therefore there would still be a significant distance between them, and the towns would not merge as a result of the proposals. Indeed, the MGBR considers that land parcel 2 only makes a moderate contribution to the purpose. Therefore, harm in this respect is limited."* (paragraph 23)
- 6.6 The SA is has identified the reasons for rejecting this site are *"loss of BMV agricultural land, within Green Belt, coalescence between settlements, beyond reasonable walking distance to current public transport services"*. SA Table 8.15. The Council's reasoning has not entirely reflected the conclusions of the Appeal Decision in respect of coalescence, accessibility and BMV agricultural land. The latter point only attracting an assessment of limited harm: *"Nevertheless, given the amount of land classified as Grade 2 on the appeal site then the harm caused by its loss would be limited. This is reinforced by the extent of BMVAL within the district, including Grade 2 land, and the acknowledged likelihood that*



*house building would need to be accommodated on greenfield land to address the extent of the housing shortfall". (paragraph 63)*

- 6.7 When selecting sites, such as HHH12 that would clearly coalesce Chattenden with Hoo St Werburgh as the site covers the entire intervening land, and that would result in the loss of BMV agricultural land, by contrast the reason simply states: "*The development would help to deliver the vision and the strategic objectives of the new Local Plan. Opportunity for sustainable development, supporting improved services.*" SA Table 8.14. The same is said for HHH3 and pretty much every strategic site selected. Both HHH12 and HHH3 are directly adjacent SSSIs and yet other sites next to SSSIs, such as HHH18 and HHH19 are rejected.
- 6.8 The Council appears inconsistent in its reasoning for selecting and rejecting sites. Whereby sites are selected despite them possessing exactly the same qualities as sites being rejected i.e. selected sites constitute BMV agricultural land, are in close proximity to SSSIs, and would result in coalescence (such as HHH12). The Council must provide additional, robust reasoning to explain this anomaly.

## 7.0 Conclusion

- 7.1 This is a Regulation 18 Consultation and, as such, is an 'early stage' of plan-making with considerable potential to respond positively to points raised by consultees. In preparing the local plan, Regulation 18 (3) requires that the local planning authority "*must take into account any representation made to them.*"
- 7.2 This representation has highlighted a number of concerns with the overall approach to growth, with the rationale behind the selection of sites and overall spatial growth strategy, with the robustness of the SA and HRA outcomes. The issues highlighted present a fundamental risk for the ability of the local plan to be found sound (NPPF paragraph 35) and legally compliant (Habitat Regulations and Strategic Environmental Assessment Regulations). Our representation at the next stage of consultation, Regulation 19, will necessarily provide a firm view on these matters, at this stage they are flagged as risk areas for the Council to take into account.
- 7.3 In summary, the key risk areas that have been presented in this representation are as follows:
- The plan period is too short and results in an under delivery of some 3,482 homes;
  - The SA does not assess the relevant plan period; the SA does not assess commitments and windfall allowance; the SA underplays the ecological impacts of the preferred SGO; there are other reasonable alternatives that must be assessed;
  - The HRA must give specific consideration to the risk of cat predation within 400m of SPA and signpost where same risk arises for SSSIs with ground nesting birds;
  - The Council propose to deliver some 2,600 new homes within 400 metres of the SPA. These would cause likely significant effects due to cat predation which cannot be mitigated; further, approximately 3,000 homes on sites functionally linked to the SPA;
  - The Council propose to deliver between 500 and 1,050 new homes within 400 metres of the Chattenden Woods and Lodge Hill SSSI. These would cause a likely significant adverse effect due to cat predation which cannot be mitigated as per Appeal Ref: APP/A2280/W/23/3325107;
  - All the evidence suggests that the preferred SGO should include the whole 'Urban Focus' SGO;
  - The Council should allocate SR5, an unremarkable greenbelt site demonstrably deliverable through Appeal Ref: APP/A2280/W/18/3214163, in preference to sites which

harm nationally and internationally designated sites and in any event to meet its identified housing need.

- 7.4 In light of the potential changes to the NPPF due later this year, we would urge the Council to re-evaluate its decision to protect the Green Belt as sacrosanct; it would be wise to pose the question: is this approach justified when we are accepting likely significant adverse effects on highly protected wildlife sites? Or, to put the question another way: would the release of unremarkable, sustainable, Green Belt sites help to protect the plan area's most valued wildlife sites?
- 7.5 Given the evidence available and presented within this representation, an additional policy area for testing must include a 400m exclusion zone from a net increase in residential development around the SSSIs and SPAs with ground nesting birds. This would help to identify where on the Hoo Peninsula it would be acceptable to consider growth and would, overall, strengthen the credentials of the Spatial Development Strategy.

## Appendix 1

Appeal on Grounds of Cat Predation on SSSI



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## Appeal Decision

Site visit made on 13 February 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2024

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Appeal Ref: APP/A2280/W/23/3325107

Land off Lodge Hill Lane, Chattenden

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Andrew Wilford (Esquire Developments) against the decision of Medway Council.
  - The application Ref MC/20/2980, dated 18 November 2020, was refused by notice dated 4 January 2023.
  - The development proposed is the erection of 8 to 12 self-build dwellings with all matters reserved except for access. Provision of open spaces, landscape buffers, drainage features and earthworks. Enhancement and widening of existing access track from Lodge Hill Lane and formation of 2No. new cross-over accesses from Lodge Hill Lane to serve 2No. dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023, which I have had regard to as a material consideration in my decision making. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
3. There is also an appeal<sup>1</sup> against the refusal to grant planning permission for the demolition of the existing structures and the erection of 9 dwellings on the adjoining site, Storage Yard, Land to the North of 2 Farm Cottages, Lodge Hill Lane, Chattenden, Rochester. Whilst the main issues and much of the evidence submitted are similar, as they are separate developments on separate sites, I have dealt with both of these appeals individually and come to my conclusions based on the evidence submitted for each.

### Main Issue

4. The main issue is the effect of the proposed development on Chattenden Woods and Lodge Hill Site of Special Scientific Interest (SSSI) with regard to increased recreational activity and the effect on nightingale birds from cat predation.

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<sup>1</sup> Ref APP/A2280/W/23/3325108



## Reasons

5. The appeal site is an undeveloped plot of land currently occupied by grassland and surrounded by trees, shrubs and hedging. It is surrounded by several dwellings and unused farm buildings and is directly adjacent to the Chattenden Woods and Lodge Hill SSSI. The SSSI is nationally important for its ancient and semi-natural woodland, unimproved neutral grassland and the nationally important population of nightingale birds that the site supports. Which, I am informed, is the single most important site in England for nightingales, a red-listed species due to substantial decline in their national population over the past 50 years.
6. Policy BNE35 of the Medway Local Plan 2003 (the LP) states that development that would materially harm, directly or indirectly, the scientific or wildlife interest of these sites will not be permitted. It also states that development for which there is an overriding need will exceptionally be permitted if no reasonable alternative site is (or is likely to be) available. Policy BNE37 of the LP also seeks to prevent development that would cause a loss of important wildlife habitats or features.
7. These are generally consistent with the approach of Paragraph 186(a) of the Framework which seeks to refuse planning permission for development where significant harm to biodiversity cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, and Paragraph 186(b) that states that development on land within or outside of a SSSI which is likely to have an adverse effect on it (either individually or in combination with other developments) should not normally be permitted. With the only exception where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest. Paragraph 180 of the Framework also seeks to ensure that planning decisions protect and enhance sites of biodiversity in a manner commensurate with their statutory status.
8. The Chattenden Woods and Lodge Hill SSSI is partly designated in order to safeguard the nightingale population and the habitat upon which they are reliant. The presence of the appropriate habitat and a current lack of disturbance provide suitable conditions for nightingales. However, due to challenges in relation to access, the appellant has not carried out an up to date survey of nightingale numbers and habitats, instead relying on data from a national survey undertaken in 2012 by the British Trust for Ornithology (the 2012 data). Therefore, although no evidence has been provided to outline the current extent of the nightingale population in the SSSI, from the 2012 data and the suitable conditions identified, it can be reasonably assumed that the nightingale population in this location is significant and in close proximity to the appeal site.
9. Birds can be disturbed by the urbanising impacts of residential development including recreational pressures and predation from domestic pets. Whilst not a precise correlation, the potential for adverse effects increases with the number of dwellings nearby. Therefore, whilst the appellant has identified over 1,000 existing dwellings within 400 metres of the SSSI, additional dwellings would still have the potential to increase adverse effects upon it.

10. Whilst there is no direct access from the appeal site into the SSSI, there are two public rights of way in close proximity, which future occupiers of the proposed development could use to access parts of it for recreational activities. Although it is likely that they would stick to designated routes, the additional footfall and the associated noise and activity this would generate would still result in some disturbance to the habitats for which the site is designated for. Due to the scale of the proposed development, the numbers of additional people accessing the SSSI would not be substantial. Nevertheless, although limited, the proposal would still result in additional recreational pressures, resulting in disturbance that would have an adverse impact on the habitats within the SSSI and the species which inhabit it. I understand that this is particularly relevant for the nightingale population due to their sensitivities to disturbance and ground nesting tendencies.
11. From information submitted by the appellant based on figures relating to cat ownership, the development proposed on the appeal site and the neighbouring site in combination would result in the introduction of around 7 domestic cats. Although this number is not significant, due to the predatory nature of cats and their ability to roam, the proposed development and the likely increase in the number of domestic cats in the area would still have an adverse impact on the population of nightingales within the SSSI. To reduce the impact of the proposed development on the notifying features of the SSSI, the appellant has put forward a number of mitigation measures.
12. These mitigation measures include a no cat policy for the occupiers of the proposed dwellings via a restrictive covenant inserted into the title deeds of each property and enforced by an independent management company. The appellant has stated that they will enter into a legal agreement with the Council to secure this, however this has not been provided as part of the appeal. However, even if regular inspections are carried out by the management company, it would be difficult to identify the owners of any cats discovered and enforce any suspected breach of the covenant, thereby making it ineffective. The appellant has also proposed cat proof fencing between the appeal site and the boundary with the SSSI, with additional planting to provide a robust, thorny boundary. However, limited details have been provided regarding its design and maintenance, and it is likely that cats could traverse around such a boundary. As such, these mitigation measures would not fully prevent cat ownership on the appeal site or entirely mitigate the subsequent impact upon the nightingale population from an increased number of predatory cats.
13. The appellant has also put forward the addition of a green buffer to separate the proposed dwellings from the boundary with the SSSI and create a dark corridor. However, this has a limited width and the proposed development would still be in close proximity to this boundary. The provision of information packs to the occupiers of the proposed dwellings has also been suggested. This would help educate residents on the features of the SSSI, but would only provide advisory measures, which are not enforceable and would be unlikely to last the lifetime of the development. Therefore, these measures would not significantly reduce the urbanising impacts from the proposed development.
14. An independent assessment carried out by the Council indicates that the appellant has undertaken reasonable steps to mitigate the impact of the proposed development and that no additional measures are considered practicable or appropriate for residential developments of this scale and in this

**location on the land within the appellant's control.** However, whilst some of the proposed mitigation measures would help to somewhat reduce the urbanising impacts of the proposed development on the SSSI, such as disturbance from recreational activities, and minimise cat predation, it would not fully mitigate these issues.

15. The proposed development of up to 12 dwellings is not significant in scale with a limited number of additional residents to the area. However, the proximity of the appeal site to the boundary of the SSSI and, without more recent survey data to suggest otherwise, the proximity to a substantial and nationally important number of nightingale territories, would result in significant harm to the wildlife and habitats within the SSSI from the recreational pressures and cat predation as identified above. In accordance with Policy BNE35 of the LP and Paragraph 186(b) of the Framework, development that would materially harm and have an adverse effect on the SSSI should not normally be permitted. Furthermore, in accordance with Paragraph 186(a) of the Framework, as it has not been demonstrated that the significant harm to biodiversity identified cannot be avoided, adequately mitigated or compensated for, planning permission should be refused.

### Planning Balance

16. The proposed development would contribute between 8 and 12 dwellings to the housing supply in the area at a time when the Council have a significant shortfall in housing land supply and are failing to meet their housing delivery requirements. Therefore, the test in paragraph 11(d) of the Framework should be applied. However, while the framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. The harm to the SSSI identified is such that the policies in the Framework relating to the SSSI provide that clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposal.
17. The appellant has outlined that the site is being delivered by a small to medium enterprise (SME), which they indicate is recognised and supported by the Government for housing delivery in terms of their ability to bring forward development quickly and offer a range of products to diversify the market. For this reason, the development will be delivered quickly and add a choice of housing to the market. They have also stated that they will employ other local businesses and local people as a result of the proposed development, the proposed development would have a high quality design, will have a beneficial impact to landscape features on the site and will improve the localised private track off Lodge Hill Lane. However, due to the scale of the proposed development, these benefits would be given limited weight.
18. The proposed development would provide plots for self-build and custom housebuilding. Paragraph 70(b) of the Framework supports small sites to come forward for self-build and custom-build housing. The Housing and Planning Act 2016 provides that authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and **custom housebuilding in the authority's area** arising in each base period. The

appellant has contended that there is a substantial level of unmet need in Medway and that the Council have failed to meet their statutory duty, with the Self-Build Register Returns (31 March 2023) showing a significant deficit of 105 plots between 2015 and 2022 and no adopted or emerging strategy to address this shortfall. Therefore, 8 to 12 plots for self-build and custom housebuilding is a material consideration in favour of granting permission and would make a significant contribution to addressing the current shortfall in provision.

19. Whilst the provision of self-build and custom housebuilding plots is given significant weight in this case, as I have found that the proposed development would significantly harm the SSSI, the benefits of the development in the location proposed would not clearly outweigh its likely impact on the features of the site that make it of special scientific interest. It would therefore not fall under the only exception within Paragraph 186(b) of the Framework. Furthermore, no other reasonable alternative sites have been considered and, whilst beneficial, for the reasons outlined above, the provision of self-built plots do not constitute an overriding need required by Policy BNE35 of the LP for which development will be exceptionally permitted.
20. Therefore, as the proposed development would result in significant harm to the Chattenden Woods and Lodge Hill SSSI, and the wildlife and habitats within it, which could not be avoided, adequately mitigated or compensated for and where the benefits would not clearly outweigh its likely impact on the features of the site, the proposed development would conflict with Policies BNE35 and BNE37 of the LP and Paragraphs 180 and 186 of the Framework.

#### Other Matters

21. It is noted that similar mitigation methods were supported for the development of 50 retirement homes that were granted planning permission at appeal<sup>2</sup> and 68 dwellings that were granted planning permission<sup>3</sup> by the Council, both within the nearby village of Cliffe Woods. However, these developments would be situated a greater distance from suitable habitats for nightingales than the proposed development, with the 2012 data showing less nightingale territories in the Cliffe Wood area when compared to those surrounding the appeal site. Therefore, these developments are not directly comparable to the appeal proposal before me.
22. The Council has stated that the appeal site is located within 5km of the Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar site and 2km of the Thames Estuary and Marshes SPA and Ramsar site. Therefore, the proposed development is likely to have an effect on the North Kent SPAs/Ramsar sites from recreational disturbance on the over-wintering bird interest. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

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<sup>2</sup> Ref APP/A2280/W/18/3202264

<sup>3</sup> Ref MC/21/1694

## Conclusion

23. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

*E Grierson*

INSPECTOR

Richborough



## Appendix 2

### Kent Wildlife Trust & RSPB Representations – Cat Predation



## Medway Core Strategy Examination in Public

Matter 5: Lodge Hill Strategic Allocation

Further additional information by

Kent Wildlife Trust

Respondent ref: 37

May 2013

**1) Policy context:**

**b) The National Planning Policy Framework (the Framework).**

**i) Does the proposed allocation comply with paragraph 118 which indicates that proposed development on a SSSI should not normally be permitted.....an exception should only be made where the benefits of the development.....clearly outweigh both the impacts it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs?**

Paragraph 118 states that an exception should only be made “*where the benefits of the development, **at this site**, clearly outweigh...the impacts that it is likely to have...*” (our emphasis). It is therefore clear that the benefits being weighed must be specific to the site in question; the benefits of allocating the SSSI *compared to the alternatives* for delivering Medway’s housing must *clearly outweigh* the impacts. It is our opinion that Core Strategy (and associated Sustainability Appraisal) does not clearly demonstrate that the benefits of developing this site instead of the other options outweighs the impacts.

Paragraph 118 also states that “*planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland...*”. Ancient Woodland is a feature of the SSSI and allocation of the site would result in its deterioration.

Lodge Hill was proposed as a potential strategic development site when it became known that it would be surplus to the Ministry of Defence’s requirements. At this time, very little was known about the implications of such an allocation, particularly with regard to the environment. That was then translated into subsequent policy documents. We currently have a different policy framework and much greater knowledge of the site as a result of recent ecological surveys. Allocation of Lodge Hill is not in conformity with current national policy and legislation.

**c) Core Strategy**

**i) Is there an internal conflict between Policies CS6 and CS33?**

Yes. Several aspects to CS6 are relevant when considering CS33.

Policy CS6 states that wildlife sites and biodiversity will be protected **particularly** where they meet certain criteria. With the exception of international importance, Lodge Hill meets

all of these criteria (national and local importance, UK and Kent Biodiversity Action Plan priorities, protection or designation under relevant legislation) for many of the features present, not just those for which the SSSI is notified. Policy CS6 is consistent with paragraph 113 of the NPPF, regarding making distinctions between the hierarchy of designated sites. Chattenden Wood and Lodge Hill SSSI (the allocation site) is close to the top of this hierarchy.

CS6 states that mitigation strategies should be functioning prior to commencement of the development. It is clear from the direction taken by the work to identify compensation opportunities (*Independent assessment of the potential for Biodiversity Offsetting to compensate for nightingale habitat loss at Lodge Hill, Kent*, EBL Ltd 2012) as well as the timetable identified within the Core Strategy, that CS33 will not conform with the above requirement within CS6.

CS6 states that negative impacts should be avoided or minimised through the appropriate siting and/or design of development. Kent Wildlife Trust sees no reason why the policy to avoid impacts should not apply to site allocations as much as it does to site masterplans. This is consistent with the core principle of the NPPF that development allocations should prefer land of lesser environmental value (Para 17).

CS6 does allow for compensation of unavoidable impacts where the importance of the development outweighs the impact, but as has already been discussed, it has not been demonstrated that impacts are unavoidable (through allocation of alternative sites), nor that the importance of allocation outweighs the ecological impact (at this site).

CS33 is not in conformity with national policy or Policy CS6 of the Core Strategy and alternative options for delivering Medway's housing and employment needs should be investigated.

## **2) Mitigation/compensation measures**

### **a) Is providing compensatory habitat, rather than preservation in situ, the right approach for a site with nature conservation value of national importance?**

No. The NPPF refers to guidance on local authority obligations with regard to biodiversity conservation (ODPM Circular 06/2005: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system). This refers to the Wildlife & Countryside Act, which imposes a duty on local authorities to *“take reasonable steps... to further the conservation and enhancement of the features for which sites are of special interest. It applies...at every stage from the formulation of plans, to...the making of decisions.”*

If the approach advocated by Medway Unitary Authority was accepted, it appears unlikely that compensatory habitat would be delivered at a single site. It would also appear unlikely that all compensatory habitat would be delivered as extensions to occupied nightingale habitat. Both are desirable to increase the chances of success. A population of a species in one place does not necessarily equal the same number of animals across a number of locations. Larger populations tend to have greater genetic diversity, making them less susceptible to disease and inbreeding, and are less susceptible to predation pressure (they are also easier and more cost-effective to monitor and maintain). This is reflected in the Government’s Natural Environment White Paper that seeks to achieve *“...more, bigger, better and less-fragmented areas for wildlife...”* (*The Natural Choice: securing the value of nature*, HM Government 2012). Smaller and more isolated populations are more likely to be lost. Unfortunately we do not know enough about nightingale meta-population dynamics across their natural breeding range to know what impact potentially redistributing nightingale habitat into more, smaller areas would have on populations locally, regionally or nationally in the long term. Therefore, even were habitat creation to be successful, the population may be at greater risk of decline. If we assume that the nightingales on the Hoo Peninsula comprise a relatively discreet population (i.e. they interbreed more readily than birds from other areas), the loss of the Lodge Hill habitat may have a knock-on effect on the **other local nightingale populations at Northward Hill SSSI, Tower Hill to Cockham Wood SSSI and the South Thames Estuary & Marshes SSSI**, resulting in greater competition in the short term, leading to reduced survival and breeding, and a smaller and more isolated population in the longer term, increasing the chances of the species being lost from the area.



For the reasons above, the allocation of Lodge Hill is not in conformity with national environmental policy or legislation. Alternative options should be investigated and pursued in order to achieve a sustainable solution to Medway's housing and employment needs.

**b) If it is acceptable, I am minded to give significant weight to the conclusions of the BTO study that it is 'theoretically feasible to create habitat that will be occupied by nightingales in lowland England' and that '*if the right conditions are satisfied*', there is greater probability of achieving success in Kent than in most parts of the Country'. On that basis:**

**i) How much compensatory habitat is required and how likely is it that sufficient land of a suitable type will be made available and what potential adverse impacts may arise, such as loss of good quality agricultural land?**

The Council have commissioned studies to try to come up with a figure to answer this question, and the figure ranges from 300ha to 851ha, depending on the method used, consideration of 'risk', and assumptions made. This work has been unable to overcome uncertainties regarding success or demonstrate that there is a reasonable prospect of compensation being delivered. Taking such a risk with a unique site of national importance before the alternatives have been fully explored is unacceptable.

Further studies have attempted to identify particular sites where compensatory habitat could be delivered, and it is our opinion that these investigations demonstrate that it is unlikely that sufficient suitable land is available. The most recent study (Summary of Nightingale Habitat Creation Opportunities, January 2013) equates 'reasonable prospect' with 'high level of certainty of landowner interest'. We do not consider that the fact the landowner is willing to negotiate regarding a potential purchase or rental agreement gives a 'reasonable prospect' that adequate compensatory habitat can be provided. A couple of the options suggest rental agreement could be negotiated, but it seems unlikely that a landowner would find the terms necessary to deliver nightingale habitat in perpetuity acceptable.

Some of the sites proposed demonstrate potential adverse impacts that may arise from nightingale habitat creation. For example, we note that creating compensatory habitat on the site currently proposed as one of the best options (Cleve Hill) would conflict with Swale Borough Council's Landscape Character SPD, which states that the area should be restored to

grazing marsh and its open character maintained. It is not clear if this has been discussed with Swale Borough Council or not. This site is also some distance from the nearest existing nightingale habitat, so it does not meet the second critical element set out in the BTO report that would give a degree of likelihood of the site being colonised were the habitat to be successfully created.

Choices made to create or enhance habitat for certain species may have a negative impact on other species already present; sacrificing one habitat/species for another. For example, a couple of the 'high certainty' sites cover areas designated as Local Wildlife Sites (sites of County importance for biodiversity). Altering management of such sites to establish nightingale habitat could result in the loss of the existing biodiversity interest, particularly that of grassland habitats. This conflicts with the aims of the NPPF to minimise loss of, and ideally enhance, biodiversity, and also would potentially conflict with CS6 for sites within Medway, and similar policies in other Local Authority areas that reflect Paragraph 113 of the NPPF.

The provision of extensive areas of off-site habitat is likely to increase the costs considerably, compared to developing a site that does not require such extensive compensation. For example, using a basic 2011 national agricultural land valuation, the 400ha Cleve Hill site could be valued in the region of £6million (assuming the owner would accept this, given the uplift it provides to development at Lodge Hill). This does not include habitat creation or management costs. The report into biodiversity offsetting did not consider the costs of management and purchase to be part of demonstrating a 'reasonable prospect'. However, paragraph 173 of the NPPF states that careful attention should be paid to viability and costs during plan-making.

Restrictions on public access (current or future) may be necessary to increase the chances of nightingales colonising created sites, and buffer areas would be required to prevent any future developments from impacting upon the compensation areas. This would very much depend upon the compensation sites' proximity to existing public rights of way and proposed development areas.

There would potentially be a loss of agricultural land. The 400ha Cleve Hill option proposed is Grade 3 ('Good') agricultural land. The area to the south of Lodge Hill that has been

proposed for mitigation in the outline planning application (i.e. prior to identification of the scale of the nightingale population) is also good (or better) agricultural land. The need for extensive off site compensation for Lodge Hill has the potential to result in a greater loss of agricultural land than the direct loss resulting from the alternative options.

At the time Lodge Hill was suggested for major development, and at the times of its transferal into subsequent local and regional policy documents, such an extensive compensation strategy was not anticipated. The compensation strategy itself is potentially not in conformity with national policy, and therefore, CS33 should be removed and alternatives investigated.

**ii) What are the likely consequences of the time lag between loss of habitat at Lodge Hill and the provision of new habitat if development proceeds as currently proposed? Alternatively what are the implications for the Core Strategy if development at Lodge Hill is delayed to allow for new/restored/improved habitat to become available?**

Theoretically, loss of habitat results in loss of species reliant upon that habitat, even temporarily. The consequences of a time lag on nightingales are uncertain on a long-term, population level scale (assuming success of new habitat creation) (see also answer to 2(a)), and may not be detectable if the national population continues to decline (though nevertheless contribute to it).

What is certain is that the nightingale population has undergone severe declines in the past 45 years, and the species is declining at a rate of about 3% per year. While the BTO study concluded that there is a greater probability of achieving success in Kent than in other parts of the Country if the right conditions are satisfied, this probability is unquantified. It would therefore seem irresponsible to take a risk with such an important element of the national population when alternatives have yet to be properly assessed.

**b) To what extent can the loss of the area of MG5 Grassland be mitigated by changes to the Masterplan and if offsite provision is necessary what are the risks to delivery?**

The SSSI notification document states that “*the boundary has been drawn to include land supporting the features of special interest and those areas required to ensure the long-term*

*sustainability of these features.*” This recognises that changes to the local environment can result in indirect effects that negatively impact upon these habitats. Increased nitrates from vehicles and fouling by dogs, changes in hydrology and water quality, and excessive trampling may all degrade the grassland. Therefore, redrawing the masterplan to avoid the areas of MG5 (or the SSSI) will not necessarily provide mitigation without further measures to prevent the indirect impacts.

As with nightingale habitat creation, site selection would be crucial in successful delivery of MG5, although the criteria used would be different; knowledge of soil pH and nutrient levels of the compensation sites would be essential, for example. The condition of the particular sites selected would determine the habitat creation methodologies followed to establish the habitat (for example, the degree of nutrient stripping necessary and how that would be achieved). Other factors, such as costs and logistics, would determine the ongoing management techniques used (e.g. grazing, mowing or a combination). The potential risks are broadly similar to those regarding nightingale habitat creation – identification of suitable sites; cost of purchase, habitat creation and management; loss of agricultural land – with some generic and some site-dependant.

### **3) SA Addendum**

**a) Does the SA Addendum provide a robust assessment of alternative options? In particular:**

**i) Are there other reasonable alternatives that should be evaluated in greater detail bearing in mind the changing circumstances in relation to Lodge Hill? For example, is it right to reject a more dispersed pattern of development without a more detailed evaluation of what that might mean in practice? Should neighbouring authorities be approached under the duty to cooperate in order to avoid development at Lodge Hill if there really is no reasonable alternative within Medway?**

**ii) Does the SA Addendum meet the requirement established in *Heard v Broadland* that alternatives must be appraised as thoroughly as the preferred option; and the implications of *Cogent Land LLP v Rochford DC* and *Bellway Homes Ltd* (as reported in JPEL issue 2 2013 (pages 170-192)) that an addendum report must be a genuine exercise rather than a mere justification for the decisions that have already been taken.**

Justification for the allocation of Lodge Hill in preference to alternatives is predicated on an assertion that a new standalone development is more sustainable than expanding existing settlements, either one or a number of more dispersed extensions. The potential for extensions to existing settlements to use existing, and increase the viability of potential new,

public transport networks, as well as increasing the viability of existing town centres, does not appear to have been considered. The SA Addendum states that three of the options have the potential to divert investment away from existing town centres (Para 4.8), yet it is not clear why this is not also considered a potential drawback of the development of Lodge Hill. We are not convinced that the potential alternative options have been subject to the same scrutiny as the Lodge Hill allocation, particularly with regard to their potential to contribute to the regeneration of existing settlements. It would appear that investigation of the solutions to the issues surrounding alternative sites is rather cursory compared to the effort undertaken to pursue the allocation of Lodge Hill.

We do not consider that the Core Strategy and SA, with regard to its approach to the options available, is in conformity with national policy or the case law referred to in question 3(a)(ii). We consider that a re-appraisal of the SHLAA, the SA and the alternatives is necessary to address this.

**4. Is the ‘very positive’ score given to the Lodge Hill option in relation to previously developed land justified?**

No. The quantum of development proposed for Lodge Hill is much greater than the scale of development currently present on site, so it is inevitable that much development is not on previously developed land, even if we take a generous view of what constitutes the curtilage of the developed area. If we are to take the outline planning application as an indication of how the allocation will be delivered, it cannot be considered effective re-use as, with the exception of the access roads, the proposed pattern of development does not match the existing pattern of development, with central access roads becoming parks, and the majority of buildings being demolished rather than re-used.

**b. Should the scoring be tempered by the Framework’s core planning principle that reusing previously developed land should be encouraged, provided that it is not of high environmental value?**

Yes. Previous planning policies encouraging the use of PDL were too simplistic to contribute to sustainable development in isolation, and conflicts between those policies and the policies



and legislation protecting the environment were not uncommon. Recognition of the potential ecological value of previously developed land has grown considerably in the past decade (Lodge Hill is not the first 'brownfield' to be notified as a SSSI) and the inclusion of this caveat seeks to avoid potential policy conflict and contribute to sustainable development.

The very positive score given to Lodge Hill regarding reuse of previously developed land is not in conformity with national policy by virtue of the site being of high environmental value.



## **RSPB Statement – Medway Core Strategy Examination**

**Participant ID: 65**

### **Matters and Issues for Hearings Thursday 14 June 2012**

#### **Matter 5: Lodge Hill Strategic Allocation**

This submission answers questions (a) to (d). The main submission addresses (a) and (d) together, and extends to consideration of wider concerns about impacts on other nearby Sites of Special Scientific Interest. It then briefly considers the implications for questions (b) and (c).

#### **Questions (a) and (d)**

- (a) Will the proposed development at Lodge Hill<sup>1</sup> contribute to sustainable development having regard to ii) Impact on Chattenden Woods SSSI*
- (d) Relationship to development brief*

The RSPB's representations in respect of Policy CS33 of the Core Strategy (**CS**) Publication Draft are set out in our letter of 12 October 2011 and can be summarised as:

- Concern that the impacts of the policy on the SSSI and European sites has not been fully assessed, or appropriate mitigation or compensation measures incorporated in the plan;
- Concern that the policy will lead to the direct loss of nightingale habitat;
- Concern that the policy will lead to indirect effects of recreational disturbance on nightingale.

Our understanding (and that of other organisations, including the Council) of the ecological effects of the Lodge Hill Strategic Allocation (**LHSA**) has evolved since the Publication Draft, due to detailed consideration of an Outline Planning Application (**OPA**) seeking to deliver the LHSA. The OPA has shed considerable light on the likely layout of such a scheme, as well as the practicality and effectiveness of potential mitigation and compensation measures that might come forward. While the RSPB recognises the OPA itself is not directly relevant to the CS examination, it has produced practical insights that inform our understanding of whether the LHSA will contribute to sustainable development.

The RSPB's submission concentrates on the effects on various protected areas for birds and populations of birds affected by the LHSA. The LHSA is also important for other biodiversity, in particular reptiles and invertebrates, for which we defer to the Kent Wildlife Trust.

#### **National policy context**

Since the CS was submitted for examination the Government has replaced PPS9 (*Biodiversity and Geological Conservation*) with the National Planning Policy Framework (**NPPF**). Our comments reflect this recent change.

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<sup>1</sup> In the rest of this submission we refer to the development site as the Lodge Hill Strategic Allocation (**LHSA**) and the Lodge hill development brief (**LHDB**)

The NPPF seeks to conserve and enhance the natural environment by “minimising impacts on biodiversity and providing net gains in biodiversity where possible” (paragraph 109, NPPF).

In preparing plans to meet development needs, the NPPF requires that “Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this framework” (paragraph 110). It goes on to say that “Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), *provided that it is not of high environmental value.*” (emphasis added) (paragraph 111 NPPF). The potential harm arising from the LHSA does not reflect these requirements.

A key test of the CS’s deliverability is the determination of planning applications for the LHSA. Paragraph 118 of the NPPF requires local planning authorities to “aim to conserve and enhance biodiversity” by applying a set of principles, the most relevant of which we summarise below:

- Refuse planning permission where significant harm cannot be avoided, mitigated or, as a last resort, compensated for;
- Refuse development likely to have an adverse effect on a SSSI, only making exceptions where the development’s benefits clearly outweigh impacts on the site’s features and any broader impacts on the national SSSI network;
- Refuse development resulting in the loss or deterioration of irreplaceable habitats, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

#### **Nature Conservation Importance of Lodge Hill**

The LHSA (Fig 10.11, page 125 CS Submission Draft) lies adjacent to and includes part of Chattenden Woods SSSI (**the SSSI**), notified for its woodland breeding bird assemblage, including an important population of breeding nightingales.

Nightingales are summer migrants, arriving in late April and leaving in August. They frequent areas of dense undergrowth and nest on, or close to, the ground. Based on the last national nightingale survey (**NNS**) in 1999, their breeding distribution is confined to southern England with 70% of the population in Kent, Surrey, Sussex, Essex and Suffolk (Wilson et al, 2002). Numbers have declined by more than 90% over the last 40 years, and by 60% in Britain during 1995-2009 with a reduction in coppice management of woodlands and the loss of scrub habitat to development identified as contributory causes (Holt et al 2012). Currently amber listed in Birds of Conservation Concern (Eaton et al 2009), but if these declines are confirmed by the NNS 2012, the species will qualify for red listing.

Nightingales breed throughout the SSSI and the LHSA site. The NNS 1999 located 4,565 singing males in the UK, Kent being the most important county with 27% of the UK population. The Chattenden Woods-Upnor area was found to be an area of national importance, with 46 territories (Henderson, 2000).

The current number of nightingales across the SSSI and LHSA site is unclear, as no complete nightingale survey has been undertaken with full access to the LHSA site. The OPA for the LHSA site puts the population at 50 territories (roughly evenly split between the SSSI and LHSA) (see Map 1, Appendix 8). Given the survey did not have full access to the LHSA site, this is likely to be an underestimate. A full survey during spring 2012 as part of the NNS should establish the true population.

Unofficial figures for the 2012 NNS indicate that the number of nightingales on the Hoo Peninsula (10km square TQ77), including the Chattenden Woods area, is increasing against a county level

decline since 1999 (Appendix 1). If practicable, we hope to provide the Inspector with additional information in due course.

The RSPB has raised the national importance of the SSSI and LHSA site for breeding nightingales with Natural England (NE) in the context of its ongoing SSSI Rapid Review (see Appendix 2). The RSPB argue that the area easily meets the 1% GB population threshold for qualifying as an SSSI for nightingale and that there is a prima facie case for the nightingale population of the area to be considered in its own right for inclusion in the NE SSSI Rapid Review. In its reply, NE committed to examine the case for extension and re-notification of the SSSI once the NNS 2012 results are available (see Appendix 3). A decision to re-notify the SSSI and relevant parts of the LHSA site to reflect its national importance for breeding nightingales would have significant implications for the sustainability of the LHSA.

### **Impacts on nature conservation value of Chattenden Woods SSSI and the LHSA**

Development of the LHSA as proposed would have two effects on habitat used by breeding nightingales within the LHSA boundary:

- Indirect effects arising from urban development on nightingales within any buffer zone (see below for fuller consideration of buffer zones); and
- Direct and permanent loss of breeding nightingale habitat within the LHSA but outside any buffer zone.

The indirect effects of urban developments on the flora and fauna of nearby protected sites include impacts from increased visits by people and/or domestic pets. The cumulative effects most relevant in this case are shown in Appendix 4.

It is expected urban effects would, to a greater or lesser extent, without mitigation, affect the adjoining SSSI together with the nearby Northward Hill SSSI and Tower Hill to Cockham Woods SSSIs (both of which also have breeding nightingales). The main expected indirect effects would be from a reduction in overall nightingale habitat, disturbance from people and pets, predation by cats, and vandalism and rubbish dumping and fires on the SSSIs and within the buffer, trampling, and increases in the path network in the SSSI. These effects could impact on the number and distribution of nightingales settling in spring (e.g. fewer breeding birds) and subsequent breeding success, through increased disturbance to birds' nest building, foraging and feeding young, and an increase in the number and activity of both natural and introduced (e.g. cats and dogs) predators.

### **Mitigation**

In considering what steps might be proposed to mitigate for effects of development of the LHSA site on breeding nightingales in the SSSI and on the nature conservation interest of other nearby designated sites, consideration has been given to mitigations included in the OPA. The main mitigation measures include a 200m buffer zone (also in paragraph 4.77 LHDB) a cat proof fence, thorny scrub and wet ditches, together with open space within the development. A compensation area is proposed nearby.

#### *Buffer zones*

Buffer zones are a way of increasing the distance between potentially harmful activities and sensitive species and habitats. They are based on the premise that most people and their pets only go a short distance for recreational purposes and therefore a proportion will not reach the sensitive features. Buffers would need to be very wide to be totally effective and their effectiveness will generally be a function of their width.

Studies show that people travel more than 200m to local facilities (Handley et al 2003), and cats will travel considerably further (1000m or more) (Underhill-Day 2005). The RSPB is not aware of any scientific research or precedents for a 200m buffer to protect ground nesting birds. In other areas NE and the RSPB have proposed, and strongly supported, a 400m buffer, whilst accepting that this is only partially effective against cats.

A distance of 400m dividing residential development and ground nesting birds has been widely accepted by other conservation bodies, and Local Authorities. See Appendix 5 for agreements on a 400m buffer to protect ground nesting birds against urban effects by 13 and 5 Local Authorities respectively in the Thames Basin Heaths and Dorset.

A number of Local Authorities have included these provisions in core plans and these have been found 'sound' by Planning Inspectors e.g Bracknell core plan which states "Within this zone a significant adverse effect can only be avoided or mitigated in exceptional circumstances, therefore there will be a general presumption against new residential development within 400 metres of the SPA boundary". There are a number of other Core Plans with similar provisions – a list of these is included in Appendix 6. The 400m buffer has also been upheld by Ministerial and Inspector's decisions in a number of planning appeals, for example a mixed use development at Crowthorne, Berkshire opposed by both the RSPB and Natural England (Ref No APP/R0335/A/08/2076543) and, for example, several cases in Dorset (see Appendix 7).

On the LHSA, a 400m buffer around the SSSI (see Map 2, Appendix 8) will capture a proportion of those who might otherwise visit the SSSI but many others will still travel to the SSSI or other conservation sites. Surveys have shown that, on average, visitors on foot to other local woodland sites in north Kent walk between 0.57-0.78km and visitors to the coast 0.8km to reach their destination (Fearnley & Liley 2011a, 2011b). A 400m buffer as shown on Map 2 will therefore capture less than half of the visitors expected to visit the SSSI and a 200m buffer an even smaller proportion.

Existing information on nightingale numbers and distribution within the LHSA site shows the proposed buffer contains a number of nightingale territories. The habitat supporting nightingales in the buffer will either need to be removed and compensatory areas provided, or those parts of the buffer that have, or might, contain breeding nightingales will need to be additionally buffered to reduce the urban effects for which the buffer is needed against the SSSI (see Map 3, Appendix 8).

#### *Cat proof fences*

Another typical mitigation measure proposed by developers (including in the OPA) is the use of cat proof fences to reduce impacts on ground nesting birds from cat predation given the limited effectiveness of buffers in this respect. The RSPB is not aware of any evidence for effective cat proof fences between residential development and recreational areas. Where fences have been erected they have been cut, climbed over or otherwise breached by people. There is a strong incentive to breach a fence separating residential and recreational areas. We do not believe that promises of regular maintenance will be effective over the life of a development.

In a recent appeal (Ref APP/Q1255/V/10/2138124) at which the effectiveness of a fence to prevent access by people and pets was examined, the Secretary of State dismissed the appeal and stated that he "shares the concerns of NE and the RSPB regarding the more general efficacy of a linear fence ... In particular, he agrees that cats would still be able to enter Talbot Heath round the end ... and that there would be potential for deliberate breaching of the fence in view of the direct route to key destinations ...".



A wet ditch (proposed as part of the OPA) could become ineffective from drying out or by crossing points e.g. wooden planks placed there by children. Planted thorny scrub (proposed as part of the OPA) could attract breeding birds which would then be at risk of predation by cats and disturbance, vandalism and fire setting by humans, and would provide a visual screen for vandals and anyone cutting the fence.

Although some residents will use open spaces within a development, the large and attractive SSSI woods will provide an experience which cannot be replicated within the LHSA site.

### Summary

Overall, it is the RSPB's view that possible mitigation measures available (and indeed suggested by the OPA) would be ineffective in avoiding adverse impacts on the breeding nightingales in the SSSI and associated 400m buffer, and would do nothing to reduce the direct and indirect effects on those nightingales in the LHSA site outside any buffer.

### Compensation

Given the national importance of the SSSI and LHSA area for breeding nightingales, the RSPB's preference is for *in situ* conservation. In accordance with paragraph 118 of the NPPF, it is necessary to consider whether compensatory measures could be provided should it be decided that significant harm resulting from a development cannot be avoided or adequately mitigated.

In cases where habitat compensation is to be provided, it should adhere to well-established principles:

- **Targeted** at completely compensating for the damage caused by the development (so-called "like for like" or "within type")
- **Effective** in both ecological and legal terms so that it supports the ecological functions of the species affected over the long-term, is adequately protected, financially secure and subject to regular monitoring and review
- **Well-located** through compensation measures realised as close as practicable to the location where the damage will be caused (but not vulnerable to the same pressures – see Effective)
- **Well-timed** so that the compensation measures are fully functional before the damage is caused.
- **Sufficient** in extent to meet the ecological needs of the affected species and habitats. The area ratio of habitat compensation provided to habitat lost increases in line with risks associated with effectiveness, location and timing.

The RSPB is not aware of any evidence that guarantees the effectiveness of intentional establishment of fully functioning habitat capable of supporting breeding nightingales. Even if such establishment was possible, it is likely to be at least 10 years, if not longer, before any habitat would be capable of supporting breeding nightingales. The compensation area proposed as part of the OPA will be within 400m of proposed and existing residential development and subject to the same pressures as the SSSI will be from the new development.

Overall, the RSPB is not persuaded it is possible to guarantee the success of habitat compensation for breeding nightingales at this point in time. Nightingale habitat should, at this stage, be considered irreplaceable in the context of paragraph 118 of the NPPF. Therefore, it should be assumed that there would, over time, be a permanent reduction in the local and national nightingale population, as a consequence of the direct and indirect effects of any development at the LHSA.

### Conclusion

The LHSA and SSSI area supports a nationally important population of breeding nightingales: the national importance of this location has emerged during the preparation of the core strategy against a backdrop of a species in national decline.

The RSPB is extremely concerned that development of the LHSA will result in a permanent reduction in the population of nightingales, both at a local and national level due to habitat deterioration, disturbance by people and pets giving rise to failure to establish territories, lower breeding densities, delays in breeding, higher failure rates and lower productivities, as well as permanent habitat loss.

For the reasons given in this submission, the RSPB:

- Does not believe it is possible successfully to mitigate the urbanisation effects on the nightingale populations within the SSSI and LHSA;
- Does not believe it possible to guarantee habitat compensation for nightingales will succeed.

We currently see three main scenarios with an increasingly severe effect on the area of developable land at Lodge Hill:

- Buffer the SSSI alone (Map 2, Appendix 8)
- Buffer the SSSI and nightingales within that buffer (Map 3, Appendix 8)
- Buffer all nightingales territories (Map 4, Appendix 8).

If the 2012 nightingale survey confirms the SSSI and adjoining LHSA site hold in excess of 1% of the British population of breeding nightingales, the case for re-notifying the SSSI and relevant parts of the LHSA site to reflect the importance for breeding nightingales in their own right becomes strong. While we cannot prejudge NE's decision ahead of the results of the NNS 2012, any decision by Natural England to extend and re-notify the SSSI and relevant parts of the LHSA site to reflect its national importance for breeding nightingales would clearly have significant implications for the sustainability of the LHSA.

Given the uncertainties associated with possible mitigation and compensation measures, the national importance of the LHSA and SSSI for breeding nightingale and the species national decline, the RSPB's preference is for conservation of the nightingale population *in situ* to secure the future of this important stronghold for the species. We therefore recommend deletion of LHSA as it is not compatible with nightingale conservation at a national and local level. This is in line with paragraph 118 of the NPPF which recommends planning permission should be refused if significant harm to biodiversity cannot be adequately mitigated or compensated for and the habitat is irreplaceable.

### **Questions (b) and (c)**

- (b) Is there a realistic prospect that the goal of a free-standing settlement can be achieved, particularly bearing in mind uncertainties relating to employment provision?*
- (c) Is the timetable for development realistic and achievable, particularly the necessary infrastructure provision and its impact on viability?*

No, given the RSPB's conclusions on questions (a) and (d) set out above.

## Appendices

- 1 Posting by Andrew Henderson (organiser for the NNS 1999 and NNS 2012 in Kent) on the Kent Ornithological Society Forum, regarding interim results from NNS 2012
- 2 RSPB letter to Natural England (sent 13 January 2012) in respect of the Lodge Hill area and Natural England's SSSI Rapid Review
- 3 Reply from Natural England to RSPB (dated 10 February 2012) in respect of the Lodge Hill area and Natural England's SSSI Rapid Review
- 4 A summary of urban effects from residential development on the wildlife of adjacent and nearby designated sites
- 5 Copies of the Thames Basin Heaths Delivery Framework and the Dorset Heaths Interim Planning Framework
- 6 Development plans which contain buffer policies protecting nature conservation interests
- 7 List of planning appeal decisions within 400m of heathlands in Dorset from 2004 to 2010 (supplied by Natural England for the Talbot Heath Public Inquiry (APP/Q1255/V/10/2138124))
- 8 Maps 1-4

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## Appendix 3

### Chattenden Woods and Lodge Hill SSSI Citation

**Site name:** Chattenden Woods and Lodge Hill SSSI

**Unitary Authority:** Medway

**Status:** Site of Special Scientific Interest (SSSI) notified under section 28C of the Wildlife and Countryside Act 1981, as inserted by Schedule 9 to the Countryside and Rights of Way Act 2000.

**Local Planning Authority:** Medway Council

**National grid reference:** TQ747734

**Area:** 351.03 ha

**Ordnance Survey sheets:** 1:50,000: 178

**1:10,000:** TQ 77 SE, SW

**Notification date:** 13 March 2013

### Reasons for notification:

Chattenden Woods and Lodge Hill SSSI comprises a mosaic of habitats, including ancient and other long-established semi-natural woodland, scrub, and neutral grassland. It is a nationally important site specifically by reason of the following biological features of special interest that occur within and are supported by the wider habitat mosaic: ancient and long-established semi-natural woodlands, predominantly of the National Vegetation Classification (NVC) type W10 pedunculate oak *Quercus robur* – bracken *Pteridium aquilinum* – bramble *Rubus fruticosus* woodland; unimproved neutral grassland of the nationally scarce NVC type MG5 crested dog's-tail *Cynosurus cristatus* – common knapweed *Centaurea nigra* grassland; and breeding nightingales *Luscinia megarhynchos*.

### General description:

Chattenden Woods and Lodge Hill SSSI lies on the Hoo Peninsula in north Kent, north-east of Rochester. The site comprises a mosaic of habitats, including long-established semi-natural woodland (areas of which are recorded as ancient semi-natural woodland), dense scrub and neutral grassland. The site is also of importance for its breeding nightingales.

#### Woodland

The extensive woodland represents one of the best examples of coppice-with-standards woodland on the London Clay. The woodland is largely comprised of pedunculate oak *Quercus robur* standards with ash *Fraxinus excelsior* coppice of varying age structure. Other trees include field maple *Acer campestre*, hornbeam *Carpinus betulus* and wild cherry *Prunus avium*. The non-native sweet chestnut *Castanea sativa* is infrequent across the site. The shrub layer is varied with hazel *Corylus avellana* and hawthorn *Crataegus monogyna* generally predominant but with other species such as silver birch *Betula pendula*, aspen *Populus tremula*, willow *Salix* spp., wayfaring-tree *Viburnum lantana* and the scarce wild service-tree *Sorbus torminalis* also present.

The field layer of the woodland is dominated by bluebells *Hyacinthoides non-scripta*, with bramble *Rubus fruticosus* and other climbers, particularly dog-rose *Rosa canina* and honeysuckle *Lonicera periclymenum*. Several scarce plants are present including the early-purple orchid *Orchis mascula*, broad-leaved helleborine *Epipactis helleborine* and stinking iris *Iris foetidissima*.

#### Neutral grassland

Rough Shaw is an area of dense and scattered scrub of hawthorn, gorse *Ulex europaeus* and brambles on a north facing slope, with tall-herb neutral grassland along its upper margin. The tall-herb neutral grassland includes stands of unimproved neutral grassland. Typical herbaceous species present and that are typical of this grassland type include lady's bedstraw *Galium verum*, common knapweed *Centaurea nigra*, common bird's-foot-trefoil *Lotus corniculatus*, meadow vetchling *Lathyrus pratensis*, agrimony *Agrimonia eupatoria* and red clover *Trifolium pratense*.



Three fields in the north of the Lodge Hill Training Area include more extensive areas of unimproved neutral grassland of a similar nature to the stands at Rough Shaw. These areas represent semi-natural grassland on base-rich London Clay. A notable occurrence in all three fields is dyer's greenweed *Genista tinctoria*, a species associated with unimproved meadows, pastures and heaths.

### Breeding birds

The SSSI supports a nationally important number of nightingales *Luscinia megarhynchos* during the breeding season. Nightingales use scrub and coppice woodland throughout the SSSI. The extensive areas of woodland and scrub within the site will help to ensure that there is always sufficient area of habitat at a suitable stage of maturity to support breeding nightingales in nationally important numbers.

In addition to the 'reasons for notification' described above, the site also supports a range of woodland and scrub breeding birds, including sparrowhawk *Accipiter nisus*, woodcock *Scolopax rusticola*, stock dove *Columba oenas*, turtle dove *Streptopelia turtur*, cuckoo *Cuculus canorus*, tawny owl *Strix aluco*, green woodpecker *Picus viridis*, great spotted woodpecker *Dendrocopos major*, whitethroat *Sylvia communis*, lesser whitethroat *S. curruca*, linnet *Carduelis cannabina* and bullfinch *Pyrrhula pyrrhula*. The site supports small numbers of great crested newts *Triturus cristatus* and all four widespread British species of reptile: adder *Vipera berus*, grass snake *Natrix natrix*, common lizard *Zootoca vivipara* and slow-worm *Anguis fragilis*. Recent records of invertebrates include the stag beetle *Lucanus cervus* and the nationally scarce moths *Elegia similella*, *Sitochroa palealis* and *Dichomeris alacella*.

## Appendix 4

### Site SR5 2019 Appeal Decision



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## Appeal Decision

Inquiry Held on 9-12 April 2019

Site visit made on 12 April 2019

**by Zoe Raygen Dip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> June 2019**

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**Appeal Ref: APP/A2280/W/18/3214163**

**No 178 and Land to the North of Brompton Farm Road, Strood, Rochester ME2 3RE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Brookworth Homes Ltd against the decision of The Medway Council.
  - The application Ref MC/17/2956, dated 23 August 2017, was refused by notice dated 19 April 2018.
  - The development proposed is demolition of existing dwelling and residential development of up to 122 dwellings with associated parking, garaging and landscaping. Formation of new access road. Creation of public open space and landscape and biodiversity enhancements to Stonehorse Lane.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. I conducted an accompanied site visit on the 12 April 2019, and a number of unaccompanied site visits at various times during the Inquiry, both to the appeal site and the Hoo Peninsula in general, including High Halstow, Hoo St Werburgh, Cliffe Woods, and Allhallows.
3. The application was made in outline form with all matters reserved for future consideration except for access. It was confirmed at the Inquiry that plan ref 14073/C201 showing a housing layout is to be treated as illustrative only. However, a parameters plan ref 14073/C202A is one of the plans to be considered as part of the appeal. This broadly identifies structural landscaping, spread and height of development and open/play space. I have determined the appeal on that basis.
4. The Statement of Common Ground (SOCG) submitted prior to the Inquiry confirms that there is agreement that the Council is unable to demonstrate a five year housing land supply. A separate Housing Statement of Common Ground (HSOCG) deals with the detail of that five year housing land supply and was the subject of a round table discussion at the Inquiry to which I return below.

5. There is also no dispute between the parties that the appeal site is outside of the settlement boundary and is inappropriate development within the Green Belt. I concur with these views.
6. At my request written submissions were made by both parties regarding the effect of the development on the Medway Estuary and Marshes and Thames Estuary and Marshes Special Protection Areas (SPAs). This matter is not in dispute between the parties and having reviewed the submitted information I see no reason to reach a different conclusion. Had the proposal been otherwise acceptable I would have undertaken an Appropriate Assessment.
7. A Unilateral Undertaking (UU) under S106 of the Town and Country Planning Act 1990, as amended was tabled at the Inquiry. However, following discussion, with agreement, a revised UU was submitted after the Inquiry, taking into account relevant comments from the Council's Greenspace Development officer regarding the proposed contribution towards open space. The UU, which is a material consideration, includes obligations relating to financial contributions towards the Strategic Access Management and Monitoring Strategy (£223.58/dwelling), Great Lines Heritage Park (£124.94 per dwelling), Monitoring Officer Costs (£5,700), NHS Health Care facilities (£191 per dwelling), nursery provision (£81,619.20), open space (£287,039.34), primary education provision (£204,422.20), secondary education (£205,592.40), sixth form education (£55,614) and waste and recycling (£155.44 per dwelling). Prior to the hearing the Council had submitted a Planning Obligations and Community Infrastructure Levy (CIL) Compliance Statement, which was supplemented during the Inquiry. I have had regard to the both documents in my consideration of the appeal. While the UU is a material consideration, the obligations, other than that in relation to affordable housing, which I address below, would only reflect mitigation and be neutral in any planning balance, and in light of my overall findings, I have not considered them further.

## **Main Issues**

8. Within the above context the main issues are:
  - the effect on the openness of the Green Belt and whether the proposal would conflict with the purposes of the Green Belt;
  - the effect of the proposal on the character and appearance of the area with particular regard to its location within the Dillywood Lane Area of Local Landscape Importance;
  - The effect of the proposal on best and most versatile agricultural land; and,
  - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

### *Openness and Purposes of the Green Belt*

9. Policy BNE30 of the Local Plan regarding the Metropolitan Green Belt was adopted prior to the National Planning Policy Framework (the Framework). However, paragraph 213 of the Framework states that existing policies should

not be considered out of date simply because they were adopted prior to the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.

10. Policy BNE30 reflects most of the restrictions on inappropriate development set out in the Framework. It does not though refer to point (f) of paragraph 145 of the Framework which states that limited affordable housing for local community needs under policies set out in the development plan should be an exception to the consideration of new buildings as inappropriate in the Green Belt. Indeed, there is no means within the Local Plan to achieve any affordable housing in the Green Belt. However, both parties agree that the appeal proposal would not, in any case, constitute limited affordable housing.
11. Policy BNE30 also refers to openness and the purposes of including land in the Green Belt, which is in broad accordance with the Framework. While therefore the Policy is not strictly in accordance with the requirements of the Framework, I give any conflict with it considerable weight in my decision.
12. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Court of Appeal<sup>1</sup> has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. The part of the appeal site which is within the Green Belt is currently a large undeveloped field containing an orchard. From this baseline the provision of 122 dwellings, some up to three storeys in height, covering about 70% of the site would be significantly harmful to both the spatial and visual openness of the Green Belt. I saw on my site visit that the houses would be visible from the Public Right Of Way (PROW) to the west, roads to the north, properties to the south and from Brompton Farm Road where there would be views through the proposed access.
13. In a Court of Appeal Judgement<sup>2</sup> it was confirmed that "the absence of other harmful visual effects does not equate to an absence of visual harm to the openness of the Green Belt. To my mind therefore, the fact that the proposed housing would be seen within the context of existing housing does not diminish the visual impact on openness. There would be significant built development where there is currently none, irrespective of the surrounding housing and whether it is in the Green Belt or not. This would be significantly harmful both visually and spatially.
14. Given the lack of development on the site, and the amount and extent of the proposal then it would encroach into the countryside. Furthermore, as it would extend the built up area of Strood into the countryside there would be clear conflict with the purpose of the Green Belt to check the unrestricted sprawl of large built up areas.
15. The A289 is a major dual carriageway, to the north of the appeal site. I understand that the Green Belt was designated prior to the building of the A289. Nevertheless, the road is within a cutting and is at a considerably lower level than the appeal site. While traffic can be heard when standing in the

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<sup>1</sup> *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466

<sup>2</sup> *Samuel Smith Old Brewery (Tadcaster) & Oxton Farm v North Yorkshire CC & Darrington Quarries Ltd* [2018] EWCA Civ 489

appeal site, it is not visible until standing very close to its northern boundary. Similarly, I saw from various vantage points to the north that while it is possible to see traffic using the road, the road itself has very limited visibility. As a result, the green fields do not appear particularly severed by the A289, as suggested by the appellant. Furthermore, I am not persuaded that it undermines the functioning of the appeal site in preventing the sprawl of development. I therefore am of the view that the findings of the Gravesham Green Belt Study 2018 (GGBS), that the A289 has significantly encroached into the Green Belt, cannot be transferred to this site, but that the Medway Green Belt Review 2018 (MGBR) is more applicable.

16. The appeal site is situated in land parcel 2 within the Medway Green Belt Review 2018 (MGBR). Although it states that the land parcel should be viewed integrally with land parcel 1, the findings for both parcels are that the contribution to the purposes of the Green Belt are significant. Furthermore, it states that the urbanising influence of the A289 is mitigated by the cutting and planted edge, confirming my view of the road.
17. While the MGBR does not provide an assessment of the appeal site itself, it is part of a wider parcel that has been found to make a significant contribution to the purposes of the Green Belt. As a result, there are no proposals to significantly amend the boundary of the Green Belt within Medway Council. Furthermore, the appellant has not disputed the methodology of the MGBR.
18. Both the MGBR and the GGBS find that the land including the appeal site and the land around it, which is largely contained by the A289, make a contribution to the purposes of the Green Belt regarding sprawl and encroachment. The MGBR finds it makes a significant contribution. The lower finding in the GGBS seems in part be predicated by the view that the A289 would provide an alternative stronger strategic boundary.
19. I note the that paragraph 139 (f) of the Framework states that when defining Green Belt boundaries, plans should define boundaries clearly, using physical features that are readily recognisable and likely to be permanent. However, this relates to the definition of Green Belt boundaries in plans, it is not for me as part of a S78 appeal to amend boundaries of a Green Belt.
20. In addition, there is nothing before me to suggest that field boundaries and the curtilages of dwellinghouses are not appropriate boundaries as seen elsewhere in the Green Belt. Moreover, given my findings regarding the A289 I am satisfied that it does not effectively sever the Green Belt to the extent to reduce the effective functioning of the land to the south, including the appeal site as part of the Green Belt.
21. Therefore, I am of the view that the conflict with the purposes of the Green Belt to check the unrestricted sprawl of large built up areas and to assist in the safeguarding the countryside from encroachment would be significant. While there would be some open space and planting on the appeal site this would not, given the size and extent of the area of the proposed built development, effectively mitigate the conflict with the purposes of the Green Belt.
22. A further purpose of the Green Belt is to prevent neighbouring towns from merging into one another. In this instance, I am of the view that the most relevant towns would be Strood and Gravesend. Reference was made to Higham, an inset village, between the two much larger settlements. However,



the precise wording of purpose within the Framework relates to towns. Furthermore, the wording within Policy BNE30 requires accordance with the purposes of including land in the Green Belt.

23. The part of the Green Belt between Strood and Gravesend is one of the narrowest parts of the Green Belt overall. The development of the site would bring that part of Strood closer to Gravesend, and therefore there would be some conflict with the purpose of preventing merging of the towns. However, this is not the narrowest point between the settlements<sup>3</sup> and therefore there would still be a significant distance between them, and the towns would not merge as a result of the proposals. Indeed, the MGBR considers that land parcel 2 only makes a moderate contribution to the purpose. Therefore, harm in this respect is limited.
24. It is agreed between the parties that there would be no harm caused by the proposal in terms of the purpose of the Green Belt in preserving the setting and special character of historic towns.
25. The purpose of the Green Belt to assist in urban regeneration by encouraging the recycling of derelict and other urban land applies to all parts of the Green Belt. I have seen no substantive evidence to suggest that this proposal would cause significant harm in this respect and therefore any conflict with this purpose would be limited.
26. For the reasons above, I conclude that the proposal is contrary to Policy BNE30 of the Local Plan. I attach substantial weight to this conflict due to the harm arising to the Green Belt, by virtue of the development's inappropriateness, its significant harmful effect on openness and two of its purposes.
27. The appellant suggests that if the only real basis that the appeal scheme is inappropriate development is that it is not limited affordable housing then the harm by reason of inappropriateness is tempered by the fact that the appeal proposal is for 100% affordable housing. However, the development is inappropriate development, and while there is no definition of limited within the Framework, to my mind 122 houses is significantly above what could be considered limited, even in the context of the large settlement of Strood. Furthermore, I have found significant other harm caused by the development to the Green Belt.

#### *Character and appearance*

28. The appeal site is subject to a number of different Landscape Character Assessments from a National through to Local Level<sup>4</sup>. At the Inquiry it was agreed, at a round table discussion, that there are some consistent themes between the classifications which are characteristic of the local and wider area within which the appeal site is located. These are, gently undulating landscape, diverse area of farmlands and orchards/horticulture, strong urban influence of large settlements and main roads and a mix of shelter belts and some hedgerows.

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<sup>3</sup> With reference to Figure 2 within the GGBS

<sup>4</sup> Natural England's National Character Area (NCA):113 'North Kent Plain', Landscape Assessment of Kent 2004 – Hoo Peninsula character area  
Medway Landscape Character Assessment 2011 – Cliffe Woods Farmland

29. The appeal site itself, displays many of these characteristics. Located on the edge of Strood it consists of a field, which is undulating, currently mostly operating as an intensive orchard with rows of trees. To the south is a row of houses fronting Brompton Farm Road. To the east is Stonehorse Lane, which is truncated by the A289 at its northern end. Although surfaced, it is mostly used as a pedestrian walkway and is enclosed by the poplar shelter belt to the appeal site on the west and houses on the east. To the west of the site are further fields in agricultural use, separated by a hedge. A Public Right of Way (PROW) runs to the west of the site.
30. The Medway Landscape Character Assessment 2011 shows the site being within the southern part of the Cliffe Woods Farmland character area where the condition is described as being moderate with an intact degree of visual unity and a moderate degree of sensitivity. The stated actions are to conserve and create landscape character. The appeal site displays many of the characteristics of this character area and I would concur that it has a moderate degree of sensitivity.

#### *Valued Landscape*

31. Paragraph 170a of the Framework states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes...(in a manner commensurate with their statutory status or identified quality in the development plan). In the Council's view the designation of the area within which the appeal sits as an Area of Local Landscape Importance (ALLI) means that it is a valued landscape as envisaged under paragraph 170a.
32. The appellant instead considers the value of the landscape against the factors defined at Box 5.1 of GLVIA3, concluding that it does not demonstrate any physical attributes, characteristics or value that makes it any more valuable than general countryside as in the approach of a relevant High Court Judgement<sup>5</sup>.
33. However, I note that Box 5.1 of GLVIA3 refers specifically to landscapes which are not designated. Furthermore, the Stroud judgement was made prior to the revised wording of the National Planning Policy Framework in both 2018 and 2019.
34. The introduction to the ALLIs within the Medway Local Plan 2003 states that there are several areas of landscape that enhance local amenity and environmental quality, providing an attractive setting to the urban area and surrounding villages and therefore have been designated as ALLI. It goes on to say that these ALLIs are significant not only for their landscape importance, but also for other important functions. The Dillywood Lane ALLI within which the appeal site is located is described as a gently undulating, visually diverse area of orchards and mixed farmland, which extends from the north west edge of Strood and Wainscott to the borough boundary. Its function is fourfold, namely it creates an attractive, rural setting to the Medway Towns Northern Relief Road, contributing to the positive image of the borough; connects to the South East of Higham Upshire ALLI in Gravesham; constitutes an established rural

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<sup>5</sup> *Stroud District Council v Secretary of State for Communities and Local Government v Gladman Developments Limited* [2015] EWHC 488 (Admin) (referred to as the Stroud judgement)

landscape in close proximity to a large urban area and helps to maintain the separate identity of Higham.

35. Box 5.1 of the GLVIA sets out a number of factors that can be considered when assessing landscape value. I accept that these do not include function. However, this is a designated site of Local Landscape Importance within an adopted local plan. The Framework states that plans should distinguish between the hierarchy of international, national and locally designated sites. The ALLI designation is at the lower end of that landscape designation hierarchy. While the plan is old, I heard no evidence to suggest that the landscape has changed materially since that time. Furthermore, the development plan identifies the relevant characteristics of this particular ALLI and part ii of Policy BNE34 allows for a balancing exercise. Therefore, there is some broad accordance with the requirements of the Framework.
36. I understand that the concept of local landscape designations is no longer being used within the neighbouring Gravesham emerging local plan and indeed the South East of Higham Upshire ALLI in Gravesham to which this ALLI is connected has been extinguished therefore, the identified function of linking with the ALLI in Gravesham is of little relevance here.
37. However, it seems to me that from the above, and my observations on site, the other identified functions do still hold good and the ALLI has some value in providing an attractive rural setting to the A289 and Strood together with maintaining the separate identity of Higham, given the proximity of Strood to the settlement. Furthermore, The Council advises it is likely to carry forward some form of designation of areas for their strategic landscape importance through Policy NE4 of the Development Strategy Regulation 18 report, March 2018. However, this policy is at a very early stage of preparation and therefore I give it very limited weight in my consideration.
38. Nonetheless, I find that the ALLI still fulfils most of the functions of this landscape designation and, in combination with the contribution it makes to the landscape character of the area, means it is a valued landscape.
39. In finding that the site comprises part of a valued landscape I have endorsed the professional judgments of the Council's landscape witness. I acknowledge that this goes against the opinion of the appellants' professional witness. All of the assessments are largely based on qualitative judgments. In coming to my conclusions, I have had the benefit of expert opinions focussed on an analysis of the site and its surroundings, as well as several site visits.
40. With regard to the specific functions of the ALLI, I saw that the A289 is largely not visible both from the site itself and from longer distance views from the north. Here the undeveloped nature of the site forms part of the attractive rural setting of Strood which is a large urban area, rather than the A289. Its development with a substantial number of dwellings would erode that rural setting.
41. A further function of the ALLI is to help maintain the separate identity of Higham. There is no intervisibility between Strood in the vicinity of the appeal site and Higham. Given the distance between the two settlements I am not persuaded that the proposal would materially harm the separate identity of the two settlements.

### *Landscape character*

42. Part i) of Policy BNE34 of the Local Plan states that development will only be permitted if it does not materially harm the landscape character and function of the area.
43. The scheme would result in the construction of a large housing development of up to 122 dwellings that would extend Strood to the north and west into the open countryside. This would cause a significant change to the appearance of the appeal site, through the change of use and would result in the direct loss of open countryside that makes a pleasant contribution to the setting of the northern part of Strood. The orchard would be replaced with a substantial level of built development and associated infrastructure. Furthermore, the undulating topography would be altered to accommodate the various aspects of the built development. Moreover, the hedgerow to the south of the orchard would be removed. Therefore, I am of the view that the proposal would have a moderate to high adverse effect on the landscape character of the site itself, albeit this would be a localised view.
44. There is a level of agreement between the Council and the appellant that the appeal site does not have wide visibility within the surrounding area, and I saw this to be the case at my site visit. Views from the south and east would be limited by the existing built development. Views from the north and west would be more apparent.
45. However, the appeal site is on the edge of the settlement and would be generally viewed against a backdrop of existing housing. I saw that the existing housing at the edge of Strood, when viewed from the roads to the north and the PROW to the west, is clearly visible. Although views are tempered by planting in gardens and filtered by existing hedgerows around and within the appeal site, the built form is apparent from the public footpaths and roads approaching Strood.
46. The parameters plan allows for about 30% of the site to be open space. Development would be set behind a woodland on the western boundary, with open space to the south which would soften the appearance of the estate within the countryside creating a similar edge to the built development as currently exists.
47. There is little between the parties on this issue with the Council finding slight to moderate adverse landscape impacts and the appellant a slight magnitude of effect which would be of moderate-minor significance overall. As a result of my observations above, I would concur that in the first instance the adverse impacts are likely to be moderate to minor. While effects would reduce over time as the planting matures, the built development would still be visible in the landscape, particularly in the winter, replacing the existing orchard and therefore would continue to have a minor adverse effect in the wider landscape.

### *Visual impact*

48. There was some discussion regarding the use of a number of telegraph poles on the appeal site as markers for the height of the proposed development. Although there was some disagreement regarding the height of the telegraph poles and their relationship to two storey development, it is evident that the

parameters plan includes for development of a maximum ridge height of 13 metres high. Therefore, whether 8.5 or 10 metres high, some elements of the scheme may, in any case, be higher than the telegraph poles.

49. The highest level of visual effects is likely to be experienced by the users of the PROW to the west of the appeal site. The Council consider these adverse impacts to be between moderate and high, whereas the appellant considers them to be moderate or major-moderate. When walking the footpath from north to south the first part is fairly enclosed by existing trees and views are limited towards the site. However, when emerging from the trees, this changes and views are available to the wider surrounding open countryside.
50. I saw that the existing houses are visible. As the southern end of the footpath is reached views recede, and the extent of the housing that is visible also changes as the footpath undulates across the field.
51. Generally, therefore, the proposed housing would be closer to the users of the footpath. Notwithstanding the proposed woodland belt, the height and extent of the housing, and, in particular, the three-storey housing would be particularly prominent, given the predominance of two-storey housing that I saw in the vicinity of the appeal site; this would give rise to a high adverse effect on parts of the footpath. However, the extent of the planting on the western boundary, would, over time, ensure that this effect would reduce as the planting matures. It was agreed at the Inquiry that planting is likely to be predominantly deciduous in nature. In winter therefore, when the trees lose their leaf the screening effects would not be as effective as in the summer. This together with, the extent and height of development proposed, would still mean that there would be a limited adverse effect for users of the PROW in the long term.
52. Residents to the south of the appeal site would experience a significant change in outlook to that currently experienced over the orchard. However, the properties have lengthy gardens and the area of public open space would be sited closest to the boundaries with the properties. Therefore, any adverse impact would be reduced over time.
53. I saw that views from roads to the north would be available and the site would clearly be seen in some viewpoints. I accept that the proposed development would in all likelihood be easier to see in long distance views than the current field and trees. However, the houses would be seen against the backdrop of the existing settlement. Furthermore, these views must be considered in the context of the users of the roads and, in my opinion, the experience of the drivers would not be materially altered by the development.
54. The tree planting to the west would be in the form of a wide belt of about 20 metres. I have seen or heard no substantive evidence to suggest that such a width of planting could not accommodate the proposed footpath as suggested by the Council.

#### *Conclusions on Character and Appearance*

55. There would be harm to landscape character through the loss of part of the land of the character type identified. However, the visual effects would be largely localised, and mostly reduced by the proposed mitigation measures over time. Therefore, there would be some limited harm to the character and

appearance of the area contrary to requirement of Policy BNE25 of the Local Plan. This states that development in the countryside will only be permitted if it maintains, and wherever possible enhances the character, amenity and functioning of the countryside.

56. Both the Gibraltar Farm and Cliffe Woods appeal decisions<sup>6</sup> address the weight to be given to Policy BNE25, with the decision maker in each giving the policy differing weight. For the purposes of this appeal, although Policy BNE25 seeks to protect the countryside, it does so in a manner that does not reflect the hierarchical approach of the Framework. Given the agreed position on housing land supply, it is also apparent that its strict application is restricting housing growth. Therefore, I give conflict with this Policy limited weight in my decision.
57. For all of the reasons given, I am satisfied that this site comprises part of a valued landscape and its development would fail to protect and enhance the landscape contrary to the objectives set out in the Framework and the requirements of criteria i) of Policy BNE34, albeit that the harm I have identified would be limited.
58. The second criterion of Policy BNE34 of the Local Plan states that development will only be permitted within an ALLI if the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape. It is therefore necessary to reach a view on the social and economic benefits of the proposal before reaching a conclusion as to whether the proposal conflicts with the further requirements of this Policy; I address this in my conclusions below.

#### *Best and Most Versatile Agricultural Land (BMVAL)*

59. The Framework identifies the best and most versatile agricultural land as land in Grades 1, 2 and 3a of the Agricultural Land Classification. There is agreement within the SOCG that the appeal site comprises Grade 2 agricultural land and the proposal would result in its loss. Both parties agreed that although not determinative, the loss of the BMVAL is a material consideration which needs to be weighed in the planning balance.
60. Policy BNE48 of the Local Plan states that development on BMVAL will only be permitted exceptionally where criteria are met. This is not entirely consistent with the requirement of the Framework in footnote 53 which states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
61. The appellant draws my attention to both the Cliffe Woods and the Gibraltar Farm appeal decisions where the Secretary of State found that the loss of BMVAL carried limited weight. However, the appeal sites in both cases were only partially made up of BMVAL and that was of grade 3a rather than Grade 2 as is the case here.
62. I appreciate that there is no definition of significant, in this context, within the Framework. However, the appeal site is about 4.37 ha in size and contains a productive orchard on the site which it was confirmed at the Inquiry would be lost due to the proposal.

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<sup>6</sup> Gibraltar farm appeal decision APP/A2280/W/16/3143600  
Cliffe Woods appeal decision APP/A2280/W/17/3175461



63. Nevertheless, given the amount of land classified as Grade 2 on the appeal site then the harm caused by its loss would be limited. This is reinforced by the extent of BMVAL within the district<sup>7</sup>, including Grade 2 land, and the acknowledged likelihood that house building would need to be accommodated on greenfield land to address the extent of the housing shortfall.
64. While therefore, there is some conflict with Policy BNE48 and the Framework with regard to the loss of BMVAL, there would be limited resultant harm.

*Other considerations*

65. The appellant alleges that the Council is unable to meet its obligations to provide an up to date development plan, to identify a sufficient supply of deliverable housing land and to secure affordable housing to meet its local needs and have no plans or intentions to resolve the issues.
66. There is agreement between the parties that the Council is unable to demonstrate a five year housing land supply. It was confirmed at the Inquiry that the housing supply figures had been calculated using the affordability ratio for 2017. Just before the Inquiry the 2018 affordability ratios were published. Following discussion between the parties it is agreed in the HSOCG that the 2017 affordability ratios would be relied on. There is very limited difference between the 2017 and 2018 figures, and therefore, in this instance, I am content to proceed on that basis.
67. Within the HSOCG the Council considers it can demonstrate a 3.08 year supply, whereas the appellants consider it only has a 2.26 year supply. I note the reasons behind the difference between the two figures. Furthermore, I note the position of the authority in relation to housing requirement and performance of other authorities in the Kent and the south east. However, both figures represent a significant shortfall in the five year housing land supply.
68. The question is what is being done to rectify the situation regarding housing land supply<sup>8</sup>. The Council accept that in order to meet the shortfall, development will need to be accepted on greenfield land, and I was presented with a list of 14 large scale planning applications which have either been granted planning permission or have received a resolution to grant planning permission subject to the signing of a S106 agreement since January 2018. The Council confirmed that the list was not exhaustive and was not submitted to change the five year housing land position, but to demonstrate the efforts made by the Council to boost delivery.
69. The Council does not have an up to date development plan with regard to housing Policy. Housing figures are based on now defunct regional guidance and have little correlation with the current requirement figure.
70. The latest Regulation 18 submission of the emerging Local Plan<sup>9</sup> dated March 2018 contains four scenarios for housing growth, all of which include a rural town centred on Hoo St Werburgh. In the appellant's view, for a variety of reasons, this is unlikely to come forward and the Council will need to revisit

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<sup>7</sup> Appendix 06 Proof of Evidence Mr Canavan

<sup>8</sup> *Hallam Land Management v SSCLG & Eastleigh Borough Council* [2018] EWCA Civ 1808

<sup>9</sup> Future Medway Development Strategy Consultation March 2018 (FMDS)

proposals in a previous Regulation 18 document<sup>10</sup> to release land within the Green Belt to facilitate suburban expansion.

71. In particular, the appellant pointed to a recent reduction in the number of homes likely to be proposed on land at Lodge Hill due to restrictions associated with the Site of Special Scientific Interest. Furthermore, a large part of the proposed growth strategy relates to the establishment of a rural town within the Hoo Peninsula. Growth within that area of the District is reliant on significant investment in infrastructure, with the Council confirming that the current highway network giving access to the Peninsula would be at capacity following the development of about 2000 houses. About 940 homes are already committed and therefore, only a further 1060 houses could receive planning permission in the area before the road infrastructure would be at capacity which is less than one year's housing supply requirement. Furthermore, I appreciate that a number of the developments recently granted planning permission are on the Hoo Peninsula.
72. The Council is currently part of a consortium comprising a number of housing developers and Homes England that has submitted a bid for up to £170 million to the Housing Infrastructure Fund (HIF) following successful completion of the Expression of Interest stage of the bid process. This is an ambitious and complex project but, if successful, this would enable investment in the road and rail infrastructure to allow the provision of about 12,100 new homes in the District by 2043<sup>11</sup>.
73. I accept that such investment would take time to put in place and the need for housing exists now. However, it seems to me that considerable effort is being put in to addressing the housing supply situation. Both in the granting of planning permission on greenfield sites and through the preparation and submission of a comprehensive bid for funding which, if successful, would give substantial economic and social benefits. The fact that the Council is not working alone but in a consortium including Homes England is encouraging. Moreover, the proactive efforts of the Council in seeking to expedite problems in consultation with developers and landowners and in securing monies from the HIF to facilitate regeneration and the provision of infrastructure, deserves a chance to bear fruit. To that end, the Council is aligning the preparation of the emerging Local Plan with the outcome of the HIF bid which is expected in the summer, such that the draft plan would be published in the summer of this year and submitted for examination in December 2019<sup>12</sup> with adoption likely in 2020.
74. I accept that there is no guarantee that the bid will be successful. Nevertheless, even if the bid is unsuccessful and previous scenarios would need to be revisited, there is no certainty that land within the Green Belt would need to be released. I note that Scenario 2 of the LPES states that release of Green Belt land to the west of Strood, where the appeal site is located, is also included in order to consider whether such a significant policy change may be necessary or justified. Moreover, the annotation to the scenario shows employment led mixed use development rather than just housing. Given recent appeal decisions and the efforts of the Council in granting planning

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<sup>10</sup> Medway Council Local Plan 2012-2035 Executive Summary January 2017 (LPES)

<sup>11</sup> Housing Infrastructure Fund Bid – New Routes to Good Growth Medway Council report to Cabinet 5 February 2019

<sup>12</sup> Medway Local Development Scheme 2019 - 2022 December 2018

- permissions, I accept it is highly likely that greenfield land would need to be released to enable housing growth. However, this does not necessarily mean that that Green Belt land would need to be released to meet demand, particularly as it only constitutes about 5% of the land in the District.
75. Even if it was accepted that Green Belt land would need to be released for development, I note that other parcels of land within the MGBR performed more poorly in contributing to the purposes of the Green Belt than the area within which the appeal site is located. Therefore, I accept that such parcels of land are more likely to be considered for release than that within which the appeal site is located.
76. I have been referred to two appeal decisions which have been allowed for housing within the Green Belt. However, within both there is some acknowledgement that housing development would need to be accommodated within the Green Belt or is proposed to be located within the Green Belt<sup>13</sup>. This is not the case here. While there is general acceptance that housing development is likely to occur on greenfield sites, that is not the same as Green Belt land, which has protection over and above greenfield land. Therefore, I do not consider the circumstances regarding these two appeal decisions to be sufficiently comparable to the appeal before me now, in order to reach a similar decision.
77. Bearing all the above in mind, I attach significant weight to the benefit of the additional housing this appeal would bring, as agreed in the SOCG. The Framework seeks to significantly boost the supply of housing. A scheme of up to 122 houses, which could be delivered straight away in an accessible location where there is an agreed shortfall would go a considerable way to achieving that aim.
78. I have had regard to the Written Ministerial Statements of 1 July 2013 and 17 December 2015 (WMS) which state that unmet demand for housing “is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances”. While these WMS predate the revised Framework, the Council advise that following a written question to Parliament in 2018 it was confirmed by the Housing Minister that they are still a potential material consideration. I am aware that this policy wording is no longer part of the Planning Policy Guidance. Nevertheless, the WMS still have weight in decisions.
79. The WMS do not say that housing need can never amount to very special circumstances and I would concur with the Inspector in the West Malling appeal decision that that wording would not preclude that an unmet demand for housing may still be weighed against the harm to the Green Belt, whether on its own or in combination with other factors, however, given the wording of the WMS I would expect there to be significant other considerations to be counted in the balance.
80. There is no dispute between the parties that the site is in an accessible location. I had the opportunity to visit housing sites in the Hoo Peninsula. The evidence of Mr Williams shows that given the relatively small rural nature of the settlements to which they are appended, there are less services and

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<sup>13</sup> Paragraph 51 of APP/P3040/W/17/3185493 (the Ruddington appeal decision) and paragraph 45 of APP/H2265/W/18/3202040 (the West Malling appeal decision)

facilities in these settlements within walking distance of the housing sites. In addition, public transport facilities are less regular, and it therefore takes longer to reach services in Strood and Rochester than it would do from the appeal site. This was my experience at my site visits.

81. Indeed, the Secretary of State in the Cliffe Woods decision decided that the proposed development of 225 houses did not limit the need to travel or offer a genuine choice of transport modes and therefore considered the development to be in conflict with the Framework's policy on promoting sustainable transport. However, I am advised that the Council has resolved to grant planning permission on a different site at Cliffe Woods for 92 dwellings, an office and a nursery and an associated package to improve public transport and pedestrian facilities. In addition, the Inspector in the Hoo St Werburgh appeal decision<sup>14</sup> considered the settlement as a whole to be sustainable. However, he states at paragraph 16 that the "verdict of "sustainable location" does not automatically or readily transfer from the village to the site. He found the appeal site not to be in an accessible location.
82. Paragraph 103 of the Framework states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering genuine choice of transport modes. To my mind therefore the appeal sites and subsequent planning permission granted by the Council at Cliffe Woods demonstrates that the accessibility of the site depends on its location with reference to existing and proposed services and facilities and availability of a choice of transport methods. The fact that future residents of the appeal site would have access to a wider range of services and public transport makes this site policy compliant but does not mean it attracts positive weight. Indeed, although this is agreed as an accessible location, the majority of the services and facilities are 15-20 minutes' walk away and the railway station 25 minutes<sup>15</sup>, both outside the distance which the IHT considers to be most conducive to walking<sup>16</sup>. Therefore, while to my mind the site is in an accessible location and in this respect, complies with the requirement in Policy BNE25 to offer a realistic chance of access by a range of transport modes, it is neutral in any balancing exercise.
83. The appeal site incorporates Stonehorse Lane with the intention of maintaining public access over it and to create an ecological zone through new planting. Furthermore, a new community woodland would be provided along the western boundary of the site.
84. However, I saw at my site visit that Stonehorse Lane is already well planted, with a strong line of trees along its western boundary. While landscaping is a reserved matter requiring details to be submitted for approval by the Council in the first instance, there is nothing to suggest what the level of enhancement would be. It is likely that the planting of a significant tree belt on the western edge of the appeal site would bring some ecological benefits. However, a large number of trees would be felled, only a small number of which have been assessed as having to be removed irrespective of the development<sup>17</sup>. Furthermore, all of the orchard trees would be removed. While it is not a traditional orchard and is presented in rows of trees as an intensive activity it is

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<sup>14</sup> APP/A2280/W/15/3132141

<sup>15</sup> Mr Giles Appendix SG1 to proof of evidence

<sup>16</sup> Chartered Institute of Highways and Transportation Planning for Walking 2015

<sup>17</sup> Arboricultural Assessment Report 2 August 2017 and plan ref 15224-BT4

likely to have some ecological benefit. Therefore, notwithstanding the reference made by Kent County Council to enhancement recommendations, while there would be some planting and associated enhancements, I am not persuaded, on the basis of the evidence before me, that there would be net benefits to biodiversity as required by paragraph 170 (d) of the Framework.

85. A new area of open space and a play space would be provided on the development. However, the provision of open space is a requirement of Policy L4 of the Local Plan, and it would primarily be for the future residents of the scheme. Therefore, I give limited weight to the provision of a new children's play space in respect of its potential use by existing residents.
86. When the planning application which is the subject of this appeal was originally submitted to the Council for consideration it was done so on the basis of the provision of 25% affordable housing. The day before the consideration of the planning application at the planning committee on 11 April 2018 the appellant wrote to the Council advising that they wished to amend the application proposal such that it would provide for a minimum of 50% of the dwellings to be affordable housing. The letter went on to say that as the discussions with the Housing Associations were ongoing it was certainly likely that the scheme would be delivered as a 100% affordable scheme<sup>18</sup>.
87. The Committee minute records that the offer of 50% affordable housing was considered at the Planning Committee and the application refused on that basis. The appellant now formally proposes that the scheme be considered as 100% affordable.
88. Both parties agree in the SOCG that there is unmet need for affordable housing in Medway. It is also agreed that the North Kent Strategic Housing and Economic Needs Assessment Strategic Housing Market Assessment 2015 (SHMA) includes an affordable requirement of 18,592 dwellings over the projection period (2012-2037), giving a requirement for 744 dwellings annually.
89. The PPG states that the total affordable housing need can then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, taking into account the probable percentage of affordable housing to be delivered by eligible market housing led developments. An increase in the total housing figures included in the plan may need to be considered where it could help deliver the required number of affordable homes<sup>19</sup>.
90. The supporting text to Policy H3 of the Local Plan identifies a minimum target of 25% for the provision of affordable housing. It is clear therefore that at this level of provision based on either the OAN figure of 1281 contained in the SHMA, or the latest agreed annual requirement of 1672 in the HSOCG, the figure of 744 affordable dwellings is unrealistic. It is perhaps unsurprising therefore that the Council has delivered only 20% of that need over the past five years. Furthermore, comparisons with other authorities in Kent based on housing need are not helpful as I am not aware on what basis other authorities affordable housing need figure has been reached and whether it is achievable. Moreover, the HSOCG confirms that the Council has, in the last five years

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<sup>18</sup> Appendix 13 Mr Escott Proof of Evidence

<sup>19</sup> Paragraph: 024 Reference ID: 2a-024-20190220



averaged 148 affordable dwellings per annum, which is 25% of all housing completions, and therefore delivering Policy expectations.

91. My attention is drawn to a High Court Judgment<sup>20</sup> which suggests that the Framework makes clear that these needs (gross unmet need for affordable housing) should be addressed in determining the Full Objectively Assessed Need (FOAN), but neither the Framework or the PPG suggest that they have to be met in full when determining the FOAN. Although this Judgement was made at the time of the previous Framework, Mr Butterworth accepted that this remains the case under the new Framework.
92. Instead the Council has set itself what it considers to be an achievable target of 204 affordable dwellings per year within its draft Medway Council Housing Strategy 2018-2022. This has been assessed by carrying out a Strategic Housing Economic Needs Assessment which is used alongside a database of planned housing developments, as a basis to predict the amount of affordable housing achievable in the Medway area.
93. As was stated in the High Court Judgement, the vast majority of the delivery of affordable housing will occur as a proportion of open-market schemes and is therefore dependent for its delivery upon market housing being delivered. Even so the Council has only delivered 73% of that target over the past year. While the general trend in delivery has been downwards over the last few years,<sup>21</sup> I do acknowledge that the Council is expected to deliver 250 affordable units in 2018/19 and therefore exceed the target. Nevertheless, whether using affordable housing need or the Council's own target, there is still a large shortfall in affordable housing delivery which the Council accepts.
94. In terms of delivery of the affordable housing, in a letter dated 26 February 2019, Hyde Housing Group confirm that it recently entered into a strategic partnership agreement with Homes England to deliver about 1600 affordable homes within the south east of England by March 2024. It identifies the appeal site as a key site to meet that target by delivering 122 affordable homes with 60% of the units for shared ownership and 40% for social rent. This is almost the opposite to the tenure split that is required in the SHMA, but nevertheless is supported by the Council's housing officer. Given the overall undersupply of affordable housing then I see no reason to disagree with this approach.
95. In addition, there would be a mix of housing tenure here, including shared ownership and social rented accommodation. Furthermore, a mix of the size of houses has been agreed across the site ranging from one bedroom flats to four bedroom houses<sup>22</sup>. Therefore, I am satisfied that the proposal would not conflict with the requirements of paragraph 62 and 91 of the Framework regarding the delivery of mixed and balanced communities.
96. In response to my request, the appellant has submitted a note on viability which states that the offer from Hyde Homes was the subject of a financial appraisal by Brookworth Homes and considered to be financially viable. I have seen or heard no evidence to suggest otherwise. A Grampian condition has been agreed between the parties to secure an affordable housing scheme. It was explained at the Inquiry that this was considered the most appropriate

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<sup>20</sup> *Kings Lynn and West Norfolk v Secretary of State for Communities and Local Government* [2015] EWHC 2464

<sup>21</sup> Figure 7.1 Mr Butterworth's Proof of Evidence

<sup>22</sup> Letter to the Hyde Group dated 27 February 2019 from Medway Council



option to allow myself flexibility over the percentage of affordable housing to be provided should the appeal be allowed, given that I had raised concerns regarding whether the appeal scheme should be considered as 100% or 50% affordable housing at this stage.

97. The Council confirmed that the condition would be discharged, not by way of a legal agreement, but by some form of agreed scheme. While the condition is agreed between the Council and the appellant, I note that there has been no agreement of heads of terms or principal terms need to ensure that the test of necessity is met and in the interests of transparency as advised by the PPG.
98. However, in my view, in order for affordable housing to be provided effectively, arrangements must be made to transfer it to an affordable housing provider, to ensure that appropriate occupancy criteria are defined and enforced, and to ensure that it remains affordable to first and subsequent occupiers. The legal certainty provided by a planning obligation, (either a section 106 agreement or unilateral undertaking) makes it the best means of ensuring that these arrangements are effective. While there is a requirement in the UU to abide by the Inspectors Decision Letter in relation to the provision of Affordable Housing on the Site this would not, in my view, adequately secure the above matters.
99. I have had regard to the advice in the Planning Practice Guidance on this<sup>23</sup>. It confirms that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency. It goes on to state that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk.
100. I am not convinced that the development is complex or strategically important or that its delivery would otherwise be at serious risk. I have had regard to the appeal decisions submitted by the appellant where both Inspectors applied conditions to secure affordable housing<sup>24</sup>. While I accept the need for consistency on appeal decisions, I am not aware of the individual circumstances of these appeals or the evidence before the Inspectors at the time regarding the affordable housing delivery. Furthermore, it appears that neither decision placed reliance on the affordable housing as a very special circumstance as neither scheme is in the Green Belt.
101. I accept that paragraph 145 (f) gives a unique exception to a particular group or tenure of housing within the Green Belt. This could, as the appellant suggests, be indicative of the importance the Government places on meeting affordable needs. However, this appeal does not concern limited affordable housing. Furthermore, if I accept the appellant's argument regarding the importance placed on affordable housing by the Government then it is imperative that it is secured as such and delivered on site in an appropriate manner. Therefore, I do not accept that a higher level of affordable housing can be secured by a condition in this case. While the delivery of affordable

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<sup>23</sup> PPG ID: 21a-010-20140306

<sup>24</sup> APP/G5180/W/17/3174961, APP/G5180/W/17/3179001 & APP/C3810/W/17/3178817

housing would be a benefit of the scheme, given the overall shortfall, I cannot be sure that it would be delivered at either 50% or 100%. Therefore, in that context, I give it only moderate weight.

102. There would be some economic benefits of the scheme which would be in the form of construction jobs, but these would be short term only. In the longer term, new households would introduce expenditure into the local economy and there would be additional benefits from further council tax income and a new homes bonus. However, no schemes upon which the bonus would be spent have been identified. In accordance with advice in the PPG<sup>25</sup> it would not be appropriate to make a decision based on the potential for the development to raise money for the Council in the absence of evidence to demonstrate how that money would be used to make this particular development acceptable in planning terms. Moreover, the economic benefits of the proposal would be generic and would arise with any housing development. Furthermore, the existing orchard on the farm must have some economic value. This has not been quantified and the proposal would lead to its loss. Consequently, I can only attach minimal weight to the economic benefits in my decision.
103. The appellant asserts that the appeal site would have its own strong defensible boundaries, and as at the Ruddington appeal decision, that this would be a benefit. However, the A289 does not, in my view, affect the functioning of the parcel of land within which the appeal site is located within the appeal site.

## **Conclusion**

104. I have found that the proposal is contrary to criterion i) of Policy BNE34 of the Local Plan albeit that the harm caused would be limited. However, given that I have found that there would be significant social benefits of the proposal then together with the minimal economic benefits they would outweigh the local priority to conserve the area's landscape. Therefore, there would be no conflict with the Policy.
105. I have found that the proposal would cause limited harm to landscape character and visual impact and therefore would be in conflict with Policy BNE25. While I have found that Policy BNE25 only attracts limited weight, the proposal would cause some harm to a valued landscape, and therefore I give this harm limited weight in my decision.
106. The proposal would be in conflict with the requirements of Policy BNE48 and the Framework with regard to the loss of BMVAL and I have given this limited weight.
107. The proposal would be inappropriate development in the Green Belt and would be significantly harmful to its openness, contrary to the Framework and Policy BNE30. There would also be significant harm to the purposes of the Green Belt in terms of the unrestricted sprawl of large built up areas and assisting in safeguarding the countryside from encroachment. There would be limited harm in the prevention of neighbouring towns merging into one another. In accordance with the Framework I give these harms substantial weight.

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<sup>25</sup> ID 21b-011-20140612

108. Therefore, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
109. Even were I to have concluded that through the imposition of a condition, the scheme could deliver a higher proportion of affordable housing, and consequently have attracted significant weight in its favour, this would still, together with the other considerations, not clearly outweigh the substantial harm I have identified to the Green Belt and other harms. Consequently, the very special circumstances necessary to justify the development would still not exist.
110. Although the proposal accords with many of the current development plan policies, it would be in conflict with the development plan taken as a whole given the conflict with the policies regarding the protection of the Green Belt and development in the countryside. However, the lack of a five year housing land supply means that the policies most important for the determination of the appeal are out of date. Nevertheless, in accordance with paragraph 11d)1) I have found that the application of Policies in the Framework that protect the Green Belt provide a clear reason for refusing the development proposed. There are no material considerations in this case that indicate a decision other than in accordance with the development plan and the Framework.
111. In light of the above, and having considered all other matters, the appeal is dismissed.

*Zoe Raygen*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY

Mr R Williams of Counsel

Instructed by Laura Caiels,  
Principal Lawyer, Medway  
Council

He called

Mr Canavan

Associate, Carter Jonas, on  
behalf of Medway Council

Mr J Etchells

Director, Jon Etchells  
Consulting Limited

### FOR THE APPELLANT

Mr J Clay of Counsel

Instructed by Mr J Escott  
Robinson Escott Planning LLP

He called

Mr PG Russell-Vick

Director, Enplan

Mr SJ Butterworth

Senior Director, Lichfields

Mr S Giles

Director, Motion Consultants  
Limited

Mr J Escott

Senior Partner, Robinson Escott  
Planning

### INTERESTED PERSONS

Mr Morgan

Local Resident

Mrs Masey

Local Resident

Mrs Morgan

Local Resident

## DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Habitat Regulation Assessment and Screening Matrix and Appropriate Assessment Statement from the Council
- 2 Letter from Natural England dated 28 January 2019
- 3 Council's submission on Monitoring Officer's Costs
- 4 Copy of *The Queen on the application of Save Britain's Heritage v SSCLG & Westminster City Council & Great Western Developments Limited* [2018]EWCA Civ 2137
- 5 Copy of *Borough Council of Kings Lynn and West Norfolk v SSCLG & Elm Park Holdings* [2015]EWHC 2464 (Admin)
- 6 Plan ref 14073/C202A annotated showing power lines
- 7 Appeal decision APP/P3040/W/17/3185493
- 8 Appeal decisions APP/G1580/W/17/3174961 & APP/G1580/W/17/3179001
- 9 Appeal decision APP/C3810/W/17/3178817
- 10 Medway Council Cabinet Report, Housing Infrastructure Fund Bid – New Routes to Good Growth 5 February 2019
- 11 Large scale planning permissions granted by Planning Committee since January 2018
- 12 Copy of *Hallam Land Management v SSCLG & Eastleigh Borough Council* [2018] EWCA Civ 1808
- 13 Lichfields Research: South East LPAs – Local Plan Requirement and Standard Method (2018-2028, 2014 household projections and 2017 (April 2018) Affordability Ratio
- 14 Email dated 5 April 2019 from Senior Planning manager Bellway Homes to Medway Council regarding Nightingale Rise Completions Rate
- 15 Response to Planning Inspector's queries re CIL Compliance/S106 contributions
- 16 Deliverability and submissions on Woolpit Principle by Medway Council
- 17 Email regrading viewpoints for site visit
- 18 Appellant's response to Medway Council's written submission on deliverability and the Woolpit Principle
- 19 Copy of *CABI and Cala Management Ltd v South Oxfordshire DC* [2017] P.A.D 43
- 20 Response to Planning Inspectors queries re CIL 11/04/2019 including Internal Memorandum from Greenspace Development to Planning dated 5 October 2017 and Medway Council Guide to Developer Contributions
- 21 Opening submissions on the behalf of the appellant
- 22 Opening statement on behalf of Medway Council

23 Closing statement on behalf of Medway Council

24 Closing submissions on behalf of the appellant

DOCUMENTS SUBMITTED AFTER THE INQUIRY

A Agreed list of conditions received 23 April 2019

B Signed Unilateral Undertaking dated 17 April 2019







## **REPRESENTATION TO THE MEDWAY LOCAL PLAN 2041: REGULATION 18B** **CONSULTATION DRAFT**

### **1.0 SUMMARY**

- 1.1 This representation has been prepared by Redrow, in response to the ongoing Medway Council Regulation 18b Consultation (Medway Local Plan 2041) and with specific reference to Land to the East of High Halstow. A separate representation is also made by Stantec on behalf of the Hoo Consortium, who represent 5 companies including Redrow.
- 1.2 It should be noted that the site which is the subject of this response is also the subject of a hybrid planning application (ref. MC/23/0855) awaiting determination for the construction of up to 482 residential units and a primary school in outline and full planning permission for the construction of 278 residential units and the local centre.
- 1.3 The site has been actively promoted by Redrow in all previous consultations including the Regulation 18a consultation in 2023, and the earlier call for sites submissions. The Land to the East of High Halstow (site ref HHH26) is identified as a proposed allocation in the Regulation 18b version of the Plan as part of the growth option SGO3 which blends regeneration and greenfield development, and the inclusion of the site in that respect is supported through this representation.

### **2.0 VISION FOR MEDWAY 2041**

- 2.1 As a general comment we consider that as currently worded the "Vision" does not identify the provision of housing as an important component of the Plan as set out in the vision under paragraph 2.1.1 of the consultation document.
- 2.2 The vision focuses on the employment needs and the existing employment as being the main drivers behind the vision, particularly directing employment opportunities to Kingsnorth and the Isle of Grain on the Hoo peninsular. Whilst this is a central part of Medway's vision, it does not justify the specific lack of reference to housing. Delivering an authority's housing need is a central component of any Local Plan and a determinative matter for the spatial strategy.
- 2.3 In not expressing the amount of development that is to be delivered in relation to housing and new employment, the Plan also fails to be positively prepared to provide a suitable framework for addressing housing and employment needs. The "Vision" should be amended to reference housing and employment provisions.
- 2.4 The Interim Sustainability Appraisal sets out in Table 5.1 the proposed growth options for Medway, of which Strategic Growth Option 3(SGO A3), the Blended Strategy, is the Council's preferred approach which sets out that Medway can deliver up to 23,733 homes across the plan period. This is 4,267 homes under the need of around 28,000 homes set out in the executive summary of the regulation 18b consultation document and 4,579 dwellings below the previously anticipated in the previous Regulation 18a consultation document.
- 2.5 Based on the evidence provided, we do not feel there is justification for the plan to not provide for the full assessed need.

### **3.0 STRATEGIC OBJECTIVES**

#### ***Prepared for a sustainable and green future***

- 3.1 Notably, no strategic objective deals expressly with the amount of housing that needs to be delivered. In the absence of clearly setting out what the housing requirement is and whether the Plan is looking to meet Medway's needs (which it should), the process of using the currently drafted objectives to inform the Council's assessment of different sites and locations for development cannot be considered as "Positively Prepared" or "Justified", contrary to the NPPF (para 35).

#### ***Supporting people to lead healthy lives and strengthening our communities***

- 3.2 Whilst it is acknowledged that, in general terms, the objective of "Supporting People to Lead Healthy Lives and Strengthening Our Communities" mentions housing generally, it does not set out how much housing will be provided. This is a determining factor in deciding what is the most appropriate spatial strategy is and should inform the basis of future strategic policies, as required by the NPPF (para 20 and 23).
- 3.3 We submit that the Council should seek to meet their needs in full and therefore we consider that there should be clarity provided in this strategic objective as to the housing requirement across the plan period and to demonstrate that the plan is positively prepared and justified in accordance with paragraph 35 of the NPPF.

#### ***Securing jobs and developing skills for a competitive economy***

- 3.4 The principles of the strategic objectives are supported. However, the lack of clarity in housing and employment growth in numerical forms required to meet local needs across the plan period must be expressed as an objective since many of the other objectives are dependent on the delivery of housing, including the ambitions for improved employment floorspace and higher-value employment opportunities, which are also reliant on providing enough housing.

### **4.0 SPATIAL DEVELOPMENT STRATEGY**

- 4.1 We support SGO 3 (Blended Strategy) as it is considered to be an appropriate and balanced growth strategy and one which seeks to deliver the submitted allocated site at Land East of High Halstow a site which is submitted to be available and deliverable for development early within the plan period, as demonstrated by the current live planning application.
- 4.2 However, this growth option does not deliver the 28,000 homes required to fully meet the district's housing needs. The Council needs to allocate additional sites across the district to deliver the additional 4,267 dwellings across the plan period to fully meet their needs in accordance with para 23 of the NPPF.

#### ***Policies Map – North West***

- 4.3 We note the inclusion of site HHH26 on the North West section of the Policies Map, which is the site to which this representation relates. We support the inclusion of that site as an indicative preferred 'resi led' site for development. As set out in this representation, and as fully explained in the live planning application, the site in question is considered to be logically and appropriately located to deliver residential development in the form of an extension to the village of High Halstow. The site also provides the opportunity to re-locate the existing

primary school, expanding the capacity and creating a new and improved facility for the village. The proposal site can bring forward residential development in a sustainable location, on a site which is available and deliverable for development.

## **5.0 CLOSING REMARKS**

- 5.1 Land to the East of High Halstow is capable of delivering up to 760 residential units to help meet the housing needs of Medway Council in a sustainable and suitable location. As a greenfield site the Land to the East of High Halstow would be able to deliver housing early in the plan period, with its availability and suitability for development evidenced by the current live planning application which has been made by a national housebuilder.
- 5.2 We therefore support SGO 3 (Blended Strategy) as it is considered to reflect the most appropriate approach to delivering growth within the district, including the development of sites such as the Land to the East of High Halstow.
- 5.3 The Council's preferred approach, the Blended Strategy, sets out that Medway can deliver up to 23,733 homes across the plan period. This is 4,267 homes under the need of around 28,000 homes set out in the executive summary of the regulation 18b consultation document and 4,579 dwellings below the previously anticipated in the previous Regulation 18a consultation document.
- 5.4 This growth option does not fully deliver the homes required to meet the Council's housing needs, and therefore the Council needs to retain draft allocations such as Land to the East of High Halstow site as well as allocating additional sites across the district to deliver the additional dwellings across the plan period to fully meet their needs in accordance with para 23 of the NPPF.

planning  
transport  
design  
environment  
infrastructure  
land

# **Medway Council Regulation 18 Consultation Response**

## **Land at Lower Bloors Lane**

**LAA SITE REF: RN14**

REGULATION 18a CONSULTATION ID: 1564

**REGULATION 18B CONSULTATION ID: 2667**

**CLIENT: Mr Zammit and Mr Jhalli**

SEPTEMBER 2024

DHA Ref: JAC/OR/17122/17124



# 1 OVERVIEW

## 1.1 SUMMARY

- 1.1.1 This representation has been prepared on behalf of our client, Mr Zammit and Mr Jhalli, in respect of the ongoing Medway Council Regulation 18b Consultation ('Medway Local Plan 2041') and in relation to the site 'Land at Lower Bloors Lane'.
- 1.1.2 Representations have previously been prepared for the Regulation 18a consultation in 2023.
- 1.1.3 The Council have identified the site as RN14, while the Regulation 18a consultation response ID was 1564.

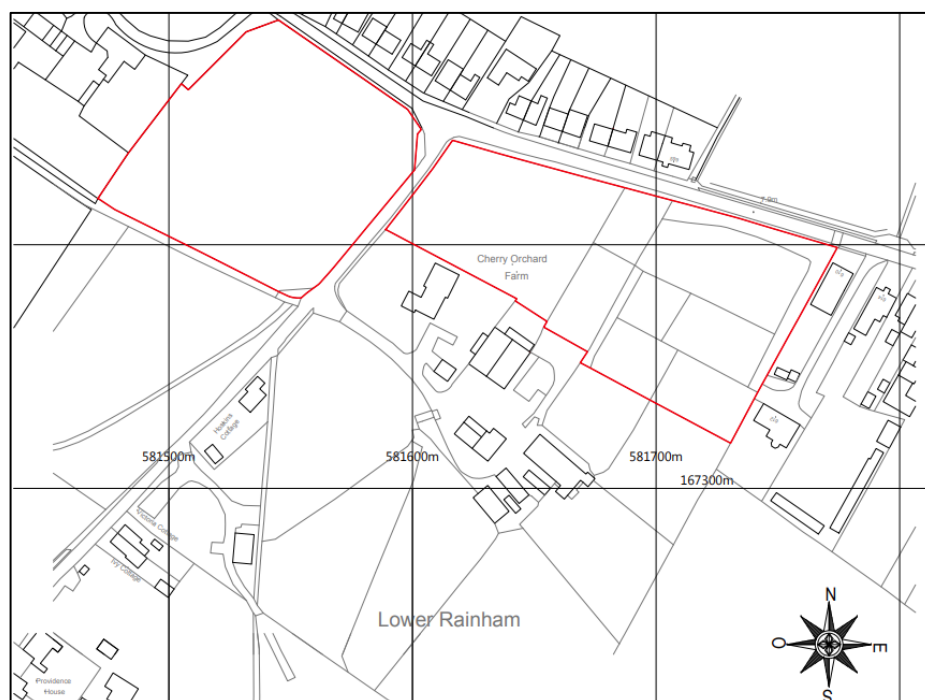


FIGURE 1: SITE LOCATION PLAN.

- 1.1.4 The current consultation builds on the responses to the consultation 'Setting the Direction for Medway 2040' in Autumn 2023 (i.e. Regulation 18a), in defining the vision and strategic objectives for the new Local Plan. The current consultation provides more information on proposed policies and options for a development strategy, including the potential sites and broad locations that could form allocations for development in the new Local Plan covering the period up to 2041.
- 1.1.5 The response is set out in the following structure:



- Chapter 1 – Overview and introduction
- Chapter 2 – Sets out our client’s response to the consultation (structured by relevant objectives/policies);
- Chapter 3 – Provides site specific comments.

## 2 CONSULTATION RESPONSE

### 2.1 SECTION 2.1 VISION FOR MEDWAY 2041

---

- 2.1.1 The vision is contrary to the requirements of the NPPF (para 15), the “Vision” fails to identify the provision of housing as an important component of the Plan as set out in the vision under paragraph 2.1.1 of the consultation document. Delivering an authority’s housing need is a central component of any Local Plan and a determinative matter for the spatial strategy. In not expressing the amount of development that is to be delivered in relation to housing, the Plan also fails to be positively prepared to provide a suitable framework for addressing housing.
- 2.1.2 The “Vision” should be amended to reference housing provisions. The Interim Sustainability Appraisal sets out in Table 5.1 the proposed growth options for Medway, of which Strategic Growth Option 3(SGO A3), the Blended Strategy, is the Council’s preferred approach which sets out that Medway can deliver up to 23,733 homes across the plan period. This is 4,267 homes under the need of around 28,000 homes set out in the executive summary of the regulation 18b consultation document and 4,579 dwellings below that previously anticipated in the previous Regulation 18a consultation document.
- 2.1.3 Based on the evidence provided, we do not feel there is justification for the plan to not provide for the full assessed need.

### 2.2 SECTION 2.2 STRATEGIC OBJECTIVES

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#### **Prepared for a sustainable and green future**

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- 2.2.1 Notably, no strategic objective deals expressly with the amount of housing that needs to be delivered. In the absence of clearly setting out what the housing requirement is and whether the Plan is looking to meet Medway’s needs (which it should), the process of using the currently drafted objectives to inform the Council’s assessment of different sites and locations for development cannot be considered as “Positively Prepared” or “Justified”, contrary to the NPPF (para 35). It is clearly part of preparing a sustainable future that sufficient housing is delivered.

#### **Supporting people to lead healthy lives and strengthening our communities**

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- 2.2.2 Whilst it is acknowledged that, in general terms, the objective of “Supporting People to Lead Healthy Lives and Strengthening Our Communities” mentions housing generally, it does not set out how much housing will be provided. This is a determining factor in deciding what is the most appropriate spatial strategy is

and should inform the basis of future strategic policies, as required by the NPPF (para 20 and 23).

### **Securing jobs and developing skills for a competitive economy**

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- 2.2.3 The principles of the strategic objectives are supported. However, the lack of clarity in housing numerical forms across the plan period required to meet local needs must be expressed as an objective since many of the other objectives are dependent on the delivery of housing.

### **Boost pride in Medway through quality and resilient development**

---

- 2.2.4 This objective refers to the development of brownfield land as part of the ongoing benefits of Medway's regeneration to deliver housing and employment growth. This is supported by NPPF (para 123), which states that it is "a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land".
- 2.2.5 Whilst this is supported, it is also understood that the objectives do not directly address the need to release brownfield land for urban regeneration as part of a combined strategy for meeting Medway's housing needs, including suburban expansion, rural development and Green Belt release. We are, therefore, still of the opinion that this objective is misleading, appearing to read that urban regeneration is the only objective rather than part of a wider objective for Medway to meet housing needs through the emerging Local Plan.
- 2.2.6 In accordance with the proposed policy T11 in relation to Small Sites and SME Housebuilders, this objective might make reference to the important contribution that SME Housebuilders make in delivering high quality development, and outlining how they will be supported.

## **2.3 SECTION 2.3 SPATIAL DEVELOPMENT STRATEGY**

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- 2.3.1 Given the nature of the housing need, it is considered that a blended strategy will need to include additional sites than those indicatively allocated, including 'suburban expansion' and 'greenfield sites' to meet their objective to meet the objectively assessed need in full as set out in the national policy.
- 2.3.2 It is highlighted that the greenfield site at Lower Bloors Lane will be available and deliverable in the earlier years of the plan period with brownfield sites typically taking longer to come forward as they can have additional constraints affecting deliverability, such as existing uses and remediation.
- 2.3.3 The growing need for both market and affordable housing emphasises the need for the Council to plan to meet its full objectively assessed need, as required by

the NPPF (para 11b and para 23), supporting the Government's objectives to significantly boost the supply of homes (NPPF, para 60).

- 2.3.4 The Council should also work with Gravesham Borough Council to determine if it needs to and/or can accommodate any of its needs (up to 2,000 homes) to ensure the Plan is "Positively Prepared" (NPPF, para 35).

## 2.4 SECTION 3 SPATIAL GROWTH OPTIONS

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### Section 3.2 Preferred Spatial Growth Option

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- 2.4.1 It is considered the SGO1 (Urban Focus) fails to deliver appropriate growth across the district, while SGO2 (Dispersed Growth) clearly fails to make the most appropriate use of existing brownfield sites.
- 2.4.2 SGO 3 (Blended Strategy) is supported in general as the most appropriate strategy, as clearly there is a middle ground between utilising brownfield sites as much as possible, while also ensuring growth can be delivered across the district with urban extensions and greenfield sites.
- 2.4.3 However, this growth option does not deliver the 28,000 homes required to fully meet the district's housing needs. The Council needs to allocate additional sites across the district to deliver the additional 4,267 dwellings across the plan period to fully meet their needs in accordance with para 23 of the NPPF.
- 2.4.4 Therefore, further sites are required in addition to those already indicatively allocated. Sustainable sites such as Lower Bloors Lane would help to meet this need.

## 2.5 POLICY S1: PLANNING FOR CLIMATE CHANGE

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**Question 1: The Council could consider setting local standards for development that go beyond national policy/regulations in addressing climate change. What evidence would justify this approach, and what standards would be appropriate?**

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- 2.5.1 Our client considers that the Council should not go beyond national policy/regulations in addressing climate change. This is because national policy and regulations are continually changing adapting to new and different concerns.
- 2.5.2 We consider that the Council should word policy S1 in a way that is flexible and adaptable enough to meet the ever-evolving requirements of national policy when it comes to meeting the challenges of climate change.

## 2.6 POLICY S2: CONSERVATION AND ENHANCEMENT OF THE NATURAL ENVIRONMENT

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- 2.6.1 Policy S2 should remain as is, with proposals only having to demonstrate a 10% net gain in accordance with the Environment Act, as required by law.

**Question 2: Do you consider that the Council should seek to go beyond the statutory minimum of a 10% increase in BNG? What evidence can you provide to support your view?**

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- 2.6.2 Our client objects to Medway Council's seeking to go beyond the statutory minimum 10% increase in BNG. Delivering biodiversity net gain above the statutory minimum requirement can cause significant viability issues, particularly for brownfield sites, albeit it impacts all sites.
- 2.6.3 Additionally, the imposition of a BNG requirement over 10% will restrict the number of units that can be delivered on some sites where further land is required to be set aside for BNG improvements. Given Medway's preferred strategic option is already some 4,267 dwellings short, additional BNG will reduce dwellings further.
- 2.6.4 If MC wish to exceed the Environment Act's requirement for 10% BNG, this would need to be tested further by the Council. Any requirement should be proportionate to the proposed scale of development to ensure that development can be viable and fundamentally delivered.

## 2.7 POLICY DM 5: HOUSING DESIGN

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- 2.7.1 Our client is concerned by bullet point 3 of the draft policy. This policy requirement would be better suited to Policy T4. The M4 building standards for dwellings can be incorporated into Policy T2: Housing Mix, setting out the mix of M4 (2) and M4 (3) homes, which are all designed to adapt to various living situations.
- 2.7.2 The last bullet point of the policy seeks a design for flexible living places that support 'long life and loose fit' neighbourhoods. Our client has concerns regarding the deliverability of this part of the policy. What standards does the Council intend to apply to help determine whether something is flexible living, and what are the key design criteria for long-life and loose-fit neighbourhoods?
- 2.7.3 The Council should consider the production of the Supplementary Planning Document (SPD) or details within a Design Code to clearly set out how they wish housing standards to meet such fluid design criteria to help applicants understand what is required of a planning application which may help facilitate the long life and loose fit neighbourhoods set out in the policy.

- 2.7.4 Ultimately, the last part of this policy currently appears to be intangible. The Council needs to provide further guidance about how long-life and loose-fit neighbourhoods will manifest themselves in the Medway towns.

## 2.8 POLICY DM6: SUSTAINABLE DESIGN AND CONSTRUCTION

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- 2.8.1 The policy states in its last bullet point that *"All residential proposals shall detail how they are seeking to facilitate working from home within the design, including access to high-speed broadband/internet."* This part of the policy is broad brush. The Council needs to consider how this policy will manifest itself in practice. It should be for the applicant to provide robust evidence to demonstrate if this is feasible.
- 2.8.2 Evidence presented from NOMIS for employment by occupation between April 23 and March 2024 for Medway shows that just over half of Medway's workforce (54.1%) work in professional occupations, considered white-collar working. 45.9% of the workforce is working in professions where working from home is less frequent/not appropriate. We, therefore, consider it is not appropriate for new residential dwellings to make provision for bespoke working-from-home facilities in residential dwellings where existing areas such as spare bedrooms and other locations in dwellings can be utilised to work from home given the portable nature of professional service work operating in laptops and other devices.
- 2.8.3 Moreover, we raise concerns with regard to the broadband provision required as part of the policy. There are a number of areas in the Council boundary that will not be able to achieve the desired speeds, particularly in rural areas. The Council should prepare an assessment of speeds and delivery potential before submission of the new Draft Local Plan to ensure that the requirement is feasible. If not, the approach should be reviewed so that it is fair and reasonable on the basis of the location of the development.

## 2.9 POLICY DM10: CONSERVATION AREAS

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- 2.9.1 Policy DM10 should be more explicit that new development within a conservation area should positively be encouraged where it can contribute positively (Paragraph 212 NPPF), while similarly not all elements within a CA will contribute to its significance (Paragraph 213 NPPF).

### **Question 9: Should this policy be broadened out to areas adjacent or near to Conservation Areas rather than only within? If so, please explain why.**

---

- 2.9.2 Our client does not agree that the policy should be broadened to any specific areas adjacent to Conservation Areas. The reason is that it is a matter of planning judgement combined with the nature and scale of the proposal as to whether it



would impact a Conservation Area within close proximity to the site and should be considered by the planning officer on an individual case-by-case basis.

## **2.10 POLICY T2: HOUSING MIX**

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- 2.10.1 Policy T2 is considered a strategic policy to ensure that the Council delivers a sustainable and suitable mix of housing to meet local housing needs as set out in the three Local Housing Need Assessments. The Local Housing Needs Assessment (2021), Which Is part of the evidence base for the Emerging Local Plan, states that 1no. and 3no.bed dwellings are currently the lowest housing stock in the district. The assessment also states that there is an overall need for 30 to 35% of dwellings to be flats within the overall housing mix.
- 2.10.2 It is noted that given the blended strategy approach is preferred by the Council, this will include a number of brownfield sites primarily delivering in the form of apartment blocks. This will deliver a large proportion of the required housing need in terms of flats and 1no/2no. bedroom units.
- 2.10.3 Therefore, our client queries whether suitable flexibility is built in to the policy that reflects the nuances of the sites being delivered, and how this might be split across the housing coming forward.

### **Question 10: Do you think this policy provides effective guidance on the required housing mix in Medway?**

---

- 2.10.4 Given the strategic nature of this policy, it is considered that the policy provides effective guidance, pointing at the Local housing to understand the required site location characteristics, albeit noting the comments made above.

## **2.11 POLICY T3: AFFORDABLE HOUSING**

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- 2.11.1 it is noted that the Council have an annual net shortfall of 870 affordable dwellings per annum and that this policy seeks to reduce this overall shortfall.

### **Question 11: Do you agree with having a 10% requirement for affordable housing on urban brownfield sites and 30% requirement for affordable housing on greenfield sites and higher value urban locations? What do you consider would represent an effective alternative approach? Do you agree with a varied approach for affordable housing requirements based on the different value areas across Medway?**

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- 2.11.2 We consider flexibility should be applied based on relevant viability assessment.

**Question 12: What do you consider would represent an effective split of tenures between social/affordable rent and intermediate/low-cost home ownership housing in delivering affordable housing?**

---

- 2.11.3 Our client does not object to the principle of having a percentage split relating to social/affordable rent and intermediate low-cost home ownership. It is considered that the policy should use percentages led by the need requirement set out in Table 7.1 of the Local Housing Needs Assessment to inform the percentages to accompany Policy T3.

**Question 13: What do you consider would represent an effective split of tenures between social/affordable rent and intermediate/low-cost home ownership housing in delivering affordable housing?**

---

- 2.11.4 Paragraph 6.3.13 of the Local Plan consultation document sets out the cascade principle. The preference for on-site delivery of affordable housing then off-site provision on an alternative site where appropriate. Common sense needs to be applied to ensure units are attractive to providers.

**2.12 POLICY T9: SELF-BUILD AND CUSTOM HOUSEBUILDING**

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- 2.12.1 It is agreed that no self-and custom-built housing should be required in flatted development, as set out in the wording of this policy.

**2.13 POLICY T11: SMALL SITES AND SME HOUSEBUILDERS**

---

- 2.13.1 Our client welcomes the support offered to smaller sites and SME housebuilders, which provide an integral part of housing delivery. Notably SME housebuilders, who are very often highly localised, deliver higher quality developments which enhance local areas. The policy should make clear that weight will be afforded to the delivery of small sites by SME housebuilders coming forward.
- 2.13.2 The policy does need to make clear the general attributes of these small sites that the Council will consider acceptable.

**2.14 SECTION 9.1: VISION FOR ACCESS AND MOVEMENT IN MEDWAY**

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- 2.14.1 It is concerning that opening points on the vision for access and movement in Medway relate to working from home. Our client's comments remain the same as they set out under Policy DM 6.
- 2.14.2 It is not appropriate for new residential dwellings to make provision for bespoke working-from-home facilities in residential dwellings where existing areas such as spare bedrooms and other locations in dwellings can be utilised to work from home

given the portable nature of professional service work operating in laptops and other devices.

## **2.15 POLICY T26: ACCESSIBILITY STANDARDS**

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- 2.15.1 While the intentions behind this policy are understood, it is considered that the '15 minute neighbourhood' is a predominantly urban concept, and its inclusion within Medway's Local Plan fails to recognise the inherent characteristics of rural and semi-rural neighbourhoods where '15 minute neighbourhoods' are simply not possible.
- 2.15.2 While the client agrees with the intention to promote sustainable development, the wording of the policy should be amended to enable some flexibility across sites, where a site-specific judgement can be made, for example in instances where there is a general accordance with the thrust of the policy.

## 3 SITE SPECIFIC CONSIDERATIONS

### 3.1 SUMMARY

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- 3.1.1 The submitted site at Lower Bloors Lane (RN14), was rejected as an allocation for the following reasons:

*"Loss of BMV agricultural land. The development could lead to coalescence between settlements. Potential adverse impact on listed building. Potential adverse impact on Conservation Area. Beyond reasonable walking distance to current public transport services."*

- 3.1.2 As a general point, our comments within this representation indicate our support for the preferred Strategic Growth Option 3(SGO A3), the Blended Strategy, which sets out that Medway can deliver up to 23,733 homes across the plan period.

- 3.1.3 This figure is 4,267 homes under the need of around 28,000 homes set out in the executive summary of the regulation 18b consultation document and 4,579 dwellings below the previously anticipated figure in the previous Regulation 18a consultation document.

- 3.1.4 Given the nature of the housing need, it is clear therefore that additional sites other than those indicatively allocated as 'suburban expansion' and 'greenfield sites' are required to meet their objective to meet the objectively assessed need in full.

### 3.2 LOSS OF AGRICULTURAL LAND

---

- 3.2.1 As can clearly be seen on site and from satellite imagery, the eastern parcel has visibly not been in active agricultural use or cultivated for over 10 years.

- 3.2.2 The western parcel is used for a commercial orchard, albeit the site is of such a small scale that it cannot be viably farmed. It is important to note that the proposal will not impact upon the viability of the additional orchard operations to the south.

### 3.3 COALESCENCE

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- 3.3.1 The site is 'sandwiched' between built confines as shown by the extract from Medway proposals map, and constitutes a clear infill opportunity.

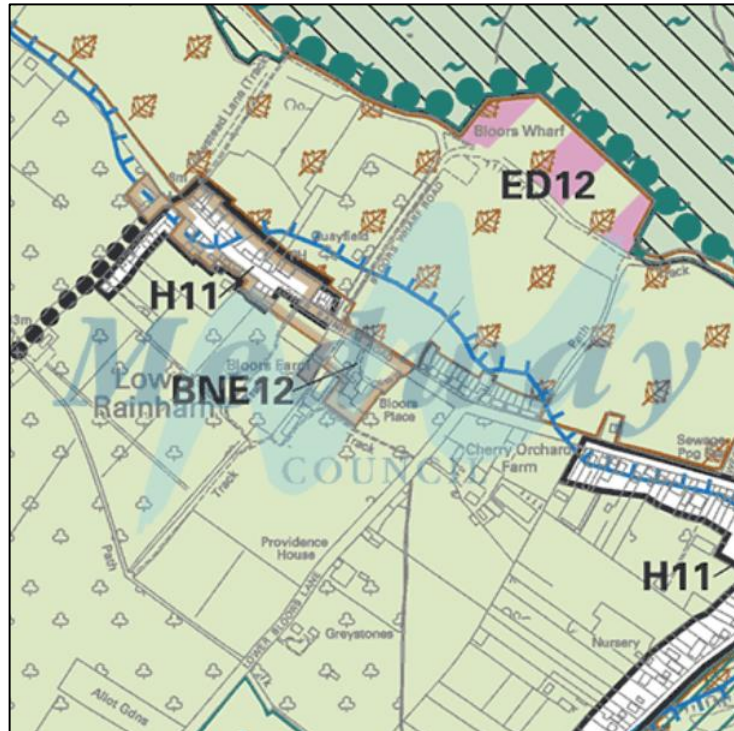


FIGURE 2: PROPOSALS MAP.

- 3.3.2 Notably, there is already existing built form to the north of the site. While the submitted site is not within confines, it is clear that the area is experienced as urban and no break experienced, given the existing built form.
- 3.3.3 Any future development at the site can require a suitable landscape buffer, both in relation to the heritage asset but also maintaining any separation between settlements.
- 3.3.4 The Bloors Place site, and the land opposite to the north, can continue to function as a gap between the two settlements.

## 3.4 HERITAGE

- 3.4.1 A heritage statement has been completed on the site, and it is submitted separately alongside this letter.
- 3.4.2 In the context of a proposed scheme on the site, it was concluded that:
- (1) The proposed development is considered to cause less than substantial harm at the lower end of the scale to the setting of the listed building heritage assets and will cause no harm to its special interest.

- (2) Views of both the listed buildings and conservation area are limited or non-existent and so will not be impacted by the development. The character and appearance of the CA is found to be unharmed.
- (3) The proposal preserves the setting of the nearby listed buildings, and the character and appearance of the adjacent CA.

3.4.3 While the heritage constraint is noted, this should not necessarily preclude development on site however, and be weighed against the public benefits of the proposal. Whilst a constraint, the heritage assets are not considered a barrier to the deliverability and availability of the site.

### 3.5 TRANSPORT SERVICES

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- 3.5.1 In terms of what is usually considered a 'sustainable' walking distance, the public footpath GB5 runs from Lower Bloors Lane towards Rainham centre. The proposal includes a footpath on Lower Bloors Lane up to the footpath. In addition, there is a footpath over the railway line on the southern end of Lower Bloors Lane which provides a route onto Bloors Lane and into Rainham/Gillingham. There is also a footpath along the length of Lower Rainham Road.
- 3.5.2 The typically used national guidance on acceptable walking distances is the Chartered Institution of Highways and Transportation (CIHT) 'Providing for Journeys on Foot' (2000). Using the footpath GB5, it is a 1 mile walk, roughly 20 minutes, to Rainham station. We note that for Commuting/School/Site – the application site is located between "acceptable" and "comfortably" under the preferred maximum. The walk is relatively level throughout, and has paved surfaces the entire route.
- 3.5.3 There is a pair of bus stops located on Lower Bloors Lane, less than 100m from the site's entrance. It is highlighted that this bus stop has hourly services, providing a service between Chatham, Rainham and Gillingham. Further services are available from these destinations, includes train stations.
- 3.5.4 Given the current development on Lower Rainham Road and expected development in the future, it is highly likely that developer contributions will be at a level to contribute towards increased services in the area.





DEVELOPMENT AT LOWER BLOORS LANE  
RAINHAM, KENT, ME8 7TP

HERITAGE STATEMENT



HUL Ref: 2209.1141 | 28 November 2023

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### HS1 LISTING DESCRIPTIONS

REVISION SCHEDULE					
Rev	Date	Details	Prepared by	Reviewed by	Approved by
1	11/05/2023	Draft For Review	Shaun Moger Heritage Consultant	Paul Clarke Director	Client
	28/11/2023	For Submission	Shaun Moger Heritage Consultant	Paul Clarke Director	Client



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## 1.0 INTRODUCTION

- 1.1. This Heritage Statement has been produced by **heritage** unlimited to support an outline planning application for a development at Lower Bloors Lane, Rainham.
- 1.2. The land is split in two parts, to the east and west side of Lower Bloors Lane. The west side is adjacent to Lower Rainham Conservation Area and two listed buildings; the grade II\* Bloors Place and its grade II listed Garden Walls. The east side has no further heritage constraints.
- 1.3. Listed buildings and conservation areas are defined by the National Planning Policy Framework (2021) (NPPF) as designated heritage assets. As the proposed development affects heritage assets, paragraph 194 of the NPPF requires a Heritage Statement to support a planning application. This document has been prepared in accordance with the requirements of the NPPF.
- 1.4. The purpose of a Heritage Statement is to identify the significance of any heritage asset affected by the proposed development, the impact the proposed development will have upon the identified significance and justification for the proposed development. The Heritage Statement also needs to assess the proposed work in accordance with the statutory tests provided in the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 1.5. This Heritage Statement should be read in conjunction with architectural plans and other supporting documents, which form this planning application.
- 1.6. This report has been compiled by Shaun Moger MSc Historic Building Cons and is based on desk-based research and a site visit carried out March 2023.



## 2.0 SITE LOCATION AND CONTEXT

- 2.1. The proposed development site is split in two parts to the east and west side of Lower Bloors Lane, on the south side of the junction with Lower Rainham Road. The site is also bounded to the southwest by a crossroads formed by access driveways to Bloors Hop Farm and Cherry Orchard Farm
- 2.2. Both sites are currently undeveloped with the land to the west currently used as an orchard and the land to the east used for keeping horses. The land to the west is approximately 0.7 hectares in area, 80m in length on the border of Lower Rainham Road and 90m along Lower Bloors Lane. The land to the east is slightly larger at 1.15 hectares, with a 160m border with Lower Rainham Road and 50m with Lower Bloors Lane.
- 2.3. The area is low lying and close to the edge of the River Medway with Bloors Wharf situated 300m northeast (though not visible), separated by large open fields, mature planting, and a row of development. The flat landscape continues to each side of the proposal sites, with fields, orchards, and wooded areas to the southwest, however the topography begins to rise and undulate approximately 150m along Lower Bloors Lane from the Lower Rainham Road junction.
- 2.4. Opposite the site on the north side of Lower Rainham Road is 20<sup>th</sup> century development comprising of primarily semi-detached single and two storey properties. Further 20<sup>th</sup> century development is also present to the east of the land including larger detached properties and a large, redeveloped dwelling (completed 2021) adjacent to the southeast corner of the site. The large, detached property abutting the southern edge of the east site is also a late 20<sup>th</sup> century development with industrial/commercial buildings having been constructed in numerous development phases in the period since.
- 2.5. To the west of the site is the grade II\* listed building, Bloors Place, of which the Garden Walls to the south and east (the boundary shared with the site), are separately listed grade II. The listed property is heavily screened from view by dense mature hedge growth and trees such that it is not visible from Lower Rainham Road, with the exception of a partial view through the driveway entrance to the northwest, and the only other partial view being of the first floor and roof of the southeast elevation, as seen from Lower Bloors Lane.



- 2.6. To the southwest of Bloors Place, approximately 100m west of the west proposal site, is a large weatherboard barn and an oast house. Whilst these are traditional in architectural style and construction, they are both in fact modern, originating as a redevelopment of ancillary farm buildings c.2013-15. The previous barn dated to the mid-20<sup>th</sup> century, whilst the oast building was previously a windpump and dated to c.1890.

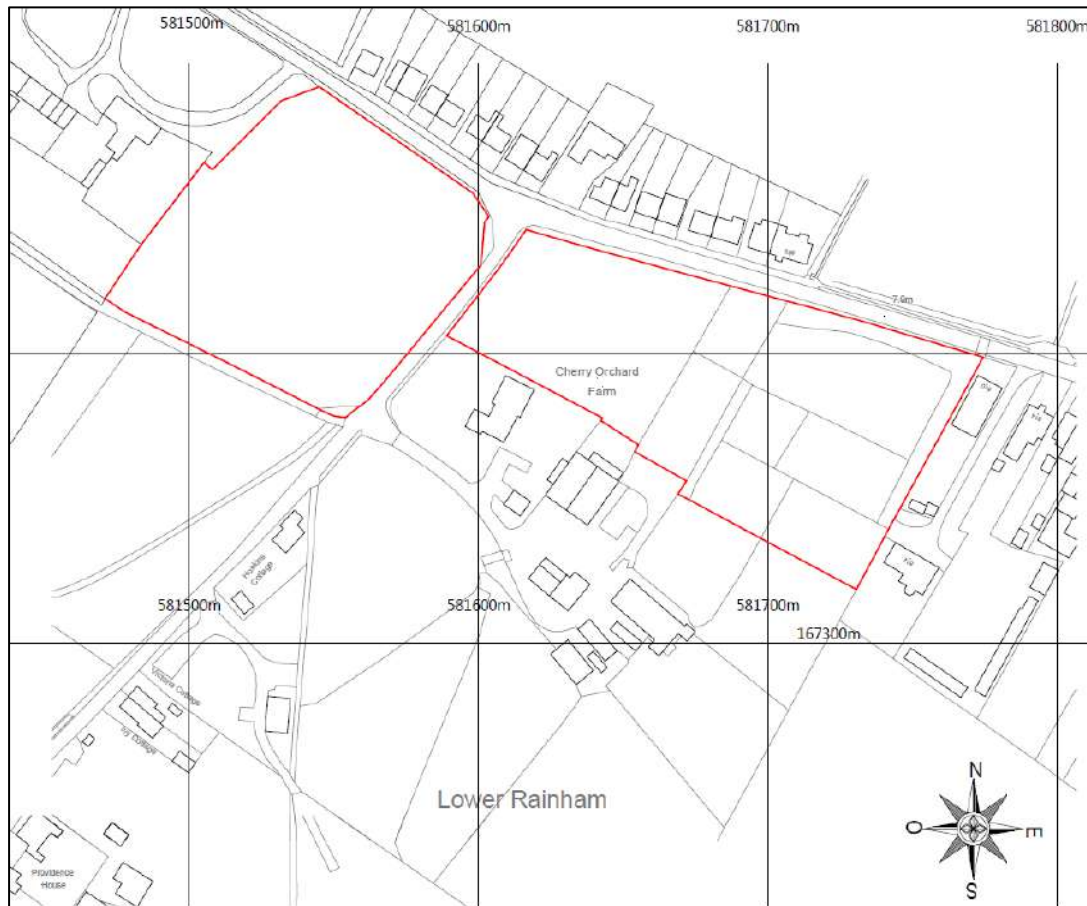


Fig.1: Site location plan, outlined in red.





Fig.2: Looking southeast along Lower Rainham Road, site centre right. The evergreen border to the right is the boundary of the listed building, Bloors Place.



Fig.3: The site viewed from Lower Rainham Road, looking south with the modern property at Cherry Orchard Farm visible beyond.





Fig.4: The junction of Lower Rainham Road and Lower Bloors Lane which splits the proposal site into east and west halves.



Fig.5: The west site, currently an orchard, viewed from the junction.



Fig.6: The only discernible view of Bloors Place from Lower Rainham Road is a partial, seasonal view through the hedges of its east elevation gable end.



Fig.7: The east site, concealed by a dense hedge border.





Fig.8: The east site viewed from Lower Bloors Lane. The site is currently undeveloped and used to keep horses, the adjacent Cherry Orchard Farm consists of late 20<sup>th</sup> and 21<sup>st</sup> century buildings.



Fig.9: The west site viewed from Lower Bloors Lane. A dense tall verdant border was recently cleared, prior to which the site was fully screened from view. Bloors Place, to the centre, is minimally visible and would likely be entirely screened by trees during warmer months.





Fig.10: Looking north along Lower Bloors Lane towards the mid-late 20<sup>th</sup> century developments on the north side of Lower Rainham Road.



Fig.11: Cherry Orchard Farm, comprising primarily of modern buildings including metal clad warehouses.





Fig.12: The entrance track to the south side of the west site which leads to the modern oast and barn development.



Fig.13: A public footpath to the south of Cherry Orchard Farm, from which neither site is visible due to orientation, topography, and vegetation.





Fig.14: A modern infill development, c.2021, adjacent to the eastern end of the east site.



Fig.15: Modern buildings at Cherry Orchard Farm seen from the eastern end of Lower Rainham Road.





Fig.16: Mid-late 20<sup>th</sup> century development east of the site on the south side of Lower Rainham Road.



Fig.17: Mid-late 20<sup>th</sup> century development opposite the site on the north side of Lower Rainham Road.



Fig.18: The development on the north side of Lower Rainham Road fully screens the site from view of the park sited between the road and the river.



Fig.19: Bloors Place is almost invisible from opposite it on Lower Rainham Road with the development inside of the conservation area also scarcely visible from this point to the far right of the image.





Fig.20: The driveway of Bloors Place, 80m northwest of the site.

## 3.0 IDENTIFIED HERITAGE ASSETS

- 3.1. The National Planning Policy Framework (NPPF) requires that all heritage assets affected by the proposed development are identified and their significance, which includes setting, are described. The level of 'harm' the proposed works will have to the identified heritage assets also needs to be determined within the context of a Heritage Statement.
- 3.2. As identified in the introduction, the west half of the site is adjacent to the principal heritage asset, the grade II\* Bloors Place, in addition to its grade II listed garden walls, and Lower Rainham Conservation Area. An oast 65m southwest of Bloors Place was previously identified by a neighbouring planning application as a non-designated heritage asset, however this is to be disputed.

### Bloors Place

- 3.3. Bloors Place is a grade II\* listed building, designated in February 1950. The property was constructed 1470-1510 and was home to the le Bloere/le Blore/Bloor family, from whom the house, lane, and nearby wharf take their name. The original form of the property was as a three-room Wealdon hall house, extended in the early 16<sup>th</sup> century with a stone rear wing and at which time the prominent central octagonal chimney may also have been added. This is potentially supported by the fact that the roof allegedly shows no evidence of smoke blackening, indicating that it could be a rare example of a hall house with an original rear stack. The Wealdon section of the house was reduced to two rooms following a fire in the 18<sup>th</sup> century which also partly destroyed 17<sup>th</sup> century elements of the rear wing. Further changes also came in 1710, when the front elevation was redesigned, concealing the visible timber frame, and c.1798 when large parts of the property were demolished to reduce the scale of the property to that of a farmhouse.
- 3.4. The property is of timber frame construction, clad with red brick to the ground floor and tile hung to the first floor. The aforementioned rear wing is of Kentish Ragstone rubble with stone mullioned windows, and the wing was extended using narrow 17<sup>th</sup> century brick laid in English bond, whilst Flemish bond is used on other elements. The plain tile roof is primarily hipped, including the dormers, however the east elevation features a gable with tile hung gable end fitted with a timber glazing bar casement window. Four large brick stacks also define the roofscape of the property, adjoining the elevations or to the side of the intersection of the main range and rear wing.





- 3.5. Adjacent to the house are a range of sheds, part brick-, part timber framed on a brick plinth of a lean-to style against the high wall separating the western yard from the eastern garden. The eastern garden can be accessed from the west via an opening in the sheds and a doorway which incorporates sections of re-used medieval stonework, possibly taken from the main house following one of the destruction/demolition phases.

## Garden Walls To South And East Of Bloors Place

- 3.6. The garden walls to the south and east of Bloors Place, enclosing the kitchen garden and east garden are also listed, designated grade II in January 1984.
- 3.7. The walls are 17<sup>th</sup> century and constructed of English bond brick, ragstone rubble, and dressings. The brick walls have a plinth and angled bricks beneath a weathered brick coping, whilst the stone walls have a moulded stone four centred arched doorway.



Fig.21: Illustration of Bloors Place, c.1880, showing it to be relatively unchanged.

## Lower Rainham Conservation Area

- 3.8. Lower Rainham Conservation Area was designated in March 1989. To date, no conservation area appraisal document has been published.
- 3.9. The conservation area is approximately 400m in length, following the linear settlement pattern of Lower Rainham. The area stretches between two listed properties, the grade II Chapel House to the northwest and grade II\* Bloors Place to the southeast, with six listing buildings in total included in the area, all grade II aside from Bloors Place.
- 3.10. Development is concentrated towards the northwest end of Lower Rainham Road and is observed to be relatively unchanged compared to historic mapping. The majority of mid-late 20<sup>th</sup> century development is focussed outside of the conservation area to the north side of the road to the southeast and east side of Pump Lane to the northwest. Analysis of the listed properties indicates that development of Lower Rainham dates to the 15<sup>th</sup> century or earlier, with buildings of this period constructed in the traditional timber frame Wealden hall type. Some such properties retain the more original external appearance of plaster infilling, whilst others were altered with brick and tile hanging. Later additions to the area also utilise weatherboarding, brick (red, brown, or stock), and render, and plain clay tiles are the dominant roof covering. Properties are typically two storey with an even distribution of short rows, semi-, or detached buildings.

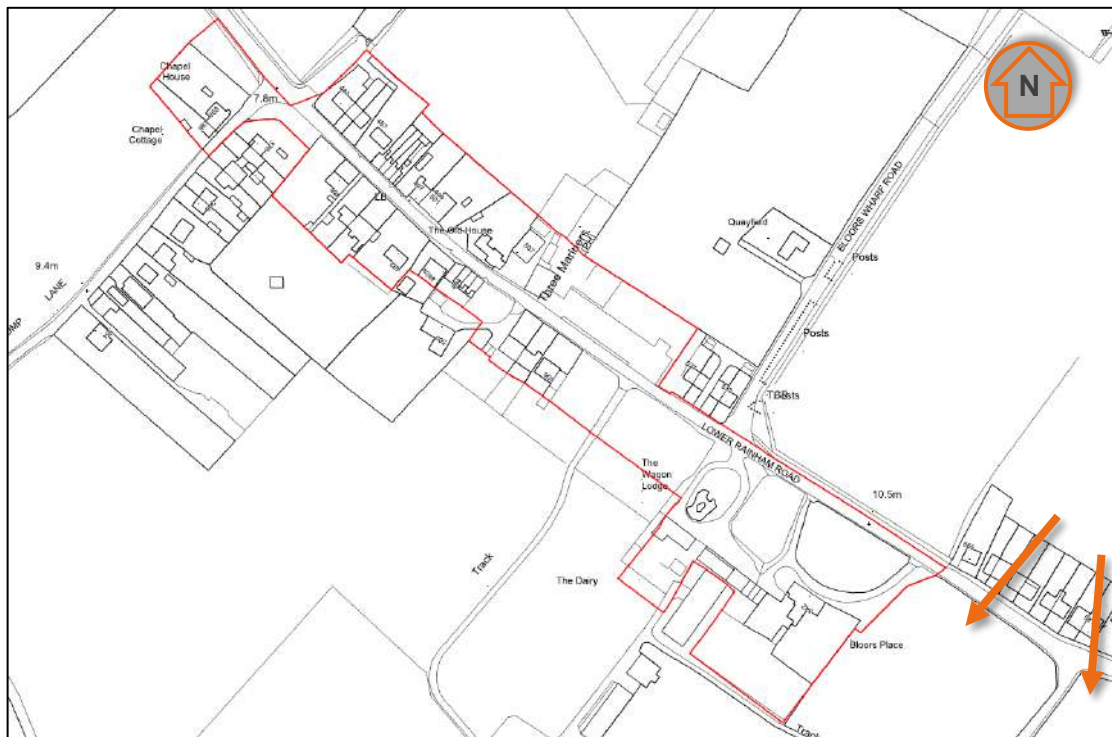


Fig.22: Lower Rainham Conservation Area, site marked by the orange arrow.

## Bloors Farm Oast

- 3.11. As previously described an oast and barn located 100m west of the site appear to be traditional in architectural style and construction, however both are in fact modern, originating as a redevelopment of ancillary farm buildings c.2013-2015 (MC/13/0515 and MC/16/0540). The previous barn, seen in ruin in 2013, dated to the mid-20th century, whilst the oast building was previously a windpump and dated to c.1890. The current oast building is seen to have a simple gabled roof until rebuilding in 2014.
- 3.12. A previous application on land nearby identified, the oast as a non-designated heritage asset, however for the reasons described above the building would not meet the criteria. Instead, the site is better understood as having landscape value as a traditional style building (irrespective of age) rather than asset status.



Fig.23: The oast prior to redevelopment, lacking any recognisable or interesting features, with the mid-20<sup>th</sup> century barn beyond in ruin.



## Historic Map Regression

- 3.13. The following section includes maps overlaid with the proposal site, illustrating the morphology of the assets and environs. Throughout the mapping the proposal site is separate from Bloors Place, demonstrating that it does not form listed curtilage.

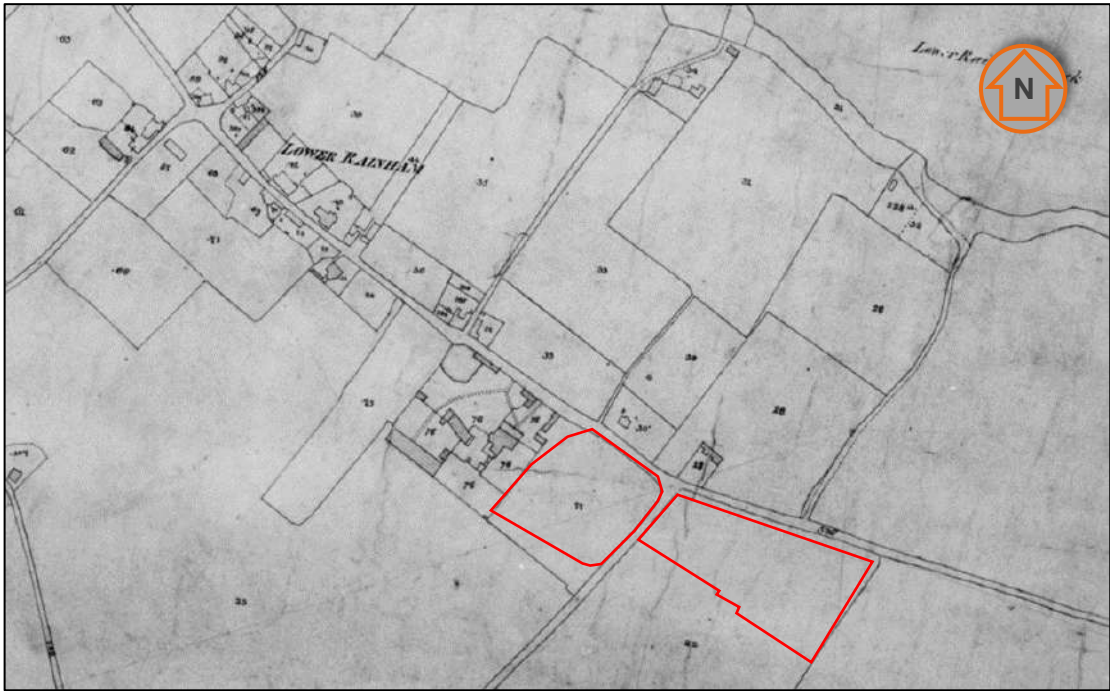


Fig.24: 1838 Tithe map, the approximate outline of the proposal site is shown in red.

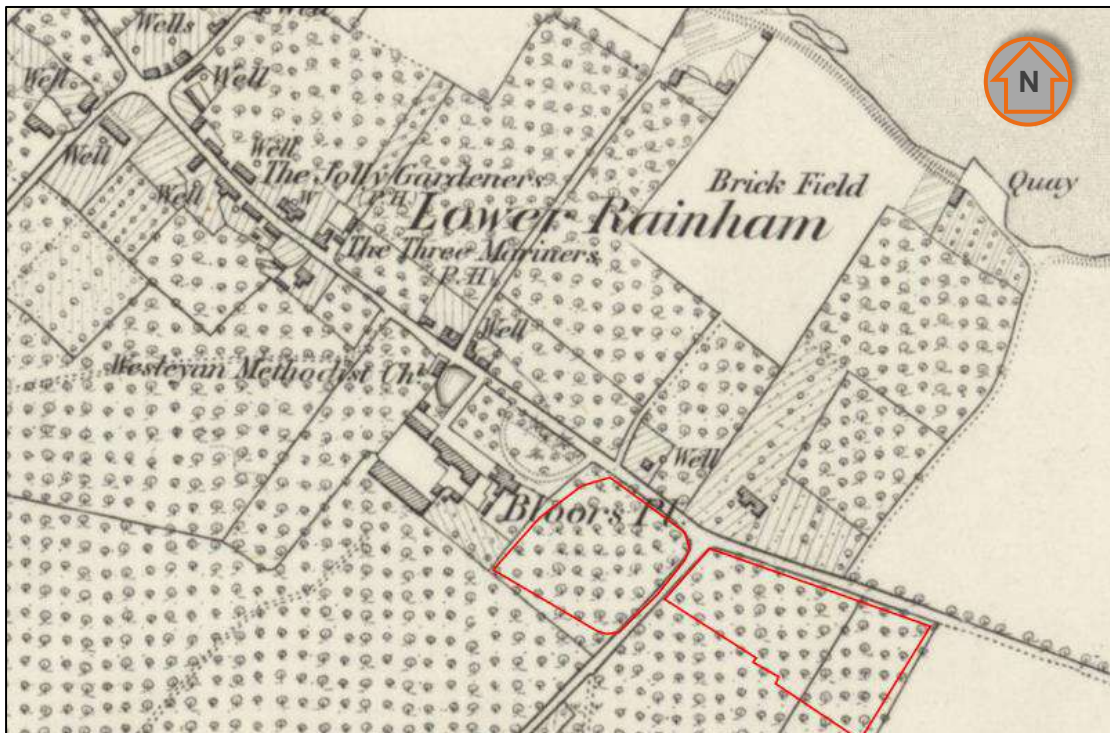


Fig.25: Ordnance Survey map, surveyed 1864-65, published 1869.

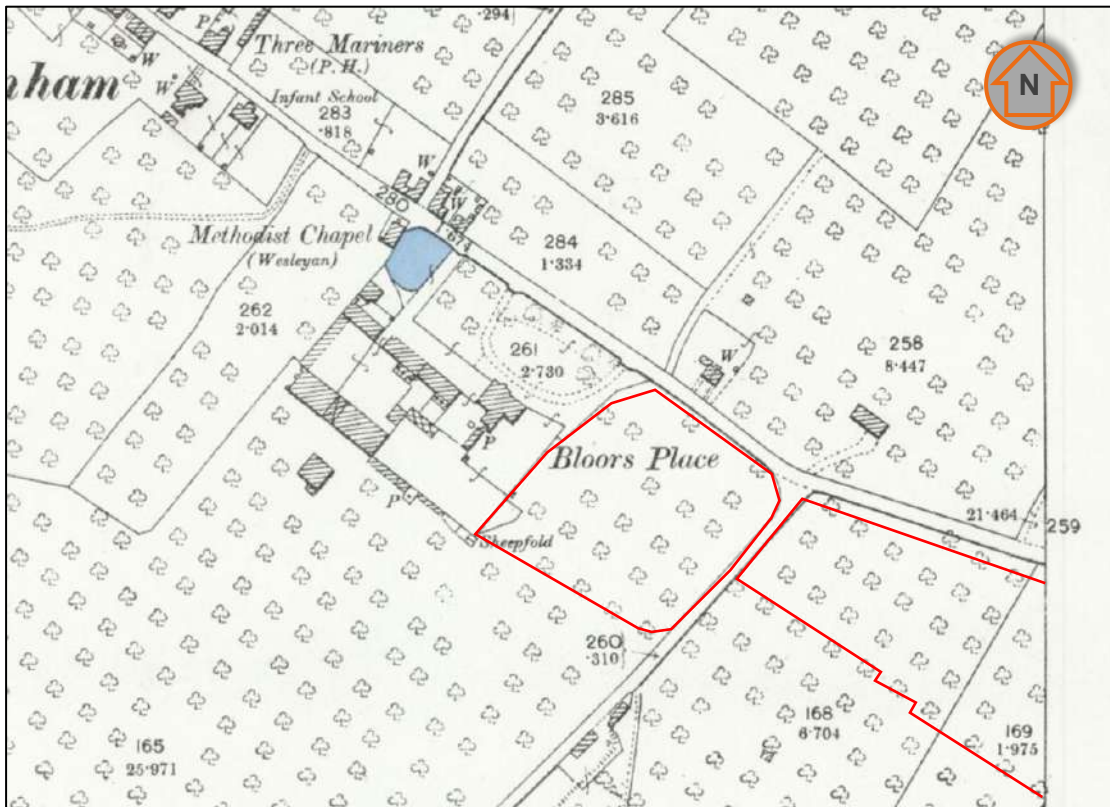


Fig.26: Ordnance Survey map, revised 1895, published 1897. The first map to show a square structure at the site of the oast in the orchard to the west.

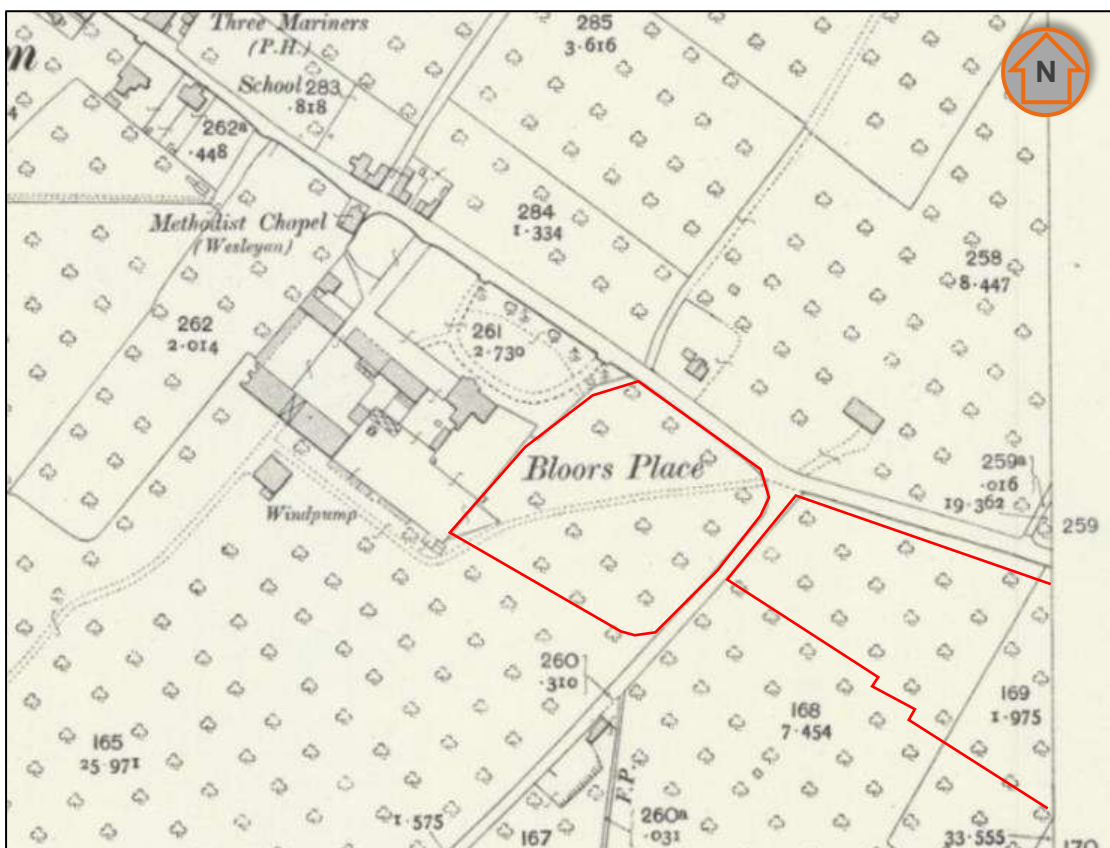


Fig.27: Ordnance Survey map, revised 1906, published 1909. At this time the oast is labelled a windpump.





Fig.28: Ordnance Survey map, revised 1932, published 1935.

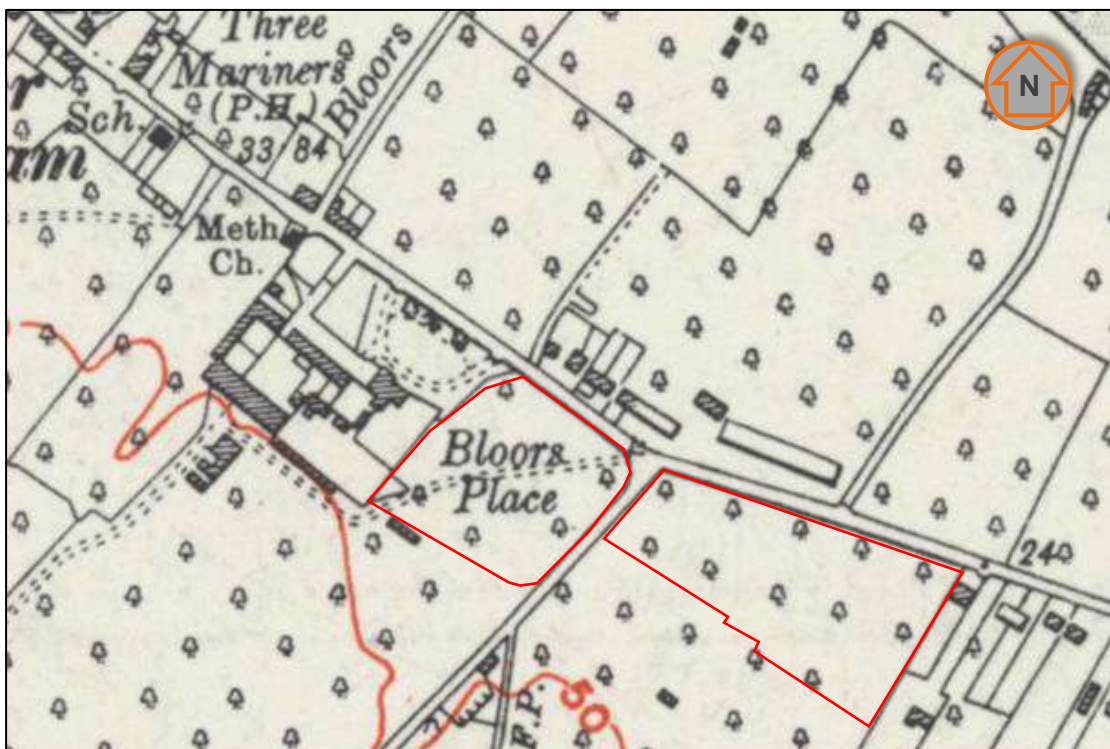


Fig.29: Ordnance Survey map, revised 1938, published 1946.

## 4.0 PLANNING LEGISLATION AND POLICIES

### Legislation

- 4.1. The legislative framework for the preservation and enhancement of listed buildings and conservation areas are set out in the Planning (Listed Buildings and Conservation Areas) Act 1990. Historic England, defines preservation in this context, as not harming the interest in the building, as opposed to keeping it utterly unchanged.
- 4.2. In 2014, a ruling by the Court of Appeal (Barnwell Manor Wind Energy Ltd v East Northants District Council, English Heritage and the National Trust) made clear that to discharge this responsibility, decision makers must give considerable importance and weight to the desirability of preserving the setting of listed buildings (and by implication other heritage assets) when carrying out the balancing exercise of judging harm against other planning considerations, as required under the National Planning Policy Framework.
- 4.3. Another ruling made in May 2017 by the Court of Appeal (Barwood Strategic Land II LLP v East Staffordshire Borough Council and the Secretary of State for Communities and Local Government), upheld a High Court ruling, that subordinates National Planning Policy Framework development presumptions to the statutory authority of an up-to-date local plan, as the NPPF is no more than ‘guidance for decision-makers, without the force of statute behind it. Paragraph 13 of the decision states, *‘The NPPF is the Government’s planning policy for England. It does not have the force of statute, and, ought not to be treated as if it did. Indeed, as one might expect, it acknowledges and reinforces the statutory presumption in favour of the development plan, and it also explicitly recognizes and emphasizes its own place in the plan-led system of development control. Its “Introduction” acknowledges that “[planning] law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise”, and that “[the NPPF] must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions”. Paragraph 12 recognizes that the NPPF “does not change the statutory status of the development plan as the starting point for decision making”. Paragraph 13 describes the NPPF, correctly, as “guidance for local planning authorities and decision-takers”, which, in the context of development control decision-making, is “a material consideration in determining applications”. Paragraph 215, in “Annex 1: Implementation”, says that “due weight should be given*

*to relevant policies in existing plans according to their degree of consistency with [the NPPF] (the closer the policies in the plan to the policies in [the NPPF], the greater the weight that may be given)”, but this too is guidance for decision-makers, without the force of statute behind it’.*

- 4.4. Therefore, by implication, this judgment again emphasises the relative importance of sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in making planning decisions in relation to development that affects listed buildings and conservation areas.
- 4.5. Section 66(1) relates to planning applications and states, ‘In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses’.
- 4.6. As a minimum, the test provided requires the development to preserve the listed building or its setting.
- 4.7. Section 72(1) of the abovementioned Act is relevant to the proposed development and provides the statutory test against which planning permission affecting conservation areas, as designated heritage assets should be assessed by the Local Planning Authority.
- 4.8. Section 72(1) states, ‘In the exercise, with respect to any buildings or other land in a conservation area, of any... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’.
- 4.9. Historic England defines preservation in this context as not harming the interest in the building, as opposed to keeping it utterly unchanged.

## National Planning Policy Framework (2021)

- 4.10. As mentioned above, there is a need to carry out a balancing exercise of judging harm against other planning considerations as required under the NPPF. The NPPF sets out the Government’s planning policies for England and how these are to be applied. The guiding principle of the document is a presumption in favour of sustainable development and the protection and enhancement of the historic environment is embedded in this approach.



- 4.11. Sustainable development is defined as meeting the needs of the present without compromising the needs of the future. Paragraph 8 of the NPPF breaks down this definition into three objectives: economic, social, and environmental. Within the environmental objective, sustainable development needs to contribute to 'protecting and enhancing our natural, built and historic environment'.
- 4.12. Paragraph 20 of the NPPF contains Strategic Policies, which provide an overall strategy for the pattern, scale and quality of development and make sufficient provision for the conservation and enhancement of the natural, built, and historic environment.
- 4.13. Section 16 of the NPPF contains policies relating to conserving and enhancing the historic environment. Within this section (paragraph 194), the Local Planning Authority requires the applicant to describe the significance of any affected heritage asset including any contribution made by their setting as part of an application.
- 4.14. Significance is defined in Annex 2 of the NPPF, as the value of a heritage asset to this and future generations because of its archaeological, architectural, artistic, or historical interest. Significance also derives not only from the asset's physical presence but also from its setting. Setting of a heritage asset is the surroundings in which the heritage asset is experienced, the extent of which is not fixed and can change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to significance of an asset.
- 4.15. Impact from a proposed development to the significance of a designated heritage asset needs to be evaluated, NPPF paragraph 199, states, 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'. NPPF paragraph 200 identifies that alteration, destruction, or development within the setting of a designated heritage asset can result in harm to, or loss of, the significance of the asset and that such loss requires a clear and convincing justification. Substantial harm to or loss of a grade II listed building should be exceptional and substantial harm or loss of grade I and grade II\* listed buildings should be wholly exceptional.
- 4.16. NPPF Paragraphs 201 and 202 define the levels of harm as substantial or less than substantial. The National Planning Practice Guidance (NPPG) provides useful guidance on assessing harm in relation to these definitions and gives the following

example, 'In determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting'. The NPPG quantifies substantial harm (NPPF paragraph 201) as total destruction while partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all. Anything less than total destruction needs to be evaluated on its own merits, for example, the removal of elements to an asset which themselves impact on its significance may therefore not be harmful to the asset. The NPPG advises works that 'are moderate or minor in scale are likely to cause less than substantial harm (NPPF paragraph 202) or no harm at all'. However, it is important to consider each development in its own context as the NPPG also identifies that minor works have the potential to cause substantial harm to the significance of an asset.

- 4.17. Paragraphs 201 and 202 refer to 'public benefit' as a means to outweigh the loss of or harm to a designated heritage asset. The NPPG identifies that public benefit may follow many developments and as such this benefit could be anything that delivers economic, social or environmental progress which are the dimensions to sustainable development defined by NPPF Paragraph 8. The NPPG states, 'Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefit'. Public benefits may include heritage benefits such as:

- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting.
- Reducing or removing risk to heritage asset.
- Securing the optimum viable use of a heritage asset in support of its long- term conservation.

- 4.18. The three points above relate to NPPF Paragraph 197, which requires the Local Planning Authority to take these points into account when determining applications. Although, there is no defined list of public benefits, examples of public benefit for a designated heritage asset may include:





- The restoration of a listed building.
- The improved setting of a listed building.
- The enhancement of a conservation area.

## Local Planning Policy

4.19. As well as legislation and national planning policies, Medway Local Plan (2003) contains policies relating to the historic environment, including:

### Policy BNE12: Conservation Areas

Special attention will be paid to the preservation and enhancement of the character and appearance of Conservation Areas, as defined on the proposals map.

### Policy BNE14: Development In Conservation Areas

Development within Conservation Areas, or affecting their setting, should achieve a high quality of design which will preserve or enhance the area's historic or architectural character or appearance. The following criteria will be applied:

- (i) materials, features and details of buildings or structures which contribute to the character or appearance of the area should be retained or reinstated; and
- (ii) traditional street patterns, building lines, open spaces and urban spaces, paving and roadway materials, boundary treatments and street furniture should be retained or reinstated; and
- (iii) the scale, height, mass, roofscape, materials, detailing, fenestration, plot width and depth, and visual appearance of new development should be sympathetic with existing buildings and their settings; and
- (iv) trees, hedgerows and open spaces should be retained and protected; and
- (v) hard and soft landscape elements and traditional materials which enhance the area should be utilised. Proposals should be submitted as full applications when they are within, or would affect, a Conservation Area.



#### Policy BNE18: Setting Of Listed Buildings

Development which would adversely affect the setting of a listed building will not be permitted.



## 5.0 ASSESSING SIGNIFICANCE

- 5.1. To a certain extent the significance of the heritage assets identified in Section 3 have already been recognised by their inclusion on the National Heritage List for England (NHLE). Therefore, as defined in government policy, grade II listed buildings are of special interest, warranting every effort to preserve them.
- 5.2. Significance of a heritage asset is defined by the NPPF as the value of a heritage asset placed on it by current and future generations because of its heritage interest. This interest may be archaeological; architectural; artistic or historical. The setting of a heritage asset also contributes to its significance and is defined by the NPPF as the surrounding in which a heritage asset is experienced. In comparison, Historic England's Conservation Principles (2008) uses evidential; aesthetic; historical and communal values to define significance. These different set of values have been combined for the purpose of this report.
- 5.3. Part 4 of British Standard 7913:2013 Guide to Conservation of Historic Buildings provides information on heritage values and significance. In context, this document states, 'A wide range of factors can contribute to the significance of a historic building. As well as physical components, significance includes factors such as immediate and wider setting, use and association (e.g., with a particular event, family, community or artist and those involved in design and construction)'.
- 5.4. Identifying the values of an asset allow us to understand the degree of significance and inform us of the potential impact the proposed works will have the heritage asset and its setting. These values may be tangible, the physical fabric of the building, capable of being touched, or view such as its landscape. Also, the value may be intangible through a past event or an association with a person.
- **Evidential (archaeological) value** relates to physical aspects of the site which provide evidence from the past. This can be with built form or below ground archaeology.
  - **Historical value** is the extent to which the asset is associated with or illustrative of historic events or people.
  - **Aesthetic (architectural/artistic) value** includes design, visual, landscape and architectural qualities.
  - **Communal value** includes social, commemorative, or spiritual value, local identity, and the meaning of place for people.



- 5.5. The assessment of significance considers the importance of each heritage asset and the magnitude of impact in order to appraise the potential impact of the proposed redevelopment. The importance of a heritage asset is determined by its statutory designation and is the sum of its evidential, historical, aesthetic and communal values as identified above. Also contributing to an asset's importance is its setting, which is an integral part of an asset's significance. Taking these criteria into account, each identified asset can be assigned a level of importance in accordance with a five-point scale (see Table 1).

Level of Significance	Definition of Heritage Asset
Very High	Remains of inscribed international importance, such as World Heritage Sites Grade I and II* listed buildings Grade I and II* Registered Parks and Gardens Registered Battlefields Scheduled Monuments Non-designated archaeological assets of schedulable quality and importance
High	Grade II listed buildings Grade II listed Registered Parks and Gardens Conservation Areas of acknowledged national importance Non-designated buildings of schedulable quality and importance
Medium	Conservation Areas of regional or local importance Locally listed buildings of regional importance Parks and gardens of regional interest Non-designated buildings, monuments, or sites of regional importance or of modest quality including those historic townscapes with historic integrity
Low	Conservation Areas in states of poor preservation/contextual associations Locally listed buildings Parks and gardens of some local interest Non-designated buildings, monuments, or sites of local importance or of low quality Assets of limited value but local research contribution potential
No Significance	Assets identified as being of no archaeological, architectural, artistic, or historic value. Low level non-designated assets described above whose values are further compromised by poor preservation or survival or of contextual associations.

Table 1: Establishing the level of significance of a heritage asset (Source: Seeing the History in the View (2011)).

## Assessing Setting

- 5.6. The primary guiding document for assessing setting is The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3 (2017), produced by Historic England.
- 5.7. Setting varies from asset to asset and cannot be generically defined. Changes to the setting of heritage assets may be positive such as replacing poor development which has compromised the assets setting. It is likely that the setting of an asset has changed over time from the dynamics of human activity and natural occurrences such as weather.
- 5.8. The importance setting makes to the contribution to the significance of the heritage asset is often related to how the heritage asset is seen in views. This can include views looking towards the heritage asset or from the heritage asset looking outwards and may include relationships between the asset and other heritage assets, natural or topographical features. Assets may also be intended to be seen from one another in designed landscapes for aesthetic reasons.
- 5.9. Historic England's Good Practice Advice 3, The Setting of Heritage Assets (2017), notes a staged approach to proportionate decision-taking, with relevant NPPF paragraphs along with guidance contained in the National Planning Practice Guidance (PPG) for their implementation, providing the framework for the consideration of changes affecting the setting of heritage assets which should be assessed proportionately and based on the nature, extent, and level of the heritage asset's significance.
- 5.10. The Guidance recommends a five-step approach to the assessment of the effect of development on the setting of heritage assets as follows:
- Step 1:** identify which heritage assets and their settings are affected;
  - Step 2:** assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s);
  - Step 3:** assess the effects of the proposed development whether beneficial or harmful, on that significance;
  - Step 4:** explore ways of maximising enhancement and avoiding or minimising harm;
  - Step 5:** make and document the decision and monitor outcomes.



## Assessing Impact

- 5.11. In order to assess and quantify the level harm to the significance of a heritage asset in context with the relevant Paragraphs in the NPPF, the Planning Policy Guidance (PPG), a web-based resource provides up-to-date guidance on NPPF policies. The PPG provides useful guidance on assessing harm in relation to Paragraphs 193 and 194 of the NPPF. The PPG states, *‘in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting’*.
- 5.12. In defining what constitutes substantial harm, the PPG identifies that the impact of total destruction is obviously substantial harm while partial destruction is likely to have a considerable *impact* but, depending on the circumstances, may still be less than substantial harm or conceivably not harmful at all. Anything less than total destruction needs to be evaluated on its own merits, for example, the removal of elements to an asset which themselves impact on its significance may not be harmful to the asset.
- 5.13. The PPG advises works that *‘are moderate or minor in scale are likely to cause less than substantial harm or no harm at all’*. However, it is important to consider each development in its own context as the PPG identifies that minor works have the potential to cause substantial harm to the significance of an asset. This would be so if for example the works removed an element which contributed to the assets special architectural or historic interest.
- 5.14. Table 1 identifies the significance level of a heritage asset; therefore, the next stage is to assess the level of impact the proposed development will have on the heritage asset. Table 2 provides a descriptive context of the level of change on the heritage asset in terms of its character, fabric or setting.



Change Rating	Description of Impact
High	Change to key elements affecting the significance of the asset's special architectural or historic interest are lost or destroyed, or the significance of the asset's setting is extensively changed.
Medium	Change too many key elements affecting the significance of the asset's special architectural or historic interest are significantly modified or the significance of the asset's setting is noticeably different.
Low	Change to key elements are slightly altered affecting the significance of the asset's special architectural or historic interest, or the asset's setting is slightly altered
Minimal	Change to key elements hardly affect the significance of the asset's special architectural or historic interest, or the asset's setting is hardly affected.
No change	The development does not affect asset's special architectural or historic interest or change the asset's setting.

Table 2: Factors for assessing the level of change on a heritage asset.

- 5.15. By establishing the asset's significance (Table 1) and the level of change (Table 2) to the asset from the proposed development, the impact on the significance of each asset from the proposed development can be identified. This can be Negligible, Minor, Moderate or Major. Impact from the development to an asset is considered to be significant if it is Major or Moderate.

Significance of Asset	Level of Change				
	No Change	Minimal	Low	Medium	High
Very High	Negligible	Minor	Moderate	Major	Major
High	Negligible	Minor	Moderate	Major	Major
Medium	Negligible	Minor	Minor	Moderate	Major
Low	Negligible	Negligible	Minor	Minor	Moderate
Not significant	Negligible	Negligible	Negligible	Negligible	Negligible

Table 3: Matrix for establishing level of impact against the asset's significance (Source: Seeing the History in the View (2011)).



## Significance of Bloors Place

- 5.16. The significance of Bloors Place, listed grade II\*, is derived from its age, rarity, vernacular architectural character, and the contribution it makes to the morphology and history of the area. Bloors Place originates as timber framed, Wealdon hall house of the late 15th century, for which it is recognised as one the oldest surviving properties in the area, however the property has been greatly altered across the centuries since using alternative materials and styles, providing further evidential value. The property demonstrates high quality traditional workmanship in timber, stone, brick, and tile hanging. The property has historically been of some standing and the names of previous owners, the Bloors (and later Tuftons), are also found in other sites and landmarks in the area, providing a further source of historic and social value in addition to through being associated with farming and other forms of historic employment for the area.
- 5.17. Bloors Place is a grade II\* listed building which are designated heritage assets considered to be of **very high significance**.

## Significance of Garden Walls at Bloors Place

- 5.18. The significance of the Garden Walls at Bloors Place, listed grade II, is derived largely from their association with the host property, Bloors Place, and the contribution they make to the morphology and usage of the site. However, owing to their 17<sup>th</sup> century origin, scale, quality traditional construction and features, the walls also hold their own historic, evidential, and architectural value.
- 5.19. The Garden Walls at Bloors Place are grade II listed and considered to be assets of **high significance**.

## Significance of Lower Rainham Conservation Area

- 5.20. The significance of the conservation area is derived in from the linear settlement pattern and the historic buildings contained within it, which include traditional vernacular style properties/construction methods such as timber framed Wealdon hall house style buildings. Two such properties, with 15<sup>th</sup> century origins, mark the entrance points of the conservation area at the northwest and southeast ends of the historic settlement. The architectural, evidential, and historic value of the few surviving historic and listed properties make the primary contribution to the area, however the layout and



spatial qualities are also factors, such as a narrowing of the street caused by properties directly fronting the road. Modern development is also found in the area, however these are relatively sympathetic in design and scale and do not greatly detract from the character and appearance.

- 5.21. Lower Rainham Conservation Area is a heritage asset considered to be of **medium significance**.

## Significance of the Setting

- 5.22. The setting is defined predominantly by Bloors Place and the land surrounding and formerly associated with it, however the property is secluded, encircled by a boundary of mature trees which greatly reduce intervisibility year-round. The area is also relatively green owing to the orchards, farmland, and fields, however this too changes as the field borders are intermittently allowed to overgrow or be cut back, combining with the landscaping to restrict or open up views. Modern development also impacts on the setting, with mid-late 20<sup>th</sup> century housing on the north side of Lower Rainham Road and on the east side of Lower Bloors Lane. The great barn and oast to the southwest of Bloors Place, though traditional in appearance, are also in fact modern redevelopments. It is important to note that the proposal sites have long been separated from Bloors Place and as such do not form part of its listed curtilage and there is an existing substantial verdant buffer between them.
- 5.23. Whilst the setting immediately adjacent to Bloors Place is considered to have medium-high significance, this greatly diminishes with distance with the land on the eastern side of Lower Bloors Lane having little to no significance.

## Significance of Bloors Farm Oast

- 5.24. As described in section 3, the oast was constructed c.2014 as part of a substantial rebuild/redevelopment of Bloors Farm. Consequently, whilst the oast has a traditional appearance, the fabric and identifying features are primarily modern. It is considered that the site has value as a traditional feature on the landscape but does not meet the criteria for NDHA status and as such has **low-no significance**.



## 6.0 PROPOSED WORKS AND ASSESSMENT

### Proposed Works

- 6.1. Outline permission is sought for a development of 21 detached residential dwellings, split between eight properties on the land to the west of Lower Bloors Lane and the remaining thirteen on the land to the east.
- 6.2. The larger development to the east is to include typical detached four to five bedroom dwellings with detached garages in a cul-de-sac arrangement with verdant borders, green buffers, and a pond to the eastern end. Access to the site is via Lower Bloors Lane.
- 6.3. On the west side of the lane, the properties are to be of a reduced scale, comprising of two and three bedroom bungalows, some with or without detached garages. The dwellings are to be arranged around a short T-shaped cul-de-sac with access also onto Lower Bloors Lane, staggered to the south of the other site entrance. The western development is also to feature additional planting and green buffers with the road.
- 6.4. The western development is to be situated on the east half of the land only, creating a wide green buffer of retained existing apple orchard between the proposed dwellings and the listed building, Bloors Place. The existing post and wire fence and brick wall forming the boundary between the two sites are also to be retained.

### Impact

- 6.5. The proposal site was identified in previous sections of this report as having long been observed as separate from the adjacent Bloors Place and therefore is a distinct site which does not form part of the listed curtilage. Furthermore, Bloors Place (and the separately listed garden walls) occupies a secluded position, heavily screened by a boundary of mature trees, hedges, and green buffers. The substantial reduction to views and intervisibility affects the setting and largely prevents the listed buildings from being seen from the public realm.
- 6.6. The layout of the western proposal site has been designed in response to heritage guidance resulting in a wide buffer of retained orchard, allowing for a clear distinction between the listed building and new development and for the preservation of limited views of the east elevation of Bloors Place. This is also aided by the reduced scale of





the proposed dwellings at the site which are low rise bungalows, detached and positioned to allow for views between the development. Whilst the site is historically shown to be undeveloped, development outside of the village envelope has changed and expanded considerably – the proposal is consistent with this and is of a high quality design and sympathetic, modest layout which has only a **minor impact** to the setting of the listed building. As this equates to **less than substantial harm at the lower end of the scale**, it is considered that this is outweighed by the considerable public benefit brought by the creation of 21 new residential dwellings to the area.

- 6.7. The proposed properties on the east side of Lower Bloors Lane share a similar density to the western site, however they are able to be taller four and five bedroom dwellings with detached garages as the site is of a sufficient distance as to have **no impact** on the heritage assets.
- 6.8. The design and layout of the properties at both sites should also be read in context with the modern development on the opposite (north) side of Lower Rainham Road and to the south and east of the eastern site. Whilst Bloors Place and the conservation area include quality examples of historic architecture and settlement patterns, there is a clear distinction between development within and outside of the conservation area. This is physically represented by the dense belt of mature trees separating the eastern boundary of Bloors Place with the proposal site and a gap in development opposite Bloors Place on the northern side of Lower Rainham Road. Consequently, the character of the proposed development would be consistent with the existing surrounding development and would cause **no harm** to the character and appearance of the adjacent conservation area.
- 6.9. It should also be noted that due to the road layout and the dense evergreen northern boundary of Bloors Place directly fronting it, there are no views or intervisibility of the site from within the conservation area. Similarly, the traditional but modern oast, not considered an NDHA for the previously discussed reasons, is also neither visible nor impacted by the proposed development.
- 6.10. In summary, the proposed development is high quality and has paid significant attention to the historic environment during the design process. It is therefore considered to **preserve** the special interest and setting of the listed buildings and the character and appearance of the adjacent conservation area.



## 7.0 CONCLUSION

- 7.1. Paragraph 195 of the NPPF advises Local Planning Authorities that the particular significance, including setting of any heritage asset is assessed. This document has concisely described the heritage assets affected by the proposed works and their significance.
- 7.2. It is concluded that the outline proposed development has been carefully designed to respect the adjacent heritage assets, retaining a wide buffer of existing orchard which provides a clear separation between the listed building Bloors Place and the proposed dwellings. These closest dwellings on the west site are similarly of a reduced scale to further minimise impact and form a gradient in the development compared to the larger proposed properties on the eastern side of Lower Bloors Lane. The proposed development is considered to cause **less than substantial harm at the lower end of the scale** to the setting of the listed building and will cause **no harm** to its special interest.
- 7.3. It is also important to note that the existing settlement pattern and mature belt of tree screening around Bloors Place forms a clear dividing line between the historic and modern development in the area. In this regard the proposal should be seen in context with the late 20<sup>th</sup> and 21<sup>st</sup> century development on and around Lower Rainham Road and Lower Bloors Lane. As previously identified views of both the listed buildings and conservation area are limited or non-existent and so will not be impact by the development, with the character and appearance of the adjacent conservation area being similarly **unharmmed**.
- 7.4. With regards to the development meeting the statutory test provided by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the minimum aim is to preserve the setting; building; features of special architectural or historic interest of listed buildings. In this context the proposal **preserves** the setting of the nearby listed buildings, Bloors Place and the Garden Walls at Bloors Place, for the reasons described above.
- 7.5. With regards to the test provided by 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is required as a minimum for development to preserve the character or appearance of a conservation area. In this context the proposed development **preserves** the character and appearance of the adjacent Lower Rainham Conservation Area.



- 7.6. It should be remembered that Historic England defines preservation in this context as not harming the interest in the building (or heritage asset), as opposed to keeping it utterly unchanged.
- 7.7. With regards to NPPF paragraphs 199 to 202, as less than substantial harm (at the lower end of the scale) will be caused to a designated asset, public benefit is required. It is considered that more than sufficient benefit is provided in the creation of additional housing to the area in the form of 21 high quality new build properties ranging from two to five bedrooms in size and therefore suitable for a variety of family types.
- 7.8. With regards to paragraph 203 a balanced judgement is required with regard to the scale of any harm or loss to the significance of the NDHA. As identified above the Bloors Farm Oast, described in a previous neighbouring application as a non-designated heritage asset, is not considered to be an NDHA as it is a modern structure and does not meet the criteria and may be better understood as having traditional landscape value. Irrespective of this, the site is sufficiently separated by distance and screening so as to not be impacted by the proposed development.
- 7.9. In regard to local policies BNE12, BNE14, and BNE18, as discussed above, the proposal preserves the setting, special interest, character and appearance of the designated heritage assets through the use of appropriate scale, layout, green buffers, and distance relative to the buildings.
- 7.10. In conclusion, the proposed development meets the requirements of the Planning (Listed Buildings and Conservation Area) Act 1990, the NPPF and local planning policies. It is therefore, requested that the proposed development be approved.



## 8.0 SOURCES

Ministry of Housing, Communities & Local Government (2021), *National Planning Policy Framework*.

Planning (Listed Buildings and Conservation Area) Act 1990

Ordnance Survey Maps (various dates)

Ministry of Housing, Communities & Local Government (2018) <http://planning.guidance.communities.gov.uk/blog/guidance/conserving-and-enhancing-the-historic-environment> / National Planning Policy Framework (NPPF 2019 revision) / National Planning Policy Guidance (NPPG 2019) / National Design Guide (2019)

Historic England (2017) *The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3 (Second Edition)*

Historic England (2008) *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment*

Google Earth

British History Online

Medway Local Plan (2003)

Medway Heritage Asset Review (2017)

Lower Rainham Conservation Area Map (2014)

Rainham History (n.d.) *History of Bloors Place Rainham* [accessed April 2023]



# HS1

## Listing Descriptions



Listed Building Name	BLOORS PLACE
Address	BLOORS PLACE, LOWER RAINHAM ROAD
List Entry Number	1267763
Grade	II*
Date First Listed	24 February 1950
Date Amended	N/A
National Grid Reference	TQ 81480 67478

### Listing Description

#### GILLINGHAM

TQ86NW LOWER RAINHAM ROAD, Lower Rainham 686-1/8/75 (South West side)  
24/02/50 Bloors Place

GV II\*

Hall house, now house. 1470-1510, for Christopher Bloor, rear wing early C16 truncated and rebuilt late C17, partly destroyed by C18 fire. MATERIALS: timber-frame, clad in red brick to ground floor and tile-hung above, galleated limestone rubble rear wing extended in English bond brick, and the right in Flemish bond brick, brick rear external stacks, and a tall octagonal stack with crenellated cap to the rear wing extension, and a hipped roof with left-hand gable. PLAN: Wealden-type 3-room hall house of which the left-hand section destroyed in C18 fire, extended to rear C16. EXTERIOR: 2 storeys and attic; 4-window range. Former hall recessed at left-hand end has chamfered curved brackets from sides and projecting lateral beam under the overhanging eaves, a right-hand 4-centre arched moulded doorway with ribbed door and a rectangular overlight with margin panes, and a late C19 left-hand casement and first-floor casement over the entrance. Long right-hand bay refaced late C19 has C20 fenestration with a left-hand canted bay and mullion, and mullion and transom casements, with hipped dormers to the middle and left-hand return. A deep C20 weatherboarded eaves band extends along the front. The rear of the hall and the rear wing have C16 Perpendicular moulded stone mullion windows with shallow pointed heads and small panes. The hall has a rubble rear with a large external stack with a C19 star-shaped shaft, and a wide 2-storey bay in the outer corner with a hipped roof, 3 ground-floor and 5 first-floor lights, the latter leaded casements,

and to the inner side of the stack are single 2-light windows to each floor; the left-hand return a 1-window range with a C19 doorway with 4-pane overlight, C18 8/8-pane first-floor sash and a C20 attic casement. Rear wing has a weathered stone plat band, with 5 irregularly spaced windows to the E with an off-centre 4-centre-arched door with moulded surround and boarded door, and arched lights as the previous section; a C19 doorway as the end of the hall. The W side has 2 paired windows, that to the left higher to a possible stairwell, a single paired first-floor window, and a hipped dormer, with a flat-headed door in the window-less rear

section. C20 lower porch and probable stair well in the SW re-entrant. INTERIOR: not inspected but recorded by RCHME as having much evidence of timber-framing including heavy jowled posts in front range; original C16 4-centre arched doorways at S end of former screen passage and in first floor stair well, the latter with enriched spandrels and moulded stops; crown post collar purlin roof in front range with octagonal crown posts with bases and capitals and arched braces. Rear wing first-floor chamber has clustered roll-moulded ceiling beams. C18 panelling in front right-hand drawing room. HISTORY: an unusual plan in having a very long W service bay, formerly jettied but the floor altered. The roof shows no evidence of smoke blackening, and believed to be a rare example of a hall with an original rear stack. A fine and unusual complex with group value with the rear walled garden walls and cart lodge and outbuildings (qv). (Survey of Kent Buildings: 1991-: 40264).

Listed Building Name	GARDEN WALLS TO SOUTH AND EAST OF BLOORS PLACE
Address	GARDEN WALLS TO SOUTH AND EAST OF BLOORS PLACE, LOWER RAINHAM ROAD
List Entry Number	1267767
Grade	II
Date First Listed	27 January 1984
Date Amended	5 December 1996
National Grid Reference	TQ 81484 67437

### Listing Description

#### GILLINGHAM

TQ86NW LOWER RAINHAM ROAD, Lower Rainham 686-1/8/76 (South West side)  
27/01/84 Garden walls to south and east of Bloors Place (Formerly Listed as: LOWER  
RAINHAM ROAD, Rainham (South West side) Walls to south and east of Bloors Place)

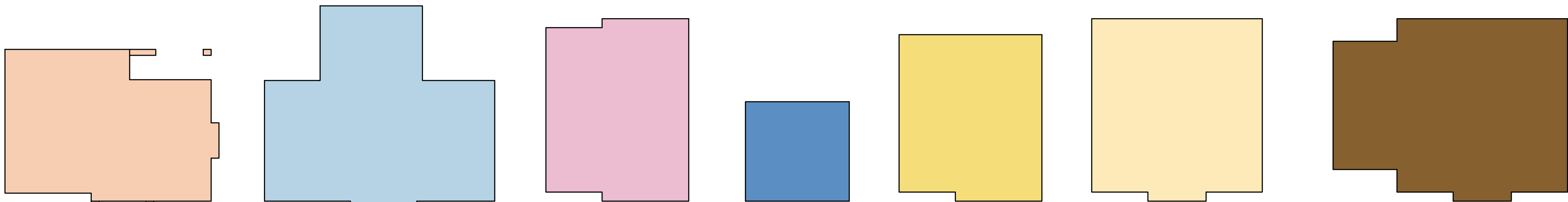
#### GV II

Garden walls. Mid C17. English bond brick and limestone rubble and dressings. Brick walls have plinth and angled brick beneath a weathered brick coping, stone walls have a moulded stone 4-centre arched doorway. Walls enclose E garden and S kitchen garden.



understanding  
heritage  
to inform  
change





TYPICAL FIVE BEDROOM DWELLING  
Total 190m<sup>2</sup>

TYPICAL FIVE BEDROOM DWELLING  
Total 200m<sup>2</sup>

TYPICAL FOUR BEDROOM DWELLING  
Total 170m<sup>2</sup>

DETACHED GARAGE

TYPICAL TWO BEDROOMED BUNGALOW  
Total 78m<sup>2</sup>

TYPICAL THREE BEDROOMED BUNGALOW  
Total 105m<sup>2</sup>

TYPICAL THREE BEDROOMED BUNGALOW  
Total 133m<sup>2</sup>

Notes:

Do Not Scale.

Report all discrepancies, errors and omissions.

Verify all dimensions on site before commencing any work on site or preparing shop drawings.

All materials, components and workmanship are to comply with the relevant British Standards, Codes of Practice, and appropriate manufacturers recommendations that from time to time shall apply.

For all specialist work, see relevant drawings.

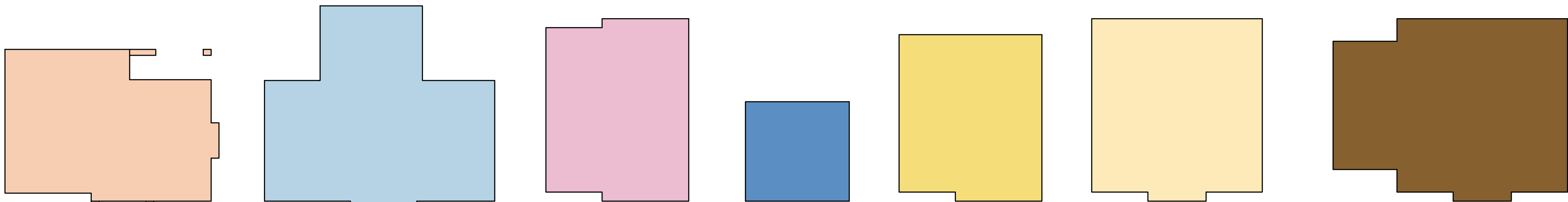
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PROPOSED SITE PLAN 1:500  
Scale Bar at 1:500

Revision	Date	Description
Status PLANNING		
Mark   Carter ASSOCIATES Architectural Design		
design studio priestfield stadium gillingham kent ME7 4DD tel 01634 304700 fax 01634 850986 e mail: markcarter.design@virgin.net		
Client MR J ZAMMIT		
Drawing Title SITE PLAN		
Project Title SITE AT LOWER BLOORS LANE		
Scale 1:500	Date OCT 22	Drawn MC
Drawing No 3186 - 009	Rev K	





TYPICAL FIVE BEDROOM DWELLING  
Total 190m<sup>2</sup>

TYPICAL FIVE BEDROOM DWELLING  
Total 200m<sup>2</sup>

TYPICAL FOUR BEDROOM DWELLING  
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DETACHED GARAGE

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Total 78m<sup>2</sup>

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Drawing Title SITE PLAN		
Project Title SITE AT LOWER BLOORS LANE		
Scale 1:500	Date OCT 22	Drawn MC
Drawing No 3186 - 009	Rev K	