

Application No; MC/19/1566

Location; Land Off Pump Lane Rainham Kent ME8 7TJ

Proposal; Outline planning application with some matters reserved (appearance, landscaping, layout and scale) for redevelopment of land off Pump Lane to include residential development comprising of approximately 1,250 residential units, a local centre, a village green, a two form entry primary school, a 60 bed extra care facility, an 80 bed care home and associated access (vehicular, pedestrian, cycle).

For the reasons for this recommendation for refusal please see Planning Appraisal Section and Conclusions at the end of this report.

1.0 PROPOSAL

- 1.1 This application is in outline, with some matters reserved (appearance, landscaping, layout and scale), for redevelopment of land off Pump Lane. This is to include residential development comprising approximately 1,250 residential units, a local centre, a village green, a two form entry primary school, a 60 bed extra care facility, an 80 bed care home and associated access (vehicular, pedestrian, cycle).
- 1.2 As can be seen from the description, access is the only aspect to be detailed here. The submitted plans show that the that the main point of access is to be by way of a junction added at the Lower Rainham Road end of the site (to the north), and that there will also access points off Pump Lane itself , north of the railway bridge/underpass. The main road through the site will be to the west of the existing Pump Lane.
- 1.3 The proposal is for 1250 houses and it is also proposed to provide a village centre, a village green, a two form entry primary school and a care facility. These aspects are proposed to occupy the following areas:
- Village Centre – 0.639 ha (1.58 acres)
 - Village Green – 1.125 ha (2.78 acres)
 - Primary School – 2.603 ha (6.43 acres)
 - Care Facility – 1.250 ha (3.9 acres)
- 1.4 The residential aspect of the site will occupy 32.118 hectares of the overall site.
- 1.5 The indicative layout plans show and area of retained orchards running along both sides of Pump Lane and around the existing housing development along Pump Lane as well as footpaths through the site being retained linking the development to Lower Bloors Lane.

Site Area/Density

1.6 Site Area: 51.2 hectares (126.52 acres)

1.7 Site Density: 24.414 dph (9.88 dpa)

1.8 Considering only the residential areas (as set out within the indicative layout plan):

1.9 Site Area: 32.118 hectares (79.365 acres)

1.10 Site Density: 38.92 dph (15.75 dpa)

Relevant Planning History

1.11 No relevant planning history available for this site

2.0 REPRESENTATIONS

- 2.1 The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of 285 of the neighbouring properties.
- 2.2 The Environment Agency, Highways England, Natural England, Historic England, KCC Ecology, KCC Archaeology, Network Rail, Southern Gas Network, Southern Water and Kent Police have also all been consulted.

Neighbour representations

- 2.3 In total **3295 letters** have been received either in support or objecting to the proposal. Due to the significantly high volume of responses the data has been analysed by an external company, which has summarised the content of the representations within a Summary Report titled 'Analysis of Public and Neighbour Comments'.
- 2.4 Of the 3295 responses **3262 objected** to the application. The Council has received **33 letters in support** of the planning application. Given the way in which the neighbour letters have been analysed, feedback for this section is altered slightly from the standard Planning Committee report format, with 13 identified 'theme' headings being summarised hereunder instead of being set out in bullet points.
 - 1. Transport theme
- 2.5 The capacity of the existing transport infrastructure and the potential impacts arising from the application was identified most frequently in the comments analysed. It was the most frequently identified theme in single theme comments and frequently overlapped with around 2/3 of all other themes identified in multi-theme comments.
- 2.6 While there was variability in the specific concerns raised by commenters regarding the number of vehicle movements, capacity of the local or strategic route networks during peak times, or general access to the site through physically restricted local roads; the principle concern related to the ability of existing transport infrastructure to accommodate increased levels of use.
 - 2. Air Quality theme
- 2.7 There was significant overlap between this theme and transport. 86% of the comments where Air Quality was identified, linked it to transport constraints. This reflects the sentiment expressed in these comments – concerns relating to detrimental effects on air quality were often linked to an increased level of traffic. This in turn was linked to an increase in journey times and potential grid lock due to the capacity issues highlighted in relation to the Transport theme.

2.8 Air Quality was not identified in any comments in support of the application.

3. Healthcare theme

2.9 This was the second most frequently identified theme in the comments analysed, and for multi-theme comments it was often the second issue following Transport. Concerns related to the impact the application could have on GP availability and the ability of Medway Maritime Hospital to care for patients – throughout the comments analysed this was often framed in the context of exceeding the current capacity of healthcare infrastructure in the area.

4. Biodiversity theme

2.10 This theme was the second most frequently identified in *single-theme* comments, and overall was the 4th most frequently identified theme in comments supporting and objecting to the application. Where comments were objecting to the application the points raised related to the potential impacts the development of the site would have on the area of orchards within Medway and the wider region, and the associated effect that this would have on the species able to either traverse or otherwise benefit from the orchards in this location.

2.11 The loss of green space was also raised in objections to the application often associated with a fear of an increase in urban sprawl. Where this theme was identified in comments supporting the application it was related to the potential for further investment in Medway and the wider region in planting and maintaining current and additional orchards.

5. Infrastructure theme

2.12 Infrastructure was the fifth most identified theme, and it often related to an either unspecified or expansive concern relating to the capacity of existing infrastructure. In some instances where very short comments were received this was the only reason submitted for the objection to the application.

6. Landscape theme

2.13 Comments where the Landscape theme was identified were on average the longest and contained a broad variety of themes. Comments raising this theme were often closely linked with the Biodiversity theme as it related to urban sprawl and loss of green space.

2.14 Reference was made to the character designations of the local and wider areas of Medway and the contribution orchards make to the landscape. The reason for objection in this regard related to the loss of orchards within this area and the degrading of the wider landscape.

2.15 This theme was not identified in any comments in support of the application.

7. Heritage theme

2.16 Where the Heritage theme was identified in comments it was often in relation to the loss of orchards and the associated impacts that this would have on the traditional heritage and land use of the area. There were parallels in these responses with those raised under the Landscape theme where this related to the landscape character of the area.

2.17 The impact of the application on the setting of grade 2 listed buildings adjacent to the site boundary was also raised.

8. Education theme

2.18 Unlike the previous themes, Education was identified in a similar proportion of comments in support as well as objecting to the application. In both instances the provision of a primary school facility was acknowledged or highlighted, however where commenters were objecting to the application there was a concern specifically regarding the impacts an increased population could have upon existing secondary schools.

9. Flooding theme

2.19 This theme was identified in comments that were typically longer, as well as containing a higher number of themes. The concerns related to the existing disruption associated with flooding events in the local area and the potential for this disruption to increase in the event of the application going ahead. This was particularly in relation to connectivity of the local road network as well as the knock-on effects associated with an altered drainage profile of residential development from agricultural land.

2.20 This theme was not identified in any comments in support of the application.

10. Climate Change theme

2.21 This theme was often identified in conjunction with the Transport and Biodiversity themes in terms of: emissions and the capacity to absorb them; the sustainability implications for housing relative to agricultural land; and, the importance of local food production.

11. Sewerage theme

2.22 This theme was one of the least identified in the comments analysed. However, where it was raised, it tended to form parts of longer objections where a higher number of themes were identified, specifically relating to infrastructure.

2.23 Concerns related to the capacity of existing sewerage and the capability of wastewater treatment facilities to accommodate the additional pressure from any increase in population associated with the application.

2.24 This theme was not identified in any comments in support of the application.

12. Construction theme

2.25 This theme was identified with more frequency in comments supporting the application. Points raised related to the economic benefits that construction would have for local businesses with a degree of overlap with the points associated with the Employment theme below.

13. Employment theme

2.26 This theme was the most identified theme in comments supporting the application. Comments related to the potential economic benefits that the application would provide through both the provision of housing, and subsequent re-investment in A C Gotham & Son's businesses in the local area and wider region.

2.27 The commercial viability of the site as an orchard was raised as both a reason to support the application – agreeing that the current crop was not at the most productive point of its life cycle – and also, a reason to object to the application questioning whether this necessarily made the crop unviable.

3.0 Consultation responses

Highways England

- 3.1 Highways England is concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN). In this case its interest relates to the M2, and potentially the A2, A249 and M20. It is acknowledged that the proposal/site is **not** in the Medway Local Plan 2003.
- 3.2 Highways England has therefore assessed the application on the following basis:
- in accordance with NPPF, Chpt. 2 / para.13; and,
 - the Highways England guidance on working with applicant.
- 3.3 The latest comments are based on the March 2020 submissions by the applicant and Highways England considers six areas of assessment and mitigation.
1. Base traffic volumes and growth
- 3.4 Highways England report that even if it assumed the 'Table 1' development trips was accurate, the impact on any given approach would be up to one vehicle every two minutes (correcting this error in the March 2020 submission actually improves the situation); however, the impact within the junctions would be higher. Traffic from the different approaches interacts within the junctions, so combined volumes require consideration as well as the link volumes.
- 3.5 The assumption that these volumes "cannot be considered to be material" needs to be supported with evidence, for the volumes on the links and within the junctions. Such volumes may seem small but where there is existing congestion, a small proportional impact can make a large difference, as a small volume of traffic would consume a large proportion of any available capacity (if any capacity is available).
- 3.6 Highways England's view is that any impact on a severely congested network is severe as the additional traffic will only serve to increase vehicle delay, journey times and queue lengths.
- 3.7 Highways England further note that the current Medway modelling is showing need for mitigation at all SRN junctions; this development – which is outside the Local Plan – then further adds to this, so greater understanding of the full impact of this traffic is necessary.
- 3.8 If every development was permitted that adds a "small, immaterial" amount of traffic to a junction, these all add up; as is demonstrated by the need for mitigation even before this development's traffic is added.

- 3.9 The assumption that Junction 2 would not be impacted needs further supporting evidence; the comment in the submission is essentially anecdotal and is not accepted.
- 3.10 While an assessment might potentially demonstrate that Highways England's concerns are unfounded (or relatively less of a concern than thought), Highways England would need to see such an assessment in order to decide on this.

2. Committed Developments

- 3.11 Highways England notes that the Medway 018 study area is a very small local area around the development site, (as shown in this link: <http://statistics.data.gov.uk/atlas/resource?uri=http://statistics.data.gov.uk/id/statistical-geography/E02003331>) and because it is concerned with the background traffic on the SRN, it suggests that it would be appropriate to expand the study area further.

3. Development Trip Generation

- 3.12 The strategy for improving bus services to the site, as in section 4.5 of the TA, is welcomed by Highways England. It is suggested that this should be secured by the S106 Agreement if the proposals are consented. Highways England would like to be consulted on the planning of the strategy if consent for the development were given.
- 3.13 Highways England also requires the Census 2011 Journey to Work Statistics for Middle Super Output Area Medway 018; not just a table of results. It needs a link to the dataset on the appropriate online source so that we can assess the source of the data and all assumptions/exclusions etc.
- 3.14 Highways England comments that:

***“Subject to our comments below under “Development trip distribution”, the revised AM peak development trips in Table 4 would appear broadly acceptable. However, we still do not agree with the assertion that these trips “cannot be considered material in the context of the operation of the strategic network”, for the reasons already given above in our updated response to “Base traffic volumes and growth”.*”**

4. Development Trip Distribution

- 3.15 Highways England states that it cannot assume that there will be no impact at Junction 2 on the M2

3.16 Furthermore, Highways England states that the consideration must be of the “*potential worst case for each junction.*” Transport may use Junction 2 or it may use other junctions, so Highways England cannot accept that an impact on Junction 2 is acceptable because it reduces the impacts on other junctions. Either situation may happen – Highways England need to plan for each junction’s worst-case scenario. In addition, some traffic may use Junction 2 and other junctions in the same trip.

3.17 Highways England has also requested further information:

“...a plan showing the locations of the 38 Medway internal locations listed in the methodology in Appendix B of the previous August 2019 submission; not just the three local junctions. Highways England needs to assess the accuracy of this methodology for determining the distribution of commuting / business trips in the peak.”

3.18 If the above requested information is received, Highways England confirm that it will complete its review of the development trip distribution, based on this information.

5. Modelling

3.19 Highways England cites that for reasons given elsewhere in its response, it does not have certainty that the impact on the strategic road network is modest; junction modelling is therefore warranted.

3.20 Highways England states that it:

...needs further detail on the Medway model, particularly in support of the statement that “only subnetworks 2, 3 and 7 experience any material change on flows”.

3.21 Highways England further questions:

- the levels of growth and development scenarios assumed by the applicant;
- The time periods and years assumed; and,
- how the applicant has defined a “material change” in this instance.

3.22 Highways England concludes – on modelling – that even if Medway’s modelling showed no material change in flows on the SRN, the addition of the development traffic on top could be a material impact, especially as the model shows that there is already a need for mitigation at all SRN junctions without this development.

6. Mitigation

- 3.23 Highways England reports that it will consider the need, if any, for mitigation measures when its comments and queries (as above) have been addressed and it is in a position to understand fully the potential SRN impacts.
- 3.24 Highways England is also reserving the right to comment on construction traffic impact, if appropriate, which could be addressed by a construction traffic management plan.

Summary and Conclusions

- 3.25 Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.
- 3.26 Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN. In this case we are interested in the potential impact that the development might have on the M2 in the vicinity of the Medway Towns.
- 3.27 We have actively engaged with the applicant's consultants seeking to determine the potential traffic and transport impacts of the development proposals on the safe and efficient operation of the SRN. Despite requesting additional information and clarity on a number of occasions about important issues contained within the supporting Transport Assessment to the application, thus far we have not been provided with sufficiently robust information. Accordingly, we have been unable to determine whether or not the proposals will have a material impact on the SRN (the tests set out in DfT C2/13 para's 9 & 10 and MHCLG NPPF para 109).
- 3.28 Therefore, at things stand, we have no option other than to recommend that the Local Planning Authority **refuse** this application.

Southeastern Trains & Network Rail

- 3.29 Southeastern Trains has raised concerns which are supported by Network Rail regarding the potential impact on Rainham Station and in particular the station car park. With 1250 multi-person dwellings around 5% of residents are predicted to use the train (based on overall Medway census data however this may be understated given this is prime commuter belt), it is stated that the majority will walk or cycle to Rainham station. The walk is stated as 29 minutes which is believed some people may be comfortable with however, the walk is along country roads, considered to be greatly lacking in paths and lighting in places.

Southeastern Trains therefore suggest that it is fair to assume some people will choose to drive.

- 3.30 Network Rail notes that the Rainham station car park is denoted as having 233 spaces. However, it is possible the East Kent Re-signalling and new bay platform has led to losing roughly half that capacity.
- 3.31 To mitigate the lack of car parking spaces, Southeastern Trains has informed Network Rail that the council previously had plans to deck the neighbouring council car park should capacity become an issue. Therefore, with this additional potential pressure on the car parking, Network Rail believes Medway Council should revisit its multi-storey proposal.
- 3.32 Network Rail and Southeastern Railway have stated that they are keen to discuss the mitigation measures with the council and applicant.

Environment Agency

- 3.33 The Environment Agency (EA) has stated that an assessment into the past uses of buildings/land and any potential risks arising from the buildings/grounds for the proposed end use should be undertaken. Moreover, the assessment should include the wider environment and it should be carried out prior to the development works proposed. Investigations should take account of any oil/fuel storage tanks, septic tanks, drainage systems, and materials storage. Any identified risks should be fully evaluated, if necessary, by intrusive investigations, and appropriately addressed prior to the commencement of the development.
- 3.34 The EA states that the reports submitted in support of this planning application provides it with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Further detailed information will be required before built development is undertaken. It would place an unreasonable burden on the developer to require more detailed information prior to the granting of planning permission but respect that this is a decision for the Local Planning Authority.
- 3.35 The proposed development is considered acceptable by the EA if planning conditions are included requiring the submission of a remediation strategy, carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Historic England

- 3.36 Historic England has stated that the site is adjacent to, and forms the setting of, the Lower Twydall and Lower Rainham Conservation Areas. The Conservation Areas contain listed buildings, including the grade II* listed Bloors Place, and the site also forms the setting of isolated listed buildings including the grade II Pump Farmhouse.

3.37 Historic England notes that the site and land around it was historically farmed and in this part of Kent a distinct settlement pattern of modest hamlets dependent on the surrounding land thus evolved. This settlement pattern was established by the medieval period and both Lower Rainham and Lower Twydall contain buildings from the 15th and 16th century. By the 18th century little had changed and Edward Hasted describes the land here as:

“a fertile and kindly land both for corn and fruit, insomuch that this parish has been noted for some of the best wheat that this kingdom has produced and it had till within memory many plantations of cherries and apples.”

3.38 These land uses and settlement patterns are also confirmed by 18th and 19th century mapping (1797, unattributed, Herbert 1769, OS 1869) which depict modest settlements surrounded by agricultural fields for orchards and other crops along the Lower Rainham Road and on lanes on a north/south alignment which link the Lower Rainham Road to Watling Street. Modern mapping shows a continuation of this land use and settlement pattern with both Lower Rainham and Lower Twydall surviving as modest historic settlements surrounded by arable land.

3.39 Moreover, Historic England comment that an association with and dependence on the surrounding land for the Lower Rainham and Lower Twydall Conservation Areas is also confirmed by the survival of historic farmsteads in both (Bloor Place, York Farmhouse and the farm buildings associated with the Manor at Lower Twydall). This is further confirmed by tithe maps which show buildings within Lower Twydall and land within the site was under the same ownership.

3.40 Historic England notes that setting is described as the surroundings in which an asset is appreciated (NPPF definitions, p.71). Historic England’s guidance, *The Setting of Heritage Assets GPA3* amplifies this by explaining that setting is not limited to visual connections and can include but is not limited to, historic association, land use, functional relationships and aspects such as tranquillity (p.11). Both conservation areas and the listed buildings within them thus derive some significance from their setting which continues to illustrate a historic functional relationship to surrounding agricultural land and their historic character as modest rural hamlets.

3.41 Bloor Place, which lies within the Lower Rainham conservation area is a grade II* listed building with medieval origins which was then converted to a farmhouse in the 18th century when part of the building was demolished. It lies at the eastern end of the conservation area adjacent to farm buildings including a cart shed and granary which form a modest farmstead. Like the conservation area it lies within, its relationship to surrounding fields and its rural setting are important to understand its historic use as a farmhouse and its origins as a rural dwelling.

3.42 Historic England considers that building across large swathes of land which form the agricultural and rural setting to both conservation areas and listed buildings

within them would have an impact on the significance these designated assets derive from their setting. A sense of the rural setting afforded to both conservation areas and to buildings like Bloor Place is still appreciable from surrounding roads and pathways and from the train which passes directly to the south of the site and provides elevated views of the site and designated heritage on its periphery. Introducing a large amount of new development would fundamentally alter the historic character of the area. Such new development would inevitably have a presence in a number of views, and change would also be appreciable in increased vehicular movements, noise and light pollution. An understanding of the historic functional relationships between the historic hamlets and the surrounding land which they were dependent on would also be compromised. It can only be concluded that this would cause harm to the significance of both conservation areas though it is thought the greater level of harm is to the Lower Rainham conservation area which is more directly affected by the development.

- 3.43 Historic England also thinks the harm extends to highly graded buildings like Bloor Place. Though a parcel of land south of the building would effectively act as a buffer between the development and Bloor Place, the wider environs in which the asset is experienced would be fundamentally altered by building across it and associated noise and light pollution etc. would also likely have an effect. It is therefore concluded the development is also capable of causing harm to the significance of this grade II* listed building.
- 3.44 Historic England therefore disagrees with the Environmental Statement which concludes that the impact on both conservation areas is *minor adverse* in EIA terms and that the impact to individual listed buildings is *moderate to negligible* depending on the asset (the statement does not differentiate individual assets so it is not possible to understand where moderate impact and negligible impacts are considered to occur). There is also no assessment of the effect of the construction stage on designated heritage which we might expect where assets, such as the grade II Chapel Cottage are adjacent to both the site and road junctions which might experience increased vehicular movements during the construction phase.
- 3.45 The National Planning Policy Framework (NPPF) governs decisions which affect the historic environment. It places great weight on the conservation of a designated heritage when considering the impact of a proposal on the significance of a designated heritage asset (Para 193). It makes clear that harm to heritage assets can happen through changes to their setting by virtue of the contribution that this makes to their significance. The NPPF requires that harm to heritage significance should be shown to have been avoided or minimised and that any remaining harm has clear and convincing justification (paragraphs 190 and 194). Harm to the significance of a designated heritage asset must then be weighed against the public benefits of a proposal in the manner set out in paragraph 196, this being the advice for the level of harm that would occur through this proposal.

- 3.46 Historic England states that It would be difficult for the applicant to demonstrate they have avoided or minimised harm and thus to provide clear and convincing justification for the harm to designated when in the view of Historic England, they have not shown that the public benefits cannot be provided elsewhere without causing harm to designated heritage. An appeal decision for land Ref: Land North of Moor Street, Rainham (REF: APP/A2280/W/15/3012034), paragraph 52 is brought to the attention of the Local Planning Authority which is felt helpful in the deliberation of this case.
- 3.47 Finally, Historic England is in full agreement with the advice provided by Kent CC about the undoubted potential for this site to contain important but non-designated archaeological remains. This issue needs to be explored further (preferably by field evaluation) before a planning decision might be reached, especially as the application includes for quanta of development and design parameters that may not be achievable without harm to buried archaeological remains. It should not be assumed that investigation by excavation will be the appropriate outcome for all archaeological remains and so the applicant at the very least would need to demonstrate whether there can be sufficient flexibility at detailed design stages so as to preserve in situ any important archaeological remains. Footnote 63 of the NPPF advises that non-designated heritage assets of archaeological interest that are of equivalent significance to scheduled monuments should be treated as per designated heritage.
- 3.48 To conclude, Historic England has concerns regarding the application on heritage grounds and thinks the application fails to meet the requirements of the NPPF in particular paragraphs 189, 190 and 194. The statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 should also be taken into account to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess along with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 3.49 However, Historic England has concluded that the proposal would cause “*less than substantial harm*” to the two Conservation Areas and three specific listed buildings - Chapel House (Grade II), Pump Farmhouse (Grade II) and Bloors Place (Grade II*) – this was the case in their response dated August 2019 and the same position was maintained in October 2019.

Rural Planning Limited (Agricultural Land)

- 3.50 Rural Planning Limited has commented on this application in relation to the loss of Agricultural Land. The main points that have been made in relation to this look at the proposal in relation to Paragraph 170 of the National Planning Policy Framework 2019.

- 3.51 In the main Rural Planning Limited raises concerns and disagrees with the points raised by the applicant within their submission relating to:
- the fact that the existing orchard varieties are coming to the end of their useful life and require replacement, at considerable cost, along with that of other necessary associated facilities
 - the management of the Pump Lane orchards is problematic as it involves transportation through heavily populated urban areas to the Flanders Farm hub, some 9 miles away
 - other farming/cropping options are not viable
- 3.52 Rural Planning Limited goes on to note that the protection afforded to Best Most Versatile Land arises from its long-term value as a national resource, which is irreplaceable once developed. Natural England explains that “*This is the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals*”. A potential need for more self-sufficiency in UK farming and crop production, in respect of which better quality land makes a valuable contribution, have been brought into the foreground as a result of the uncertainties regarding Brexit and Covid-19.
- 3.53 Overall, Rural Planning Limited considers that the permanent loss of this land is not justified and that the economic value of the land is not to such an extent that this loss would be viewed to be acceptable.

Jon Etchells Consulting (Landscape impact)

- 3.54 In terms of Landscape impact, Jon Etchells Consulting has commented that the Landscape and Visual Impact Assessment (LVIA) submitted as part of the planning application for the proposed development is generally detailed and follows a clearly stated methodology. The basic conclusion reached in the LVIA regarding landscape effects is that there would be *major / moderate* adverse effects on the character of the Lower Rainham Farmland landscape character area which contains the site. Those effects would reduce after around 15 years to *moderate adverse*. This is a reasonable assessment of the likely landscape harm.
- 3.55 Jon Etchells Consulting further notes, that the assessment of significant harm however seems to be lost in the concluding sections of both the LVIA and Chapter 11 of the ES. This is with references to there being no change to wider landscape character - if an assessment considers a wide enough area (though the LVIA and ES do not define what is meant by ‘wider character’) then clearly a point will be reached at which the effects become insignificant. This tends to obscure the effects on the District level landscape character area which contains the site, which would be (as identified in the LVIA) significant and long lasting. Those effects would lead to conflict with Paragraph 170 of the NPPF, and with Policies BNE25 and BNE34 of the Local Plan.

3.56 The main summary within the Jon Etchells Consulting report concludes that:

- The LVIA does use an appropriate and recognised methodology, but there appears to be some confusion over how the proposed mitigation measures have been taken into account in the assessment, and the use of only 8 representative viewpoints for a site of this size is in my opinion too few.
- The LVIA does provide a reasonably balanced assessment of the likely effects on the landscape character area containing the site in Years 1 and 15, but then seems to go on to dismiss those effects by saying that there would be no change to 'wider landscape character'. The LVIA does not consider effects in terms of landscape - related planning policy - that assessment is made within the Planning Statement, but appears to be unrealistic, stating that there would be no landscape harm and that the proposals would therefore comply with policy, when the specialist technical assessment of landscape and visual matters has in fact identified significant and persistent harm.

Kent Police

3.57 Kent Police has considered this application in regard to Crime Prevention Through Environmental Design (CPTED) in accordance with the National Planning Policy Framework (NPPF). It is strongly requested that a CPTED Condition be included to address the points below, which show a clear audit trail for Design for Crime Prevention and Community Safety and meet Kent Police and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

3.58 Whilst it is recognised and acknowledged that this application is only outline and what has been submitted is only indicative masterplan the following issues need to be addressed including:

1. Development layout and permeability
2. Perimeter, boundary and divisional treatments
3. Parking inc. visitor
4. Lighting and CCTV
5. Access Control
6. Doorsets
7. Windows
8. Security Compartmentalisation
9. Alarms

3.59 If the points above are not addressed, they can affect the development and have a knock on effect for the future services and local policing. Current levels of reported crime have been taken into account.

KCC Archaeology

- 3.60 KCC Archaeology has concerns in relation to this site as it is believed that important remains will be present, but there is not presently sufficient information to advise of their precise character, significance, or extent. Whilst not ideal it has been discussed that a condition may be possible in terms of carrying out the archaeological evaluation works prior to commencement of development. However, the applicant would have to recognise that potentially difficult decisions might need to be made e.g. alterations to design of the indicative masterplan or moving or not building certain parts of the site if preservation in situ were required.
- 3.61 In a worst-case scenario this could include removing areas of the site entirely from development which potentially could mean that the quantum of houses deliverable might be less, potentially even significantly less, than the 1,250 dwellings described in the application.
- 3.62 The main points raised are:
- The site has the potential to contain Palaeolithic remains and/or Pleistocene deposits of national importance. It is recommended that intrusive field evaluation works are undertaken to clarify the site's Palaeolithic/Pleistocene interest before the application is progressed any further in terms of detailed layout or land designation.
 - The site also has the potential to contain a range of post-Palaeolithic archaeology and this includes the potential for currently unknown, but nationally important remains.
 - It is considered ideally (in accordance with paragraph 189 of the NPPF) that archaeological field evaluation of the site's post-Palaeolithic interest should be required prior to determination of the present application.
 - It is acknowledged that the applicant has raised concerns that the current horticultural operations would preclude archaeological field evaluation. It is thought that this needs to be further explored and if evaluation works genuinely cannot be undertaken prior to determination, then the application needs to be sufficiently flexible to accommodate subsequent archaeological discoveries.
 - The existing parameter plans submitted with the application seem to be too prescriptive and do not allow enough flexibility.
 - There are concerns about the impact of the development on historic landscape character and the setting of designated assets, including impacts on the setting of two conservation areas and individually listed buildings.

KCC Ecology

- 3.63 KCC Ecology has reviewed the ecological information submitted with the planning application and advise that it provides a good understanding of the ecological interest of the site.

- 3.64 The submitted information has detailed the following has been recorded:
- 26 species of birds recorded (17 species presumed breeding)
 - At least 5 species of foraging/commuting bats
 - Foraging/commuting badger
 - Slow worm and common lizard present within southern and central boundaries.
- 3.65 In principle KCC Ecology agrees with the mitigation proposed as the majority of the species have been recorded within the site boundaries which are to be retained. However, concern is raised that the proposed site boundaries are very narrow and due the size of the site there is opportunity to increase and enhance the site boundaries / green space to benefit the species current present within the site.
- 3.66 The proposed development will negatively impact the site boundaries and species present due to an increase in disturbance from several factors including an increase in lighting, noise, recreational pressure. Therefore, to minimise the impact from these (and other) factors it is recommended that there is a need for the area of green space within the proposed development to be significantly increased.
- 3.67 KCC Ecology notes that the Habitat Regulations Assessment has confirmed that there is potential for an impact from recreational pressure on the Medway Estuary and Marshes SPA, SSSI and Ramsar. The site plan currently does not demonstrate that there are many opportunities for recreation within the current site plan – for example a dog walking loop to reduce the number of residents which walk regularly along the footpath adjacent to the Medway Estuary and Marshes SPA, SSSI and Ramsar.
- 3.68 Furthermore, KCC Ecology states that there is a need for a green infrastructure strategy to be submitted clearly demonstrating that a larger area of green infrastructure will be created to demonstrate there are recreational options within the current development and ensure that the current ecological interest of the site can be retained and enhanced.

Natural England

- 3.69 Natural England has commented on the potential impact of the development on the Medway Estuary and Marshes SPA, RAMSAR and SSSI, a European Protected Site which lies approximately 250m to the north of the site. Natural England's consultation responses raised two issues in this respect, hydrology and recreational pressures.
- 3.70 Natural England also commented on the loss of Best and Most Versatile land. Comments relating to each topic are summarised in turn hereunder:

1. Hydrology

- 3.71 Natural England originally raised concerns regarding how surface water will be managed/disposed and indicated that there were insufficient details provided of the surface water strategy for the proposals. In particular, they were concerned that insufficient information had been provided to provide the requisite certainty that measures to ensure contaminated run-off from the site did not enter the River Medway could be implemented.
- 3.72 Following the provision of further information to Natural England in February 2020, Natural England confirmed that the “drainage strategy as outlined in the SUDS Addendum confirms that the use of on-site infiltration via deep bore soakaways will avoid any requirement for surface water discharge from the new development to either surface water drains or watercourses which lead into the River Medway”. On that basis Natural England were satisfied that “there is no direct hydrological link between the proposed development and the development and the international/European designated sites.” However they noted that if the detailed design stage were to reveal the need for significant changes to the drainage strategy then there would be a need to consult with Natural England to ensure that the changes do not result in any increased risk to the European site.

2. Recreational pressure

- 3.73 Given the scale of the development and the close proximity of the development scheme to the designated sites, Natural England’s consistent advice has been that bespoke measures in addition to the financial contribution to the Strategic Access Management and Monitoring Strategy (implemented by BirdWise North Kent) will be required to ensure that the development does not result in adverse impacts on the integrity of the European site.
- 3.74 Such measures, based upon those suggested for similar development proposals, would be likely to include the provision of significant areas of high quality, semi-natural greenspace within or in very close proximity (that is easy walking distance) to the application site and the provision of additional location specific wardens. The warden resource would need to be focussed on raising awareness and encouraging positive behaviour that avoids disturbance in areas of the designated sites most likely to be visited by residents. The additional greenspace provision will need to provide an attractive, high quality experience and be in a location to encourage people to access this regularly rather than visiting the coastal sites close by.
- 3.75 In the absence of details of the measures which will be implemented to manage the recreational pressures, Natural England’s advice was that impacts on the integrity of the European Site could not be ruled out.

3. Best and Most Versatile land

- 3.76 Natural England highlighted that the proposed development would result in the direct loss of 51.5 hectares of BMV land and highlighted the applicability of government policy as set out in paragraphs 170&171 of the NPPF

Southern Gas Networks

- 3.77 Southern Gas Networks has stated that there are high pressure pipelines in the vicinity of the proposed work area. SGN formally object to the planning application at this stage (until such time as a detail consultation has taken place).
- 3.78 For safety, it is essential that no work or crossing of this high-pressure pipeline is carried out until a detailed consultation has taken place.
- 3.79 As and when consultation has taken place, planning has been approved and works on site are due to start, another request for information and updated maps must be made via the on-line system at Southern Gas Networks as a 'planned works' enquiry.

Sothern Water

- 3.80 Sothern Water has stated that the exact position of the public sewers and water mains must be determined on site by the applicant before the layout of the proposed development is finalised.

4.0 PLANNING APPRAISAL

Background

- 4.1 The application site as made up of two farms, Pump Farm (approx. 23 ha) and Bloors Farm (approx. 25 ha) mainly cropped as orchards and including a number of farm buildings. The applicant is large-scale local fruit grower, and packer of their own fruit, and other farmers' fruit, with their operational base at Hoo St Werburgh, where at Flanders Farm they have constructed a large fruit processing and storage facility with associated parking and hardstanding etc, initially permitted in outline in 2011.
- 4.2 The applicant (AC Goatham & Son) is one of the largest growers of apples and pears in the UK. They farm over 2,400 acres of land all for top fruit (apples and pears) over 16 freehold farms and 13 farms rented on long term agreements across the south east (a total of some 29 farms, mainly in the Medway and Swale areas, but also further afield in Kent, farming a total of over 1000 ha overall).
- 4.3 It is understood that 1 in 4.5 home grown apples and 1 in 3 conference pears sold in Britain is grown and supplied by one of AC Goatham & Son's farms or partner farms. The business has introduced new varieties of apples to allow harvest to start earlier, improved growing methodologies to increase yields and introduced cutting edge cold storage technology to allow for fruit to be stored longer through the year.
- 4.4 Press releases from October 2019 stated that over the 2019/2020 winter season Goathams intended to plant around 320,000 new fruit trees in Kent, taking the total planted over the last seven years to be well over 1.5 million. (Kent Online 2 October 2019)

Principle of the development

- 4.5 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan).
- 4.6 The proposed scheme comprises 1,250 residential units, extra care, care home, local centre and primary school. The proposed scheme falls outside the urban boundary in the countryside (Policy BNE25), and within an area of local landscape importance (BNE34). In normal circumstances the proposal would in principle be unacceptable. It would be deemed contrary to the strategic direction of the Medway Local Plan 2003 highlighted in Policy S1. This policy directs development to brownfield sites and is supported by policy BNE25 that restricts development in the countryside.

4.7 The application of these policies, however, is compromised by the lack of a 5 year housing land supply; a matter which is considered further later in this report.

4.8 Notwithstanding this, as noted above the site lies outside of the urban boundary and so policy BNE25 applies, but the Council has been challenged at appeal and by the Secretary of State for its rigid use of this policy. Therefore, an assessment of the conformity of this policy with the NPPF must be considered. The NPPF states at paragraph 170 (b) that:

“Planning policies and decisions should contribute to and enhance the natural and local environment by... ..recognising the intrinsic character and beauty of the countryside”

4.9 BNE25 can be used as a definition of the separation between the urban and rural areas or the “countryside” as described in the NPPF, but little more. Policy BNE25 can only carry moderate weight in the consideration of this application, given the lack of housing land supply

4.10 Turning to policy BNE34 this only permits development if “(i) *it does not materially harm the landscape character and function of the area; or (ii) the economic and social benefits are so important that they outweigh the local priority to conserve the area’s landscape.*” Specifically, regarding Areas of Local Landscape Importance (ALLI), the policy requires that proposed development is “*sited, designed and landscaped to minimise harm to the area’s landscape character and function.*”

4.11 BNE34 also accords with the NPPF at paragraph 170 where it states, with my emphasis:

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

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

4.12 BNE34 therefore, can carry full weight in the consideration of this application. The principle is to protect and enhance landscape areas identified through local plans for their “value” or importance. Moreover, BNE34 also provides a ‘balancing exercise,’ whereby should a proposal demonstrate that its economic and social benefits outweigh the value of an ALLI then it might be permitted, this too accords with national policy. It should be noted that this is not the case here, and the benefits do not outweigh the harms, as is considered later in this report.

- 4.13 Paragraph 11 of the NPPF, describes how the ‘presumption in favour of sustainable development’ should be applied. With particular reference to decision taking, where development accords with the development plan approval should be without delay (para 11(c)). Where it does not, and where and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: (i) the application of policies in the NPPF that protect areas or assets of importance provide a clear reason for refusal or (ii) or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (para 11(d)).
- 4.14 There are two important footnotes to paragraph 11 in the Framework. The first is footnote 6 which lists the policies which provide a clear reason for refusing development proposals, including: habitats sites and designated heritage assets. The second, is footnote 7 which explains that where a local authority cannot demonstrate a five year supply of housing land or where they have not met the housing delivery test for the last three years; plans and policies can be considered to be out-of-date

5 Year Housing Land Supply

- 4.15 The Council cannot demonstrate “a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement” as required by paragraph 73 of the NPPF.
- 4.16 In understanding by how much there is an undersupply of housing, first the local housing need for Medway must be calculated using the standard method as required by the NPPF at paragraph 60:

Households in 2020	119739
Households in 2030	132768
Growth	12975
10 year annual average	1298
Affordability ratio	8.41
Adjustment	1.275625
Need figure	1655

- 4.17 Using this need figure, and applying it to the latest supply figures published in the Council’s December 2019 AMR shows the following:

Requirement	
Annual Requirement	1,655
5 Year Requirement (1st April 2019 - 31 March 2024)	8,275
TOTAL Requirement (with 20% Buffer):	9,930

Supply	
Large site Applications	5,793
Small site Applications	281
Windfall Allowance (yrs 3-5)	570
TOTAL supply:	6,644
Years supply	3.35
Surplus/Deficit	- 3286

- 4.18 It must be noted at this point that this calculation it has not been updated specifically for this report. In any event, the scale of the shortfall is considered to be significant.
- 4.19 It is accepted that, due to the lack of a five year supply of housing, the development plan policies which are most important for determining the application are deemed to be out of date. This means that paragraph 11(d) is engaged, a matter which is address further in the planning balance section below. However, the lack of a five-year land supply does not mean that all of the policies of the Development Plan should be simply dismissed. As explained above weight should be applied relative to the conformity with the Framework and guidance.

Housing delivery Test

- 4.20 The 20% buffer is applied to the housing need calculation above because of the Council performance in the last three years as recorded ed in the Government's housing delivery test. This is published in a table for containing every LPA in the country. Medway's performance is as follows:

Number of homes required			Total number of homes required	Number of homes delivered			Total number of homes delivered	Housing Delivery Test: 2019 measurement	Housing Delivery Test: 2019 consequence
2016-17	2017-18	2018-19		2016-17	2017-18	2018-19			
1,322	1,334	1,672	4,328	661	669	647	1,978	46%	(20%) Buffer

- 4.21 The Council is aware of the challenge of the housing supply and the HDT and is therefore taking steps to remedy the situation.

Efforts to Boost the Supply of Housing

- 4.22 The Council recognises that there is a need to significantly boost the supply of housing in accordance with the provisions of the Framework and is taking a number of positive steps with this in mind in advance of the adoption of a new Local Plan.

4.23 As reported in the AMR at 'Delivering Development' (from page 18) the council has prepared a Housing Delivery Test Action Plan (HDTAP) which considers the main barriers to the delivery of more houses within Medway and was in response to the Housing Delivery Test (HDT) results. Moreover, the delivery of housing is considered in detail and the role that the Council is taking in promoting sustainable development in Medway. This includes reference to:

- Major urban regeneration
- Consents on suitable greenfield sites
- Increase diversity in housing market with a greater range of site types and scales with a wider range of developers. This also demonstrates the range of housebuilders investing in Medway.
- Working constructively with the development sector. Medway Council has been a leading partner in the development of the Kent Planning Protocol, and the Head of Planning and Chair of Planning Committee have met individually with major developers to discuss opportunities to speed up the delivery of sites
- Various other pro-active roles the of council in bringing sites forward for development (e.g. PPA, increased planning resources and joint masterplanning)
- Identifying and addressing delays in build out of schemes.

4.24 In November 2019 it was confirmed that the Council was successful in an ambitious bid to secure £170m for infrastructure improvements through the Housing Infrastructure Fund (HIF), to enable delivery of the Local Plan. The bid includes strategic transport improvements, including the introduction of new passenger rail services, and a package of social and environmental investments to enable the delivery of a rural town on the Hoo Peninsula.

4.25 The Local Plan is being progressed at some pace, since the confirmation of HIF and the timetable for its production is shown below. Furthermore, the production of the Strategic Land Availability Assessment (SLAA) to support the Local Plan demonstrates that there is a good supply of suitable locations for development. The next step, or course, is to apply a reasonable spatial strategy to the SLAA findings to produce a robust and sound plan against which future planning decisions can be made. The table below is taken from page four of the SLAA report and shows the potential supply can meet the short term (5 year) need for new homes, as well as the need across the plan period (it should be noted that this does not include sites 750 and 1061, which form this application area which were assessed as unsuitable*):

Housing	Phasing				TOTAL
	Years 1-5	Years 6-10	Years 11-15	Years 16+	
	2019 - 2024	2024 - 2029	2029 - 2034	2034 +	
New Suitable, available and achievable SLAA sites	3643	8331	5857	1440	19271
Large permitted sites from 2019 AMR	5793	1789	0	205	7787
Small permitted sites from 2019 AMR	281	1	0	4	286
Windfalls from AMR		950	950	0	1900
TOTAL PHASING	10287	11071	6807	1649	29244

**Both sites were found to be unsuitable for the following reasons: access to services, landscape and impact on agricultural land. Whilst the SLAA does not grant planning permission and influence it in any way it does highlight potential issues.*

4.26 The Council has also sought to apply the presumption in favour of sustainable development by granting planning permission for sites outside of current development boundaries, where these amount to sustainable development, in advance of the adoption of the new Local Plan. In this regard, the following permissions have been granted by the Council for development on unallocated sustainable sites in advance of the Local Plan in order to assist in meeting housing need and 5 year housing land supply:

1. MC/15/0098 Outline Planning permission granted for up to 50 dwellings at Street Farm, Hoo on 10/11/16. MC/18/1795 Reserved Matters for 50 dwellings approved 27/9/18, various conditions discharged through 2019.
2. MC/16/2051 Outline Planning Permission granted on 24/02/17 for 300 houses at Otterham Quay Lane, Rainham (Persimmon). MC/18/2328 Reserved Matters for 300 homes approved 23/11/18, various conditions discharged through 2019.
3. MC/16/2776 Outline Planning permission granted for 44 executive houses at Darland Farm, Capstone on 15/03/17. MC/18/0705 Reserved Matters for 44 dwellings approved 24/10/18, various conditions discharged through 2019.
4. MC/16/4229 Reserved matters permission granted for 131 dwellings at Peninsula Way, Chattenden on 30/08/17 (Abbey Homes) – site commenced.

5. MC/16/2837 Outline planning permission granted for 127 Dwellings at Stoke Road, Hoo on 13/12/17. MC/18/0702 Reserved Matters for 127 dwellings approved 9/7/18, various conditions discharged through 2019 and 2020.
6. MC/16/4268 Outline Planning Permission granted for up to 130 dwellings at Commissioners Road Quarry on 18/07/17. Work has commenced in preparation for development.
7. MC/17/1884 Detailed planning permission resolved to be approved subject to S106 for 232 dwellings at Bells Lane Hoo on 27/09/17 (Bellway) – site commenced.
8. MC/17/1820 Reserved matters permission resolved to be approved subject to S106 for 90 dwellings at Bakers Field, Rainham on 27/09/17 (McCulloch Homes) – site commenced.
9. MC/17/1918 Reserved matters permission granted for 199 apartments at Chatham Waters on 27/09/17. MC/18/0997 Reserved Matters for 193 dwellings and A1/D1 uses approved 5/10/18 – development completed.
10. MC/17/1250 Reserved matters permission granted for 200 dwellings at Chatham Quayside on 30/08/17. site commenced.
11. MC/17/1392 Reserved matters permission granted for redevelopment of Kitchener Barracks for 302 dwellings on 29/08/17 (Latis Homes). Works have commenced on this largely modular house development that is specifically referenced in the Housing White Paper.

4.27 Moreover, since 1 April 2019 consent has been granted for large scale development (5+ units) for sites with capacity for in excess of 800 units in total, examples of note are as follows:

- MC190038 – Bardell Terrace – 331 units
- MC182448 – 21 Jeffery Street Gillingham – 24 units
- MC180092 – Unit 1-2 New Cut Industrial Centre – 35 flats
- MC182553 – White Road Community Centre – 20 units
- MC190797 – 4,6,20,22 High Street Rainham – 54 retirement apartments
- MC183160 – Bennetts Orchard, Rainham – 64 units
- MC182406 – Car park, Whiffens Avenue – 115 units
- MC193328 – Hillcrest, Ratcliffe Highway – 21 units

4.28 These figures do not include any small site windfalls which would also increase the supply.

Emerging Local Plan

- 4.29 The emerging Medway Local Plan sets out the strategy for sustainable development as well as allocating sites and establishing planning policies and guidance for the plan period of 2019-2037. The “Local Plan Development Strategy” (Regulation 18) consultation opened in March 2018 and closed on 25th June.
- 4.30 The Development Strategy provided “Four Development Scenarios” reflecting the plans evidence base objectively assessed housing need and the Standard Method for calculating Local Housing Need ranging from 29,500 homes to 37,000 homes.
- 4.31 The latest Local Development Scheme (LDS) sets out the following programme for the emerging Local Plan:

Stage	Date
<i>Regulation 18 – Issues and Options consultation</i>	<i>Jan-Feb 2016</i>
<i>Regulation 18 – Development Options consultation</i>	<i>Jan-May 2017</i>
<i>Regulation 18 – Development Strategy consultation</i>	<i>March-June 2018</i>
<i>Regulation 19 – Publication of draft plan</i>	<i>Summer 2020</i>
<i>Submission of plan for Examination</i>	<i>By January 2021</i>
<i>Adoption (determined on outcome of Examination)</i>	<i>December 2021</i>

- 4.32 The Council has also successfully secured £170m from its bid to the Housing Infrastructure Fund to invest in the strategic infrastructure that is critical to Medway’s ability to accommodate the scale of projected development needs in the emerging Local Plan.
- 4.33 The Framework sets out at paragraph 216 that weight may be afforded to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to policies in the Framework.
- 4.34 The emerging Local Plan has not been the subject of examination and has unresolved objections. It therefore carries limited weight in accordance with paragraph 216 of the Framework.

Main considerations

- 4.35 Drawing the above representations, consultation responses and Local Plan considerations together, it is considered that there are six main areas of consideration for this application as follows:
- The likely impact on European protected sites;

- Effects on Heritage Assets;
- Landscape and Visual Effects;
- Implications for the Strategic Highway network;
- Local Highway Network impacts; and,
- The loss of Agricultural Land

4.36 Each of these considerations is presented in turn hereunder, before addressing the planning balance

The likely impact on European protected sites

4.37 As a 'competent authority' the Council as Local Planning Authority is required under the The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) to:

- (a) assess whether there would be likely significant effects (LSE) on a European Site;
- (b) if so, undertake an appropriate assessment (AA) of the implications of the project; and,
- (c) cannot grant permission if, having undertaken the AA, there could be adverse impacts on the integrity of the European Site, unless there are imperative reasons of overriding public interest

4.38 The application site is in close proximity to the Medway Estuary and Marshes SSSI, SPA and Ramsar (approximately 250m from the site). Natural England has advised that the proposed development is likely to have a significant effect, either alone or in-combination, on the European site from recreational disturbance on the over-wintering bird interest.

4.39 Natural England has advised that an appropriate tariff of £245.56 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) could be collected to fund *Strategic Access Management and Monitoring Strategy* (SAMMS) measures across the Thames, Medway and Swale Estuaries by way of mitigation.

4.40 However, given the close proximity of the site to the Medway Estuary & Marshes SPA and Ramsar European site, Natural England have advised that - **in addition** to the SAMMS contribution – bespoke mitigation would also be required for the development. Natural England has suggested that this could include (i) significant areas of Suitable Alternative Natural Greenspace (SANGS); or/and (ii) site specific wardens being provided.

4.41 No agreement has been reached between Natural England and the Applicant over appropriate mitigation, and there is currently insufficient information available to Natural England to allow them to make a decision.

- 4.42 Without the necessary information being available and without there being an agreed and funded scheme of mitigation, adverse impacts on the integrity of the SPA cannot be excluded. Therefore, the Council would be required under the Habitats Regulations to refuse to grant permission unless there were imperative reasons of overriding public interest. For the reasons set out below, the Council do not consider that this very high threshold is met.
- 4.43 Furthermore, the potential adverse impacts on the European Site renders the application contrary to the NPPF at paragraphs 175 & 176 and policies S6 and BNE35 of the Local Plan
- 4.44 It should be noted that the applicant has provided information to Natural England that has overcome its concerns in relation to the hydrological implications.

Heritage

- 4.45 The proposals raise the potential for impact to cultural heritage – Listed Buildings, Conservations Areas, and the historic landscape – and also below ground archaeology. The NPPF explains, at paragraph 184, that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 4.46 Listed Buildings and Conservation Areas are designated heritage assets, in respect of which paragraph 193 says:

“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.”

- 4.47 As can be read in the consultation responses; Historic England has concerns that the proposals will harm the setting and significance of several heritage assets. This harm is judged to be “*less than substantial*” for the purposes of the NPPF.
- 4.48 This assessment by Historic England is important because it refers to specific ‘tests’ in the NPPF. At paragraph 195 of the NPPF it states:

“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent...”

- 4.49 However, since this level of harm has not been identified, consideration must turn to paragraph 193 of the NPPF which 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.”

- 4.50 Moreover, it should be noted that Historic England is the government's expert advisor on England’s heritage and it has a statutory role in the planning system; their views carry “*great weight*” in planning decisions unless there are cogent reasons to depart from them.

- 4.51 The setting of heritage assets is also a key element in considering the impacts of a proposals. The setting of a heritage asset is defined in the NPPF as “*The surroundings in which a heritage asset is experienced*”. Planning Practice Guidance (PPG – Paragraph: 013 Reference ID: 18a-013-20140306) provides further guidance on what comprises the setting of a heritage asset. The PPG notes that views play an important part of an assets setting, but that other factors affect how an asset is experienced, including noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. The PPG also makes it clear that the contribution that setting makes to the significance of a heritage asset does not depend on there being public rights or an ability to access or experience that setting.

- 4.52 Local Plan policy BN12 states that:

“Special attention will be paid to the preservation and enhancement of the character and appearance of Conservation Areas”

- 4.53 Local Plan policy BN18 also outlines that:

“Development which would adversely affect the setting of a listed building will not be permitted.”

- 4.54 Kent County Council’s archaeological team has also raised detailed concerns about the potential for below ground heritage interest and potential interest which must be carefully considered. This is in accordance with Local Plan policy BNE21 which seeks to protect important archaeological remains in situ, and to avoid or minimise damage to these deposits. However, where damage is unavoidable, appropriate archaeological investigation will be required in advance of development.

4.55 Hereunder, issues relating to cultural heritage are assessed followed by archaeological interest.

Cultural Heritage

4.56 The proposed development is located to the north of Rainham and Twydall, between the railway line and the Lower Rainham Road, and lies adjacent to 2 Conservation Areas:

- Lower Twydall; and,
- Lower Rainham.

4.57 The proposed development has the potential to impact upon 8 Listed Buildings:

- York Farmhouse (Grade II);
- Pump Farmhouse (Grade II);
- Chapel House (Grade II);
- 497-501 Lower Rainham Road (Grade II);
- The Old House (Grade II);
- Bloors Place (Grade II*);
- a range of outbuildings including cart lodge and granary west of Bloors Place (Grade II); and,
- the garden walls to south and east of Bloors Place (Grade II).

4.58 As noted above, Conservation Areas and listed buildings are amongst the list of 'designated heritage assets' described at paragraph 194 of the NPPF. However, as well as these designated assets the proposals have the potential to affect a range of non-designated heritage assets including the local historic landscape, which is considered to be a heritage asset in its own right.

4.59 In respect of the buildings identified in the ES as being affected by the proposed development it is noted that that Bloors Place is in fact listed at Grade II*, not Grade II as indicated within the assessment.

Historic landscape

4.60 Turning first to the non-designated (in heritage terms) historic landscape. Topographically the site levels fall north-eastward from the site's south-west boundary down towards the river. The lower dip-slope between Gillingham and Rainham is dissected by a number of shallow dry valleys, running broadly parallel with each other, and trending south-west to north-east. Pump Lane approximately follows the line of one such dry valley, whilst the former Twydall chalk quarry falls within another. This gives the landscape a broadly undulating topography.

4.61 As noted above, the broad grain of the landscape and settlement pattern had probably been established by the medieval period, albeit some elements, such as

Lower Rainham Road may have earlier origins. Lower Rainham Road is orientated north-west to south-east, parallel with the River Medway, and skirting along the edge of the higher, dryer land overlooking the marshland and river margins. Perpendicular to Lower Rainham Road there are a series of north-east to south-west aligned routes, which run towards Watling Street and out onto the downs. Pump Lane, which bisects the site, follows one of these north-east to south-west aligned routes, as does Lower Bloors Lane and Lower Twydall Lane, which book-end the site to the north-west and south-east. Historic mapping, such as the Gillingham and Rainham Tithe maps (dated 1840 and 1838 respectively), Ordnance Survey field surveyors' drawings (1797) and the 1st Edition Ordnance Survey maps (1869) all show these routes, with the land between subdivided into fields, with boundaries generally orientated either north-west to south east or north-east to south-west. These provide a framework and landscape-grain that exists to the present-day.

- 4.62 Hasted, writing at the end of the eighteenth century describes the land north of the street (i.e. Watling Street, now the A2) as “a fertile and kindly land both for corn and fruit, insomuch that this parish has been noted for growing some of the best wheat that this kingdom has produced; and it had well within memory many plantations of cherries and apples”.
- 4.63 The historic mapping also demonstrates the historic origins of the current settlement pattern. Eighteenth century maps show Lower Twydall (sometime Tweedale) and Lower Rainham as small hamlets which largely correspond with the two conservation areas. The settlements have a clear agricultural focus, with Lower Twydall comprising a collection of farmsteads, with their associated barns and other agricultural buildings. Subsequent expansion has largely comprised “ribbon-type” development, primarily along Lower Rainham Road in the direction of East Rainham. The development towards East Rainham is consistently of more recent date, and as such it is possible to appreciate that the conservation area of Lower Rainham reflects the core of a small historic settlement between Chapel House and Bloors Place.
- 4.64 Historic landscape character: The Kent Historic Landscape Characterisation places the site within Historic Landscape Character Area (HLCA) 17 – Northern Horticultural Belt. Historic map regression shows that orchards have long been a feature of the landscape here, with the combination of fertile soils and shelter from the North Downs, combined with easy access to urban markets, including London, being favourable factors.
- 4.65 Extensive areas of orchard are shown on late eighteenth-century maps, along with arable fields. In the nineteenth century and into the twentieth century the remaining arable fields are given over to orchards, whilst within the existing areas of orchard there is some rationalisation through the removal of field boundaries. The settlements of Lower Twydall and Lower Rainham are clearly shown on historic

maps, as are Lower Rainham Road, Pump Lane, Lower Twydall Lane and Lower Bloors Lane.

- 4.66 The ES includes a section on Landscape and Visual Impact (LVIA; ES Chapter 11), but this does not consider the historic character of the landscape, its time depth or significance. The historic landscape character of the area is similarly not considered in any detail within the Archaeology and Cultural Heritage chapter of the ES. The Planning Statement that accompanies the application suggests that the scheme has paid regard to the existing landscape context, but if this is to be achieved effectively, then it is essential that the area's historic landscape character is understood. The illustrative masterplan and the parameter plans do not clearly demonstrate that the historic landscape character of the area has been considered. For example, the primary movement infrastructure is a new loop road, but this appears to pay no regard to the historic grain of the local or wider landscape.
- 4.67 The NPPF recognises the need for developments to be sympathetic to local character and history, including the surrounding built environment and landscape setting. As well as being of value in its own right, the historic landscape character of an area can also make a significant contribution to the setting of individual heritage assets.
- 4.68 The 2017 Medway Heritage Asset Review identifies the agricultural landscape and associated heritage assets as being an important part of Medway's rich heritage. The study specifically identifies the North Kent Fruit Belt and suggests that development of agricultural land here "should be resisted in all but the most appropriate instances to ensure that the agricultural character that defines Rainham's heritage is preserved".
- 4.69 It is clear then, that the historic landscape has non-designated heritage value in its own right. Paragraph 197 of the NPPF states that:
- The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*
- 4.70 The loss of substantial areas of orchard to built development will significantly harm the historic landscape. The balance of this harm will be returned to at the conclusion of this report.
- 4.71 As well as having value in its own right, the existing and historic landscape character of the area also contributes to the significance of nearby designated heritage assets (conservation areas and listed buildings), whose setting it, in part, forms. The application documentation seeks to argue that there is little historic

association between these designated heritage assets and the proposed development site. This is clearly not the case and it is suggested there is a clear historic functional association between the agricultural buildings and settlements and the farm/horticultural land of the application site that adjoins them. As an example, cursory examination of the Tithe Maps shows that some of the buildings within Lower Twydall are under the same ownership as land within the development area. The next section of this report will turn to the potential impacts on designated heritage assets.

Lower Rainham Conservation Area and the Listed Buildings at Bloors Farm

- 4.72 The Lower Rainham Conservation Area currently comprises a mixed collection of residential properties dating back to the 15th century, a public house (The Three Mariners) and a former farm at Bloors Place; however historically there was a second public house (The Jolly Gardeners) and a chapel. The names of the pubs provides an insight into the history of the area, indicating that the traditional trades in the area related to use of the river and to horticulture. Grade II* Listed Bloors Place is located to the east of the Conservation Area and comprises a former hall house dating back to between 1470-1510, which was converted to a farmhouse by the 18th century. A range of Grade II Listed farm buildings remain including a granary and cart shed, as well as a recently reconstructed oast.
- 4.73 The Conservation Area is characterised by that of a traditional Kentish hamlet in its original setting that is derived from the local horticultural industry, and to a lesser extent its association with the river. Historic mapping identifies an abundance of orchards surrounding the Conservation Area on all sides and is described in Edward Hasted's 1798 publication 'The History and Topographical Survey of the County of Kent' as "this parish has been noted for growing some of the best wheat that this kingdom has produced; and it had will within memory many plantations of cherries and apples, especially on the lands adjoining the high road, and to the northward of it."
- 4.74 The Council's Conservation Officers report that any development nearby would need to respect the setting of the Lower Rainham Conservation Area and heritage assets contained therein. The proposed development masterplan indicates that a school is to be located immediately south of the western half of the Lower Rainham Conservation Area, and residential development to the eastern portion; further residential development is proposed immediately east of the Conservation Area, to the rear of Chapel House.
- 4.75 Whilst recognising that layout and design are to be determined at reserved matters stage, the loss of the agricultural (and open) land, and its replacement with built development as is indicated on the parameters plans will cause harm to the significance of the Conservation Area and Listed Buildings and by encroaching upon and interrupting their existing and important historic rural setting.

Pump Farmhouse

- 4.76 Grade II Listed Pump Farmhouse is understood to originate from the 18th century, and has been subject to alteration since. Historic mapping shows the farmhouse to be surrounded on 3 sides by orchards, with a farmyard located to the immediate south. A modern residential development, Russett Farm, has since replaced the farmyard and the orchard to the north-western edge, however the horticultural setting is retained to the north. Whilst the design of Russett Farm has taken influence from traditional Kentish farm buildings, the scale of the development has led to an erosion of the setting of the farmhouse, reducing its interpretation in the historic landscape.
- 4.77 The Council's Conservation Officers report that any development adjacent to Pump Farm (particularly to the north of the farmhouse) will need to respect its setting. The proposed development masterplan indicates a buffer around the farm, with a 'village centre' proposed to the immediate north, in the area of setting most in need of protecting.
- 4.78 Once more it is recognised that the layout and design are to be determined at reserved matters stage, however, the indicated locations for development (in the parameters plan) adjacent to Pump Farmhouse is likely to encroach upon and interrupt its existing and important historic rural setting and therefore harm its significance.

Lower Twydall Conservation Area and York Farmhouse

- 4.79 The Lower Twydall Conservation Area is a small settlement comprising range of historic former farm houses and farm buildings converted to residential use, many of which are now Grade II Listed. The origins of the settlement here can be dated back to the 15th century, with late 19th century mapping identifying the 3 main farms of York Farm, Little London Farm and Twydall Farm, all surrounded by orchards and fields. Much of this historic horticultural setting is still in existence around the Conservation Area and plays a significant role in its character and significance. A small modern residential development (Little York Meadows) has eroded some of this character to the western corner, however similarly to Russett Farm much of the design of the development has taken influence from traditional Kentish farm buildings.
- 4.80 The Council's Conservation Officers report that any development nearby would need to respect the setting of the Lower Twydall Conservation Area and heritage assets contained therein. The proposed development masterplan indicates residential development immediately to the south-east of the Conservation Area, separated by what appears to be a belt of trees.
- 4.81 Whilst recognising that layout and design are to be determined at reserved matters stage, the loss of the agricultural (and open) land, and its replacement with built

development as is indicated on the parameters plans will cause significant harm to the significance of the Conservation Area and Listed Buildings and by encroaching upon and interrupting their existing and important historic rural setting.

The cumulative impact upon heritage assets

- 4.82 Much of the land around Lower Rainham (between the Railway line to the south and River Medway to the north) has been used for horticultural purposes, particularly fruit orchards since at least the 18th century, with evidence of farm buildings being identified at Bloors Farm, which Hasted in 1798 describes as “the old mansion of Bloor's-place, mentioned hereafter, great part of which was pulled down a few year ago to adapt the size of it to that of a farmhouse, though what still remains of it, with the garden walls, offices, &c. shew it to have been of large size, well suited to the hospitality of those times, and to the rank which the founder of it held among the gentry of the county”. The 2001 Kent Historic Landscape Characterisation identifies the proposed development site area as part of the ‘Northern Horticultural Belt’. This belt is “primarily defined by horticultural activity, with a predominance of orchards. This belt occurs on the sandier soils of the northern areas in the sheltered belt below the downland areas. Economically, it is situated between a series of major towns which would have supplied substantial markets as well as an extensive road and rail corridor for transportation further afield.” The existing fruit orchards and dispersed settlement pattern of farms and associated buildings therefore form a distinctive and important part of the historic landscape of the Lower Rainham area and help characterise many of the heritage assets and their settings.
- 4.83 The proposed development includes the loss of some of the historic orchards described above and would lead to the eventual coalescence of 3 individual historic settlements that collectively with the orchards and fields between define the historic landscape in this area.
- 4.84 It is considered that there is a clear and appreciable historic link between the agricultural/horticultural land of the development site and the rural settlements and farms that adjoin it. As such the impact of the development on the setting of the individual listed farms and the conservation areas must be harmful and by dint of NPPF paragraph 193 that harm must be given great weight in any planning decision. For the listed buildings the framework is bolstered by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which creates a strong presumption against development that would have a harmful impact on a listed building or, as is the case here, its setting.
- 4.85 The Council’s Conservation Officers agree with Historic England that the harm to the heritage assets is considered to be less than substantial. Paragraph 194 of the NPPF requires clear and convincing justification for any harm or loss of significance to a heritage asset. 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), as per paragraph 193. Furthermore, paragraph 197 notes that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

- 4.86 There is clear harm to the setting and critically the significance of designated heritage assets in these proposals from the loss of open countryside and orchards. Albeit that that layout and design are to be determined at reserved matters stage. Limited justification for the harm to the significance of the heritage assets has been provided through the application, with little discussion around the coalescence of the historic settlements and the alteration to the historic landscape that contributes to the significance of many of the affected heritage assets.
- 4.87 These significant (albeit "less than substantial") harms to designated heritage assets – as outlined above – is not outweighed by the public benefits of the scheme, including new homes, affordable homes, limited construction and future employment, and the services and facilities associated with the development.
- 4.88 The application is therefore considered to be contrary to the NPPF at paragraphs 193 – 196 and Local Plan policies BNE12 and BNE18

Archaeological interest

Pleistocene interest and Palaeolithic potential

- 4.89 According to KCC Archaeology; the site has a clear potential to contain important Pleistocene deposits and Palaeolithic remains. The proposed development lies immediately adjacent to the old Tywdall Chalk Pit which has produced abundant Palaeolithic material and there is a very high likelihood that further artefact rich deposits will extend into the proposed development site. Historic England have set out criteria by which Palaeolithic sites might be defined as "nationally important". **Because they are so rare in Britain sites which at which Palaeolithic artefacts are particularly abundant, such as Tywdall, should be regarded as of national importance.** Even in the absence of artefacts the associated Pleistocene deposits can be significant where they contain faunal or other biological remains and/or can be scientifically dated. This is because of the contribution that they can make to understanding past landscapes, environments and climatic conditions.
- 4.90 The application is accompanied by a Pleistocene and Palaeolithic Desk-Based Assessment which highlights the importance of the site. The study has subdivided the site into a series of Palaeolithic character areas and suggests that further intrusive investigation is required.

Post-Palaeolithic archaeological potential

- 4.91 The archaeological assessment within the ES has largely considered the site's archaeological potential in relation to known archaeological sites or findspots from within the site boundaries or from its immediate vicinity. It should be noted however that the site and its immediate environs have been subject to limited systematic archaeological investigation. As such the number of known archaeological sites and findspots is likely to be a result of limited investigation, rather than being a true reflection of the site's archaeological potential. To better understand the site's potential, it is necessary to consider the topographical and landscape context of the site, and to consider what remains have been encountered from similar situations elsewhere along this stretch of the Medway.
- 4.92 Mesolithic blades and flakes have been recorded from near Pump Farm, possibly coming from within the proposed development site, whilst further evidence for Mesolithic activity has been observed to the east at Berengrave Nursery and to the west at Grange Farm providing clear evidence that Mesolithic people were active within the landscape here. There is similar evidence for activity in the Neolithic with several stone tools having been found including a polished axe discovered near Bloors Place. The site at Grange Farm also produced Neolithic flint tools, as well as potentially archaeological features of Neolithic date.
- 4.93 Flintwork of probably Bronze Age date has also been recorded to the east at Berengrave and to the west at Grange Farm and also at Woodlands.
- 4.94 Iron Age activity is also noted at Grange Farm where evidence for a field-system is recorded along with pits and other activity. The features probably lay on the edge of a settlement or farmstead. Further evidence for Iron Age settlement has been recorded to the east towards Rainham and together indicate that intermittent Iron Age settlement activity is present along the strip of ground between the railway and the Medway from Gillingham towards Rainham.
- 4.95 There is much more evidence for Romano-British activity in the area, with the Medway being the focus for industry, including salt production on the marshes and numerous pottery production sites on both sides of the river, part of an extensive pottery production industry that extends along much of the north Kent coast. In addition to remains of these industries archaeological investigation has revealed good evidence for associated settlement, field-systems and burials on higher ground all along the Medway estuary. Roman funerary or burial sites have been recorded in a number of locations near the application site, including at Grange Farm, Sharp's Green, Lower Rainham and East Rainham. The Romano-British funerary deposits at Lower Rainham lie very close to the site boundary and it is possible that further burial remains could extend into the proposed development site.
- 4.96 Anglo-Saxon period remains in the area include a probable cemetery at East Rainham and another to the west near Grange Farm. A "Saxon Weapon" noted as having been found near Otterham Quay might also have originated in a burial

context. There is some evidence for Anglo-Saxon occupation at Grange Farm, whilst finds of Anglo-Saxon pottery at Sharp's Green and a fifth century Merovingian coin from Lower Rainham indicate activity of this period in the vicinity of the site.

- 4.97 It is probable that the broad pattern of medieval occupation in the area largely mirrors that seen in the modern landscape, with the arrangement of farmsteads, villages and routeways established in the medieval period forming the landscape framework that we see today. Such continuity is demonstrated at Black House Farm on Lower Rainham Road, where medieval domestic occupation was observed beneath the floors of a mid-seventeenth century building. Chapel House, which lies immediately adjacent to the proposed development site is of mid fifteenth century date. Within Lower Rainham number 497, 499 and 501 Lower Rainham Road are of late fifteenth century date, being an open hall house that has subsequently been subdivided, with The Old House also understood to be of fifteenth century date. Bloors Place, again just outside the development site, is of similar date, being constructed circa 1470-1510 as a 'Wealdon' hall house. In Lower Twydall York Farmhouse is of probable sixteenth century date, and Little London Farmhouse of late fifteenth or early sixteenth century date. At Manor Farm there are a pair of barns, now converted to houses, one of probable fifteenth century date and the other of sixteenth century date. The main farmhouse is of seventeenth century date, but postulated to occupy the site of an earlier medieval manor house.

Assessment of the potential archaeological impacts

- 4.98 KCC Archaeology report that regarding below ground archaeology, the ES that accompanies the planning application notes that the application site is of "*high archaeological interest*". This assessment is broadly agreed, but it is believed that for some periods the site's archaeological potential is greater than the ES suggests. This is particularly the case for the later Prehistoric and Romano-British periods.
- 4.99 There is a clear potential for nationally important Palaeolithic remains to be present within the proposed development site. Additionally, the site has a high potential for archaeological remains of post-Palaeolithic date. These could include presently unknown archaeological remains whose level of significance is such that they should be preserved in situ.
- 4.100 As noted above, the NPPF describes at paragraph 184 that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. The site has the potential to contain important archaeological remains. Footnote 63 explains that non-designated heritage assets of archaeological interest of the highest significance, should be subject to the same NPPF policies as designated heritage assets.

- 4.101 Paragraph 189 of the NPPF describes how local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. It notes that the level of detail should be proportionate to the assets' importance and should be enough to understand the impact of the proposal on that significance. It notes for heritage assets of archaeological interest that an archaeological field evaluation may be necessary.
- 4.102 The question of whether important archaeological remains are present within the proposed development site needs to be addressed, this would have been ideally before the application was determined if the significance of such remains is to be appropriately taken into account in accordance with the NPPF. However, it has not been possible to establish this through field investigation.
- 4.103 KCC Archaeology is not convinced by the applicant's approach to archaeological assessment and the lack of information provided to date. It also requests that there is sufficient flexibility to allow for the safeguarding of important but presently unknown archaeology. Citing that the ES suggests that if important archaeological remains are present then their preservation could be accommodated by means of "alterations to the masterplan [that] would need to be made as part of any further planning permission".
- 4.104 The lack of appropriate information places the application at non-conformity with the NPPF at paragraph 189 but on balance it is considered that this information can be submitted by way of reserved matters to the full application for development. A condition can be applied to any consent that will require sufficient information prior to commencement of any building work.
- 4.105 In order for a condition to be effective and for the application to be acceptable in accordance with local Plan policy BNE21 a level of flexibility must be retained within the scheme to accommodate the preservation - in situ - of archaeological remains. At present the parameters and quantum of development set within the application might prevent the preservation of archaeological remains. Therefore, an appropriately worded condition would need to be drafted, if the decision is to give consent.

Landscape and Visual Effects

- 4.106 The site is outside the settlement boundary and is in the countryside. The site and surrounding area to the east and west (and also a narrow strip to the north) lie in the Gillingham Riverside Area of Local Landscape Importance (ALLI), designated under Policy BNE34 of the adopted Medway Local Plan 2003. The justification for this designation is stated in the Local Plan to be:

"Location and character

Rural landscape of orchards and arable fields with country lanes. Situated to the north of Rainham and Twydall, adjacent to the River Medway. Medway Towns Northern Relief Road forms the western boundary.

Function

Forms an important green buffer separating the built-up areas of Twydall and Rainham from areas of international importance for nature conservation and recreation along the Medway estuary.

Enhances the setting of the Medway Towns Northern Ring Road on the western boundary, and allows attractive views from the river and railway. Provides residents within an extensive urban area with access to an attractive, rural landscape.

Provides an attractive setting to the Lower Rainham and Lower Twydall conservation areas.

Contains a number of orchards, mature hedgerows and farm groups complementing and contributing to the Riverside Country Park.

Forms a green backdrop when viewed from the Medway Estuary.”

4.107 In terms of the submitted LVIA (Lloyd Bore, Rev D – Date 29.04.2019), effects on the landscape are considered for the identified landscape character areas, with the site lying within the Lower Rainham Farmland landscape character area, as identified in the Medway Landscape Character Assessment 2011 (LCA). Visual effects are considered for 8 representative viewpoints around the site, and views are illustrated by the photographs in Appendix 2 of the detailed LVIA. For such a large site the use of only 8 viewpoints seems to be very low.

Landscape Character

4.108 The LVIA correctly notes that the site is within the Lower Rainham Farmland landscape character area, as set out in the MLCA, and quotes or refers to some parts of the assessment for that character area. However, while the full assessment is included within Appendix 3 of the LVIA, the following extracts are not quoted in the LVIA text, though they are of obvious relevance:

- *‘Value of area as green corridor linking community in urban areas to countryside and role as extended buffer to Country Park and Natura 2000/Ramsar protected coastline.*
- *Consideration of the integral links between this character area and the Riverside Marshes character area.*

- *Potential to restore traditional orchards; strengthen and enhance biodiversity opportunities; introduce more positive land management systems; respect for historic characteristics.*
- *Threat of expansion to urban edges on south and west sides, along with gradual, pervasive erosion of rural character.*
- *Restore neglected and abandoned fields to appropriate and sensitive rural land uses - e.g. orchard, woodland, pasture and arable farming; seek to reverse decline in condition of landscape and reinforce rural characteristics.*
- *Resist further built development and introduce more positive landscape management systems.*
- *Consider this area integrally with Riverside Marshes character area for its integral value as a green buffer, wildlife corridor and link to wider countryside.*
- *There are a number of benefits attached to this area retaining its essentially rural character. It provides a valuable green buffer separating the built up areas of Twydall and Rainham from valuable and internationally protected wildlife sites along Medway estuary; it offers openness and easy access to a countryside area for an extensive urban population; it improves the setting of the A289 along its eastern boundary and provides attractive open views across the marshes and farmland from the railway line and main road; it also improves the setting of the Lower Rainham and Twydall Conservation areas; along with the Riverside Marshes area it provides a distinctive green backdrop when viewed from the Medway estuary.'*

4.109 The LVIA breaks down the MLCA landscape character areas into a series of more localised and detailed '*study area specific landscape character areas*', with the site falling within what it calls the 'Lower Twydall Fruit Belt'. However, that character area is not very different from the MLCA Lower Rainham Farmland landscape character area, and as the LVIA does not analyse potential effects at this finer scale there seems to have been little point in the exercise.

Landscape and Visual Effects

4.110 There is some confusion about what has been assumed in terms of building heights - the LVIA states on page 28 that the majority of the residential development was assumed to be two storeys in height (up to 10m), with occasional two and a half storey elements (up to 12m). However the Building Heights Parameter Plan (drawing 004A) shows that almost the entire development could be up to 12m in height, with only a small area with a maximum height of 10m.

4.111 There is some significant confusion as to what has been included in the assessment by way of mitigation. Usual practice in landscape and visual

assessments is to assess the development, including the mitigation proposals which are incorporated within it (for an outline scheme that requires some assumptions to be made, but assumptions are required in any case about the form of the overall development), and to make that assessment for two scenarios: at the time of completion, and for a subsequent time 10 or 15 years later, to allow for proposed planting to have begun to mature.

- 4.112 The detailed LVIA states in paragraphs 11.7.2 and 11.7.3 that the proposed scheme that has been assessed includes mitigation measures, and '*no further Secondary mitigation measures have been identified or considered*'. However, Chapter 11 of the ES (which is stated to be a summary of the detailed LVIA) then states in paragraph 11.111 that the outline application includes only '*limited*' mitigation measures, and paragraph 11.133 states that '*Additional mitigation will be designed at the reserved matters stage to reduce the significance of likely effects*'. That appears to imply that the assessment set out in the ES is not an actual assessment of the likely environmental effects, but is rather a hypothetical assessment of what the effects would be before the additional mitigation is identified, and also contradicts what the detailed LVIA says. The applicants should clarify the basis for the assessment.
- 4.113 However, setting this on one side, the LVIA does conclude (in Table 11.4) that the proposals would have a '*major/ moderate adverse*' effect on the character of the Lower Rainham Farmland landscape character area. The LVIA itself does not then consider how those effects are expected to change over time, but that assessment is made in Chapter 11 of the ES. This includes an assessment (as stated in paragraph 11.109) of a scenario 15 years after commencement of construction, though that is unusual in that the future scenario is normally 15 years after completion - paragraph 11.135 does refer to 15 years after completion. Table 11.3 in Chapter 11 states that the initial effects of major/ moderate adverse on the Lower Rainham Farmland landscape character area would reduce to moderate adverse by Year 15, and in broad terms that would appear to be a reasonable assessment.
- 4.114 That assessment however then seems to be lost in the concluding sections of both the LVIA and Chapter 11 - the LVIA concludes in paragraph 11.8.13 that '*Although the development would fundamentally change the appearance and nature of the site, this would not cause a significant change in the wider landscape character.*' Paragraph 11.8.21 then goes further, stating that the development '*would not cause an adverse change in the prevailing landscape and visual character of the wider area*', i.e. it would not cause any harm at all. Those are very odd judgements when the assessment itself has identified major/ moderate adverse effects on the wider character area within which the site is located, and appear to be an attempt (with no supporting analysis) to brush aside what are in fact high level and significant adverse effects. It is also unhelpful that the terms '*wider landscape character*' and '*the wider area*' are not defined - obviously if an assessment is made in relation to a large enough area, the effects of any development will become insignificant, but that it not really the judgment which needs to be made - it is the

effects of the development on local landscape character which need to be considered, and also in this case the effects on the ALLI designation, which the LVIA does not consider at all.

- 4.115 The site is (despite its size) reasonably well contained, and is not exposed to any significant distant or wide-ranging views. That would limit the extent of the area over which any adverse effects are experienced, but within that area they would still be significant.
- 4.116 There is also the point that there is effectively a thin strip of remaining landscape along the northern edge of Rainham at this point, between the railway line and the estuary, and the proposed development would fragment that open area, leaving relatively small and isolated pockets of open land to its west and east, which could then be subject to further development pressure.
- 4.117 The local tradition and history of fruit growing is part of the character of the landscape - the site lies within 'The Fruit Belt' County landscape character area, and the loss of the fruit orchards to development would lead to a significant loss of that local character and history.

Effects on ALLI

- 4.118 The LVIA does not include an assessment of effects on the ALLI as such, though it can be assumed that as it has found overall landscape effects on the Lower Rainham Farmland landscape character area (which is roughly contiguous with the ALLI) to be harmful then there would also be significant harm to the designated landscape.

Response to the Planning Statement

- 4.119 As noted above, the LVIA does not include an assessment of the effects of the proposed development in terms of compliance or otherwise with relevant planning policy. Some assessment is included within the Planning Statement however, the following comments can be made on that document:
- In paragraph 6.69 the statement says that the development 'does not materially harm the landscape character of the area'. This appears to ignore the assessment of major/ moderate adverse effects on landscape character as set out in the LVIA.
 - In paragraphs 6.70 to 6.68 the statement considers landscape effects in terms of the 'function' of the area, which appears (from paragraph 6.62) to relate back to a comment made in the pre-application response by the Council. There is some discussion as to the function of the area being for fruit growing, which is missing the point and confusing commercial land use with the landscape functions, which are clearly spelt out for the ALLI in the supporting text to Policy BNE34, as noted above.

- The statement does refer to the 'buffer' function set out for the ALLI, and attempts to argue that the site does not have this function because it has limited visibility. It seems the buffer function is more to do with an area being kept as open and green, rather than being seen, and its buffer function does not depend on it being clearly visible. Paragraph 6.75 then tries to claim that the buffer function would be maintained by the development, which seems very unrealistic, given the scale and nature of the proposals, and the fact that the LVIA states that 'the development would fundamentally change the appearance and nature of the site'.
- Furthermore, the ALLI is stated in the Local Plan to have a number of other functions, which the statement does not consider.
- Paragraph 6.77 states that the development would protect the landscape and would comply with Paragraph 170 of the NPPF, and also conforms to the objectives of Policy BNE34. Those appear to be completely erroneous statements - the development would not protect the landscape, it would transform large parts of it into a housing estate, and there would be clear harm (as acknowledged by the LVIA) to what could be considered a valued landscape.
- Paragraph 6.78 states that 'the proposals do not materially harm the landscape character and function of the area'. This seems a completely unrealistic assessment - the proposed development is of a significant size, would effectively transform large areas of designated landscape into a housing estate, and would clearly (as accepted by the LVIA) lead to significant harm to the landscape character of the site and the area around it.

4.120 In summary, this is a proposal for a large scale development within an attractive, designated and valuable landscape, and the development would lead to some significant adverse landscape and visual effects and a clear conflict with relevant planning policy at national (NPPF paragraph 170) and local (Local Plan policy BNE34) levels. Those effects would decline over time as a result of the proposed provision of open space and new planting, but the adverse effects would persist into the future and in my view would still be significant in the longer term. Those effects will be weighed in the overall planning balance against the beneficial effects of the proposed development in determining the application, at the end of this report.

Highways

Strategic Road Network

4.121 Highways England has raised significant concerns regarding the potential impact on the Strategic Road Network (SRN). Highways England has continued to liaise with the Council and the applicant to explore its concerns but the potential impacts of traffic upon Junction 2 of the M2.

- 4.122 However, it is recommending refusal of the application on the basis that the applicant has failed to provide sufficient evidence that there will not be a material impact to the safe and efficient operation of the SRN.
- 4.123 Accordingly, Highways England's objection is on the basis that the applicant has failed to satisfy Highways England that the development will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 paragraphs 9 & 10 and the NPPF at paragraph 109).

Local Highway Network

- 4.124 The Council's transport officers, in representing it as the local highway authority, have also raised objections to the application.
- 4.125 The application is in outline form with the matter of the site access to be considered as part of the current application. The main points of access are to be a junction added at the Lower Rainham Road end of the site (to the north) and access points off Pump Lane itself, north of the railway bridge/underpass. The main road through the site will be to the west of the existing Pump Lane.
- 4.126 At paragraph 108 of the NPPF it states that:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

- 4.127 And paragraph 109 goes on to explain that:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 4.128 There are two policies in the Local Plan which are of particular relevance in assessing the transport considerations of the proposals applied for here. These are:

Policy T1: Impact of development

In assessing the highways impact of development, proposals will be permitted provided that:

- (i) *the highway network has adequate capacity to cater for the traffic which will be generated by the development, taking into account alternative modes to the private car; and*
- (ii) *the development will not significantly add to the risk of road traffic accidents...*

PolicyT2: Access to the highway

Proposals which involve the formation of a new access, or an intensification in the use of an existing access, will only be permitted where:

- (i) *the access is not detrimental to the safety of vehicle occupants, cyclists and pedestrians; or*
- (ii) *can, alternatively, be improved to a standard acceptable to the council as Highway Authority.*

Baseline Conditions

- 4.129 The applicant has undertaken Automatic Traffic Count (ATC) surveys to obtain the baseline conditions on the local road network. The surveys collected data over a 7-day period from the 4th September 2019 to the 10th September 2019.
- 4.130 The applicant has stated that the ATC surveys identified peak hours of 08:00 – 09:00 and 17:00 – 18:00. It is noted however that traffic spikes occur around 11am.
- 4.131 Regarding Manual Classified Counts, the applicant undertook assessments at the following junctions:
- A289/lower Rainham Road/Yoksouka Way
 - Yokosuka Way/Beechings Way/Ito/Conrwallis Avenue
 - Bloors Lane/ A2 London Road/ Playfootball Gillingham
 - Bedchings Way/Pump Lane
 - Pump Lane/ Beechings Way
 - Lower Rainham Road/ Pump Lane
 - Pump Lane/A2 London Road
 - A2/ Will Adams/ITO Way
 - A2/Sovereign Boulevard/Hoath Way/Twydall Lane/ Courteney Road
- 4.132 However, the focus has moved from the applicants modelling to Medway's Strategic Transport Assessment Model. It is pertinent that the applicant has not followed the full Medway Transport Assessment Guidance notes of January 2018 in the application.

Highway Impacts

4.133 The applicant has calculated trips using 'TRICS' online database with a person trip rate for the residential and employment elements of this application. It is noted Medway's Aimsun Model also used TRICS to calculate a person trip rate. The applicant outlines in their technical note 3 2.6 that

The assessment includes for the fact that different purposes of travel will have different distributions and also that an element of movements will be internalised within the site. These do not appear to have been taken into account in the Sweco assessment and as a result of this the assessment forecasts significantly higher trip rates.

4.134 However, within the STA model, Residential trip rates are dependent on the size of the development, with larger developments generally having lower trip rates due to the internalisation of trips. For example, whilst individual houses may have the same trip rates, more of these trips occur within the development (e.g. to other houses, local shops or other facilities) and the number of trips arriving and leaving the development tends to be lower. This has been captured by deriving trip rates for three broad sizes of residential development, as follows:

- Less than 50 houses;
- Between 50 and 100 houses;
- More than 100 houses.

4.135 Therefore, the Council's transport officers consider that the above concern raised by the applicants has been already factored in when making the assessment on the public highway.

4.136 It should be outlined at this stage, that the original submission by the applicants suggested an internalisation rate of approx. 30%, however they provided no evidence to back this level of internal trips and subsequently agreed to reduce the level of trips down to 5% (covered in technical note 1). Due to the discussions that proceed, the applicants have not revised their own modelling to reflect the above, and as outlined in the beginning of this section, sought to address the concerns raised within Medway's Own modelling assessment which has been validated and which is the recommended assessment model for the Council . It is therefore considered by the Council's transport officers that the applicants cannot fall back onto their own assessment, as it has not included the increase of trips resulting from the reassignment of internal trips.

Impact assessment

4.137 As cited above, the NPPF only allows for the refusal of proposals on highways grounds if impacts would be "severe." However, it is noted that in the NPPF, there is no definition of severe.

4.138 However, in instances such as this guidance can be taken from planning inspector’s decisions at appeal. In an appeal case in Taunton Deane Borough (APP/D3315/W/16/3157862) the inspector, Mr Mike Fox, outlined that:

“There is no definition of the term ‘severe’ in either the Framework or in the Government’s Planning Practice Guidance (PPG).

4.139 In that appeal report, the inspector goes on to state that

“it is necessary to consider the impact of the full development on the ‘carrying capacity’ of the road; would it significantly erode the free flow of traffic and driver/pedestrian safety and would the critical junctions be overloaded?”

4.140 This is of particular reference as it is the Highway Authority’s responsibility to consider the proposal across the entirety of Medway’s Highway Network. This is especially the case given the strategic size of the development.

4.141 The Council’s transport officers consider that using the Aimsun qualitative metric (level of service (LoS)) provides a comprehensive assessment of traffic conditions likely to arise from development.

4.142 Level of service can be defined in six categories

- LoS A: Free flow.
- LoS B: Reasonably free flow.
- LoS C: Stable flow,
- LoS D: Approaching unstable flow.
- LoS E: Unstable flow.
- LoS F: Forced or breakdown flow.

4.143 In terms of junctions (both signalised and unsignalised) the LoS is calculated by per movement or per approach of the junction and LoS for the junction as a whole is based on the average of the queue delay of the approaches, weighted by the flow of each approach.

4.144 The Council’s transport officers have outlined that the areas of Particular concern are:

Junctions	Corridors		Corridors
1. Rotary Gardens/ Woodlands Road/	<u>Network 2</u> <ul style="list-style-type: none"> • Lower Rainham Road to Medway 	<u>Network 7</u> <ul style="list-style-type: none"> • Lower Rainham Road WB 	<u>Network 3</u> <ul style="list-style-type: none"> • Sovereign Boulevard to Maidstone road

<p>Sovereign Boulevard;</p> <p>2. London Road/ Bloors Lane;</p> <p>3. Piers Road/ Maritime Way;</p> <p>4. Bowater Roundabout; and</p> <p>5. High Street/Station Road.</p>	<p>Tunnel (west bound)</p> <ul style="list-style-type: none"> • A2 corridor EB (Watling Street to Sovereign Boulevard) (East Bound) • Medway Tunnel to Gillingham Gate Road (East Bound) • Medway Tunnel to Dock Road (East Bound) • Medway Tunnel to Hoath Way (East Bound) <p><u>Network 3</u></p> <ul style="list-style-type: none"> • Otterham Quarry Lane to Meresborough Road • Moor Street to High Dewar Road • Moor Street to Sovereign Boulevard 	<p><i>It was also noted that The modelling highlighted areas of higher congestion which do not much in themselves result in a significant / severe impact but taken with the above could result in a significant cumulative impact.</i></p> <p><u>Network 2</u></p> <ul style="list-style-type: none"> • Yokosuka Way Roundabout • Eastcourt Lane / South Avenue Junction 	<ul style="list-style-type: none"> • Orchard Road to Station Road • Maidstone road to Sovereign Boulevard • High Dewar Road to Moor Street • High Dewar Road to Mierscourt Road
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Highway Junctions

4.145 The applicant has attempted to provide an assessment in Technical Note 3 to overcome the concerns raised by the Council (as LHA) in terms of the junctions identified above. It is noted that the applicant's consultants have used a different metric to those under Medway Councils Modelling assessment guidance procedures which utilise Level of Service metrics. Medway considers these metrics to be an internationally recognised measure of capacity and junction performance offering a rational reflection of highway network performance throughout Medway for Highway Planning and assessment purposes.

4.146 The applicant has chosen to use Dynamic traffic assignment (DTA) modelling, which appraises each junction in isolation. This modelling will not take account of queueing between junctions or blocking back within them, which is particularly relevant due to the size of the development being proposed.

4.147 The Councils transport officers have reviewed the data DTA provided, and several junctions modelled by DTA see average delays that would be classified as E or F under Level of Service (LoS):

- Bowater Rbt (signalised)
 - RC (AM&PM): D (Similar to our modelling C in AM, D in PM)
 - RC+Dev (AM&PM): E (Similar to our modelling E in AM, F in PM)

- A2 /Bloors Lane Junction (signalised)
 - RC (AM&PM): C (Similar to our modelling D in AM, C in PM)
 - RC+Dev (AM&PM): F (Similar to our modelling F in AM, E in PM)

4.148 For the other junctions of Rotary Gardens / Woodlands Road / Sovereign Boulevard Junction, High Street/ Station Rd junction and Pier Road/Maritime Way Roundabout they fail due to blocking and queueing issues. The LoS corridor analysis shows the cumulative effect of congestion and delay on the network from the new development that cannot be captured in independent junction models.

Highway Corridors

4.149 The applicant was provided with a presentation on 4th December 2019 which illustrated the modelling that had been carried out (both junctions and link corridors). In this presentation it was clearly indicated where the levels of service failed.

4.150 The figures taken from the AM Peak on sub network 7 show when the increase in vehicles is large, it can have a significant and severe impact on the highway.

4.151 Reference Case Scenario AM



4.152 Reference with development Scenario AM



4.153 It should be noted that even when the increase in vehicles is moderate, such as the PM peak, it can have a significant impact on the highway resulting in the level of service to road users being greatly reduced.

4.154 Reference Case Scenario PM



4.155 Reference Case with development Scenario PM



4.156 Given the nature/type of road that Lower Rainham Road is, it demonstrates that this level of development would have a severe impact,

4.157 With regards to Subnetwork 3, whilst the applicants outline that the level of vehicles increase is small and therefore immaterial, this would be rejected on the grounds that whilst the vehicles increase maybe small, the resulting impact means that the level of service would be F and therefore

“Forced or breakdown flow. Every vehicle moves in lockstep with the vehicle in front of it, with frequent slowing required.”

4.158 The Councils transport officers therefore consider that the impacts of the proposal would be severe to identified junctions when assessed using the LoS approach. There would also be a severe impact to the corridors as explored above.

4.159 The application is then, contrary to Local Plan Policy T1 (i) and paragraph 109 of the NPPF should be applied.

Proposed Vehicular Accesses

4.160 Drawing 20230-05-02 shows an overview of the proposed vehicular access to the site from Lower Rainham Road with drawing 20230-05-Rev A demonstrating the proposed Pump Lane Railway Bridge Improvements to form the secondary access point.

4.161 Drawing 20230-05-02 shows a new priority junction onto Lower Rainham Road. Speed surveys have been undertaken in the vicinity of the access with 85th percentile speeds recorded as 35.1mph. The Councils transport officers therefore consider that the visibility splays would appear to be acceptable. A caveat is added to the consideration that it would be beneficial to move the 30mph limit further eastwards to reduce speeds near to the access point.

4.162 Whilst not directly accessing the site, Drawing 20230-05-Rev A – shows a shuttle working scheme through the bridge on Pump Lane, which would provide a 2.5m wide combined footway/ cycleway and a 3m wide running carriageway

4.163 An independent Stage One Road Safety Audit was provided by the applicants within Technical Note 1. Whilst it outline that some additional amendments were needed, it concluded that the highway works were acceptable in terms of highway safety with mitigation measures.

4.164 The Council as Highway Authority would require the applicant to commit to providing additional traffic calming measures as required to ensure that speeds are in accordance with the revised speed limit proposals. This could be covered by condition.

4.165 However, it is noted that application only provides details with regards to the access off Lower Rainham Road and highway works near the railway bridge

along Pump Lane. No details have been provided for the access arrangements along Pump Lane (the primary route through the site, as demonstrated in drawing 20230-07). This was queried by the Council's highways officer, and the applicant's transport consultants confirmed that the access plans – such as they are – are included in the Safety audit and Designer's Response in Technical Note 1, i.e. drawing 20230-07. This is not considered to be a drawing of sufficient detail to allow for an assessment of accesses from Pump Lane.

- 4.166 It is considered that accesses onto the public highway cannot be considered as a reserve matter, and the application is therefore contrary to Local Plan policy T2.

Personal Injury Accident Data

- 4.167 The applicant has included five years of recorded Personal Injury Accident data from June 2013 to May 2018 and this is considered acceptable to the Highway Authority, however the survey area is too narrow and due to the large scale nature of the development would need to cover all the main routes connecting to the main carriageways i.e. A2 and Ito Way.
- 4.168 The Council's transport officers raise concerns regarding Will Adams Roundabout (A2 Junction, Ito Way) and A289 Yokosuka Way/Cornwallis Roundabout which have a combined 12 incidents on or near the junction, The accident data demonstrates that many of incidents relate to failure to judge other persons path or speed, therefore they have significant concerns that, with the substantial forecast increase in vehicles, incidents are more likely to occur.
- 4.169 Furthermore concerns relate to Pump Lane (adjacent the A2), this road has the potential to become a rat run and already has a number of incidents (which were not been reviewed by the applicants), as well as the double roundabout along Beechings Way. In regard to Lower Rainham Road, a number of serious incidents within the survey period and consequently concerns are raised that the additional traffic from the proposed development would likely lead to an increase in road collisions.
- 4.170 Therefore, when assessing the wider accident data, the forecast large increase in vehicles is likely to have a detrimental impact at known accident hotspots which is contrary to policy T1 of the Medway Local Plan 2003 and paragraph 109 of the NPPF.

Pedestrian, cycle, and public transport

- 4.171 The existing pedestrian and cycling provisions in the vicinity of the site is limited due to the nature of the existing land use and current demand and need for pedestrian and cyclist connections through this mainly agricultural area.

- 4.172 The applicant – as requested – has provided a “Walking, cycling, Horse-Riding assessment and review (WCHAR). The assessment reviewed collision data, access to public transport and pedestrian facilities within the local vicinity.
- 4.173 For the WCHAR in terms of collision data, further comment is made later in this report. In relation to public transport, the proposed development is not considered to be easily accessible by public transport based on the proposals submitted within the Transport Assessment. The nearest existing bus stop is circa 10-minute walk from the commercial element of the site. The majority of the residential areas of the site are at least 15 minutes from bus stops with regular services.
- 4.174 The applicant has proposed sustainable transport mitigation by way of providing an extended provision:
- a) Extend the existing 191 to and through the site. This would provide a 20-minute service to serve to supplement the 191.
 - b) Consider connections between 191 and 182 to provide inter-working and potentially a clockwise and anti-clockwise combined service running through the site.
 - c) Diversions to Nos 120 / 121 to route through the site and provide a connection to Rainham High Street and Station.
- 4.175 It is noted that from the Letter of Arriva, they outline no plans to change the 182 service and would recommend extending the number 1 service. It was requested that a patronage test should be provided by the applicant to ensure that the bus service would be self-sufficient without the need for bus subsidy from Medway Council. No such assessment has been provided.
- 4.176 The internal layout will need to reflect the above aspiration; however, this will be dealt with during the reserved matters stage if granted approval.
- 4.177 It is understood no formal agreement between the bus company, Arriva, and the developer has been reached.
- 4.178 The nearest railway station is Rainham and is approximately 2.5km from the centre of the application site. The rail station provides services to London Waterloo to the east and Dover to the west. The station provides cycle and car parking, 64 and 233 spaces respectively, however no assessment has been provided as to whether there is any spare capacity to accommodate any additional demand from the development on the rail network and on cycle parking at the station. The applicant has suggested that rail could be used as a multi-modal journey with cycling.

4.179 The applicant should provide more information on a suitable cycle route and cycle /improvements from the site to the rail station and may need to provide additional cycle parking for the highway authority to consider this as a realistic travel choice. It is noted that no assessment was made under the WCHAR and still causes concern that this has not been appropriately assessed for a large development such as that proposed. As such the developments assessment is not in accordance with the priorities and objectives of the Medway Local Transport Plan 2011-2016. These matters can be dealt with through conditions relating to the Travel Plan.

Loss of Agricultural land

4.180 Para 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) *“recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”* (emphasis of agricultural specialist).

4.181 Footnote 53 adds:

“Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.

4.182 Policy BNE48: Agricultural Land, of the Local Plan seeks the protection of the *“best and most versatile agricultural land (MAFF grades 1, 2 and 3a),”* permitting development in only exceptional circumstances including *“an overriding need for the development that is of more significance than the considerable weight to be afforded to protecting the best and most versatile agricultural land.”*

4.183 In this case the applicants have submitted a detailed land classification study of the site which shows that the land comprises some 8.6 ha of Grade 1 land (excellent quality), 40.6 ha of Grade 2 land (very good quality), and 2.3 ha Grade 3a (good quality). Thus all the surveyed area is “best and most versatile” (BMV) land. As it is reasonable to conclude that the permanent loss of this relatively large area of BMV land would be “significant”, consideration than falls to be given as to whether the development has been demonstrated to be “necessary”, and whether there are other sites of lower quality that should be developed in preference.

4.184 Regarding the particular supporting submissions on behalf of the applicants, considerable reliance is placed on an argument that this land has limited economic agricultural value, notwithstanding its largely Grade 1 and Grade 2 designation. However, looking at some of the main elements behind this argument:

- 4.185 The existing orchard varieties are coming to the end of their useful life and require replacement, at considerable cost, along with that of other necessary associated facilities: Whilst no doubt true, this is not necessarily prohibitive in itself, given the extensive investments in recent years made by the applicants, and by other larger scale fruit growers in the Kent/Medway area, in terms of land purchase, orchard replanting, farm buildings, polytunnels, and camps for seasonal labour.
- 4.186 The management of the Pump Lane orchards is problematic as it involves transportation through heavily populated urban areas to the Flanders Farm hub, some 9 miles away. If so, this must also be the case for the various other orchards farmed by the applicants that are off-lying from Flanders Farm (as can be seen on the location plan at 3.11 of the Lambert and Foster report). In fact, after the first 1.5 miles or so via Lower Rainham Lane, the whole journey from Pump Lane to Flanders Farm is dual-carriageway.
- 4.187 This argument also appears inconsistent with the applicants' transportation submissions, which concludes that the site is well placed in terms of connectivity to the surrounding road network, and that the development would not necessitate any mitigation works for the wider strategic network.
- 4.188 The argument that existing road users and residents are adversely affected by journeys made by the applicants' farm vehicles would need to be balanced against the likely larger adverse impact of the extra traffic that would be occasioned by the proposed development itself. This is examined more within the Highways section below.
- 4.189 Other farming/cropping options are not viable. Lambert and Foster's arguments in this respect make a number of pessimistic observations which might be applied to many tracts of high quality farmland fairly close to residential areas. However there is no suggestion that the planning policies supporting the long-term protection from development of the best quality farmland do not apply to the same extent where such land has urban property nearby.
- 4.190 One danger of such a policy could be a domino effect of development on such land that itself becomes urban fringe, thus successively reaching out further into the open countryside. There is one large adjoining settlement commencing near the south-west boundary, but that is on the other side of a railway line. The other boundaries have no greater amounts of adjoining development than would be found on many comparable farms.
- 4.191 Such speculation about the absence of current alternative uses also lacks evidence by way of any market testing.
- 4.192 Furthermore the protection afforded to BMV land arises from its long-term value as a National resource, which is irreplaceable once developed. Natural England explains that "This is the land which is most flexible, productive and efficient in

response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals”. A potential need for more self-sufficiency in UK farming and crop production, in respect of which better quality land makes a valuable contribution, have been brought into the foreground as a result of the uncertainties regarding Brexit and Covid-19.

- 4.193 The application is therefore contrary to Local Plan policy BNE48 and the NPPF at paragraph 170 and footnote 53 where the Council is not persuaded that the agricultural use of this particular land is unviable, for the reasons set out above. Furthermore, whilst the need for housing in the area will require agricultural land to be used, the applicant has not demonstrated that poorer quality agricultural land could not be utilised to address that need.
- 4.194 In summary, it is not considered that this BMV land has been shown to have such limited economic value, now or in the future, that its permanent loss should not amount to a significant consideration as part of the decision based on the overall Planning balance.

Other planning considerations

Air Quality

- 4.195 Policy BNE24 of the Local Plan states the following:

Development likely to result in airborne emissions should provide a full and detailed assessment of the likely impact of these emissions. Development will not be permitted when it is considered that unacceptable effects will be imposed on the health, amenity or natural environment of the surrounding area, taking into account the cumulative effects of other proposed or existing sources of air pollution in the vicinity.

- 4.196 An air quality note was submitted by the applicant in response to initial comments from the Council's Air Quality Officer on the air quality assessment for this application.
- 4.197 The majority of the Council's comments have been satisfactorily dealt with; however the Council's Air Quality Officer maintains that there are concerns about future predicted improvements in air quality which are still relevant. Whilst the response counteracts concerns by stating that there was a small improvement in concentrations shown for the Chatham Roadside site in 2018 (and some diffusion tube sites), one year of improvement is not a long term trend and could as much be due to meteorological conditions as improvements to emissions. Indeed, as can be seen from the provisional annual mean for 2019, there was a slight increase in concentrations during 2019 at the site. Unfortunately, the Council currently does

not have the bias adjusted annual means for or diffusion tube sites yet for 2019 to ascertain whether there was a similar increase at these sites.

- 4.198 The air quality impacts of the development are likely to be greatest in close proximity to the development, including in areas currently suffering from congestion, queuing or stop/start driving conditions. It is noted that no receptors appear to have been modelled in the area around the junction of Pump Lane and Lower Rainham Road which is adjacent to the narrow stretch of Lower Rainham Road where properties are close to the road, and where traffic lights lead to periods of stop/start conditions around peak times. This area could therefore be more sensitive to the impacts of the development.
- 4.199 The lack of information regarding long term and cumulative effects provided by the applicant, coupled with the uncertainties around the highway impacts assessments (as outlined in the highways section of this report) makes an assessment against policy BNE24 difficult. It cannot be determined if the application would result in any “*unacceptable effects*” and as such whether or not the application is in fact in contravention of BNE24.
- 4.200 It might be that the effects of the proposed scheme could be mitigated, and a condition would be required to secure this, but in the absence of the full information there is no certainty that air quality issues can be managed and mitigated.

Amenity

- 4.201 There are a range of properties and associated buildings adjacent to the application site (predominantly on Pump Lane and Lower Rainham Road). At outline stage it is difficult to assess the full potential impact of the proposals on these properties, and indeed the amenity of other users of the site – i.e. those on the public footpaths for example. However, the indicative master plan suggests that there is sufficient land available to provide Amenity via green buffers and appropriate planting to allow for privacy, the protection of amenity and day light etc. details for these matters would need to be further scrutinised at the reserved matters stage if consent were to be recommended, and a condition applied to this outline to ensure an appropriate scheme would result.
- 4.202 Amenity of future residents too, is less of a consideration within this outline application as the plans are not detailed to an extent where this could be fairly assessed. Proximity to neighbouring residents, rear garden amenity, housing sizes and privacy and layout of plots is in no way specified so would be a matter that would be assessed in detail if this application were to progress to a detailed stage.
- 4.203 Therefore, the direct physical impact that any building would have on existing and/or proposed neighbours in terms of those that immediately abut the site is unknown. There is also the wider amenity impact in terms of increases to noise

and disturbance and traffic movements within the established neighbouring urban areas.

- 4.204 Until such time as a detailed scheme were to come in for consideration here, it cannot be known what the full impact of the proposed scheme would be on existing houses/occupants of Lower Rainham Road and the Twydall area. There are no current issues in relation to this matter therefore and it is considered that amenity and impact on neighbours would be better considered in detail to ensure that compliance with Policies BNE1 and BNE2 of the Local Plan and also the relevant policies within the NPPF.

Design

- 4.205 Given that this application is outline and the design and appearance of the proposed residential units, care centre, commercial centre and school have not been submitted for consideration, the design of the scheme cannot be assessed at this stage. This would be done as a reserved matters submission that would follow an approval of an outline application.
- 4.206 However, it is considered that the illustrative layout plan submitted demonstrates that it may be possible to achieve an acceptable layout and design for the number of units proposed, subject to archaeological works being undertaken. In principle therefore the development could comply with Policy BNE1 of the Local Plan.

Self-build

- 4.207 It is noted that the site has made provision for 8 self-build plots on site in the proposed masterplan. Medway Council is required to keep a register of those interested in self and custom build housing. At present there are 78 individuals and two associations on the register (11 permitted). In terms of areas of demand Rainham is the third most popular area with Medway. Therefore the 8 units proposed is less than 1% of the overall housing proposed on site. It would be expected that a site of this scale would provide a greater provision of self-build plots, although this is not a basis for refusing permission.

S106 Matters

- 4.208 Despite the recommendation for refusal, the terms for a S106 agreement should be set out.
- 4.209 The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken in to account if the obligation is (a) necessary to make the development acceptable in planning terms;(b) directly related to the development; and (c) fairly and

reasonably related in scale and kind to the development. The obligations proposed comply with these tests to ensure the appropriate level of social infrastructure for current and future residents and mitigate, where possible, the harms identified in this report.

4.210 A. The applicants entering into agreement under Section 106 of the Town and Country Planning Act to ensure:

- i) Secure a minimum of 25% affordable housing (no less than 313 units if 1250 come forward in Reserved Matters application)
- ii) A financial contribution of £14,807,563.38 in total to be provisionally split in the following ways
 - £1,723,725 towards Nursery provision
 - £4,230,950 towards primary education
 - £4,234,775 towards secondary education (including Sixth Form)
 - £194,300 toward waste and recycling (£155.44 per dwelling)
 - £206,437.50 toward libraries improvements
 - £306,250 toward Public Realm improvements within Rainham Shopping Centre
 - £102,550 for improvements to Public Rights of Way within 1.6km of development
 - £3,800 toward PROW signage
 - £304,337.50 toward sports facilities (Splashes Leisure Pool)
 - £3,189,375 toward Open Space and Outdoor Formal Sport
 - £1,113.38 toward Public Health
 - £309,950 toward Habitats Regulations (mitigation for Wintering Birds – at £245.56 per dwelling)

Local Finance Considerations

4.211 None relevant here

Conclusions and the planning balance

- 4.212 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.213 However, as the Council has concluded (consistent with the advice of Natural England) that, on the basis of the information with which they have been provided thus far, they cannot rule out adverse impacts on the European Site, then the Council is **required to refuse this application** under the Habitats Regulations as there are no imperative reasons of overriding public interest. This is regardless of the position under s.38(6).
- 4.214 However, recognising that it might be that the applicant can ultimately provide the information that Natural England seeks, the consideration must turn to the planning balance.

Adverse impacts of scheme

- 4.215 As this report has demonstrated, the proposals have the potential to adversely impact cultural heritage; archaeological interest; important local landscape; highway; and fertile agricultural land.
- 4.216 Contrary to the applicant's assertions in the Planning Statement the proposal would cause harms of **significant weight** as follows:
- (i) to designated and non-designated heritage assets;
 - (ii) to the landscape character of a valued landscape;
 - (iii) the local highway network by virtue of no acceptable accesses; and
 - (iv) severe impact on highway capacity and safety
- 4.217 Moreover, the proposals will result in loss of best and most versatile agricultural land which will also carry **moderate weight**.

Benefits of the scheme

- 4.218 It is accepted that development will bring with it some benefits which are economic, social and environmental. The applicant has set out proposed benefits in the Planning Statement and these are summarised as follows:

Proposed economic benefits

- Job creation including construction jobs (and apprenticeships), and the employment created by the infrastructure on site together with indirect job creation (may support up to 3,875 jobs);

- Increased revenue streams including Council Tax payments and the New Homes Bonus (NHB).
- Financial contributions from s106 contributions
- Increased residential expenditures

4.219 However, these are benefits of any development proposal and the emerging local plan will provide significantly greater opportunity to each benefit. Moreover, Council Tax payments and NHB are not material considerations in planning decisions and the section 106 payments (which are as yet not secured) would be required to make the development acceptable in planning terms so to frame them as an economic benefit is not wholly accurate.

4.220 The site is currently a working orchard so presumably the site is currently in an employment use – albeit low density – that would be lost.

4.221 Therefore, only **limited weight** can be afforded to this argument in favour of the proposals.

Proposed social benefits

- Delivery of up to 1250 new residential dwellings including up to 310 affordable units
- The provision of a 60 bed extra care facility and an 80 bed care home, and a two form primary school;
- The creation of a village centre with the facilities commensurate with a scheme of this size providing an accessible and inclusive settlement; and
- Provision of landscaping and a mix of formal and informal open space providing space for both recreation and improved ecology and biodiversity that support health and social wellbeing.

4.222 The undersupply of housing in the district is significant as set out in this report. The delivery of new homes and the delivery of policy compliant levels of Affordable Housing can be considered to be a **significant benefit**.

4.223 However, regarding Affordable Housing specifically the delivery in Medway over the last five years is shown in the table below:

2014/15	2015/16	2016/17	2017/18	2018/19
174	172	91	132	181

4.224 The allocation of development sites through the emerging Local Plan will seek to increase the delivery of housing and Affordable Housing. Whilst the delivery of additional Affordable Housing on the site, the subject of this application, would provide some benefit the needs will be properly considered through the emerging plan making process.

- 4.225 This need for affordable housing is provided for via current policy H3 of the Local Plan 2003, which sets out in its supporting text (at paragraph 5.5.12) that the council has set a minimum target of 25% for the provision of affordable housing. Across the five years reported above, the AMR shows that Affordable Housing comprises 33%; 27%; 13.5%; 19%, and 26% of total completions for each year respectively.
- 4.226 Regarding the primary school and “*village facilities*,” these are primarily provided to support those people living on the new development so their wider social benefit is questionable and is only necessary so that the development ‘consumes its own smoke.’ It is also noted that the applicant describes the development as an “*accessible and inclusive settlement*” as though it will stand apart from Tywdall. The presence of the railway line between the existing settlement and the development site will be a physical barrier in community cohesion.
- 4.227 The provision of landscaping and open spaces too, are only necessary to make the development acceptable in planning terms and mitigate adverse impacts that have been identified in this report. Therefore, these benefits are somewhat reduced. Moreover, if the development is not consented the landscape will remain valued and unimpacted and there is a Public Right of Way across part of the site which constitutes a recreational resource.
- 4.228 Nevertheless, the housing supply position dictates that **significant weight** can be afforded to this argument in favour of the application.

Environmental Benefits

- The loss of a commercial orchard which requires the spraying of crops meaning it does not itself attract biodiversity;
 - The retention and improvements to the existing habitat with additional hedgerows that provide the most biodiversity on site; and
 - Mitigation measures and provision of s106 contributions including tariff in respect of impacts to the North Kent Marshes, and other measures agreed through reserved matters.
- 4.229 It is noted that the first benefit listed is that there is not a disbenefit. The remaining benefits are only necessary if the development is permitted, to mitigate and make it acceptable in planning terms and therefore, the degree of genuine benefit is questionable.
- 4.230 Therefore, only **limited weight** can be afforded to this argument in favour of the application.

Conflict with the development plan

4.231 As set out through this report, the proposed development would conflict with the development plan and specifically Local Plan policies:

S1: Development Strategy. The site is not allocated and is in the open countryside, however the housing land supply is limited. This breach affords **limited** weight.

S6: Planning obligations. No agreement has been reached between Natural England and the applicant and no S106 is signed. It is considered that these are not necessarily insurmountable challenges, so this breach affords **limited** weight.

BNE12: Conservation Areas. The proposal has the potential to cause harm to the significant and setting of two Conservation Areas. This breach affords **significant** weight.

BNE18: Setting of listed buildings. The proposal has the potential to cause harm to the significant and setting of several listed buildings. This breach affords **significant** weight.

BNE25: Development in the countryside. The proposed scheme falls outside the urban boundary and in the countryside, where the Council resists development of this scale on principle. However, the scale of housing supply shortfall means that this breach affords **limited** weight.

BNE34: Areas of Local Landscape Importance. The site is in Gillingham Riverside ALLI and is likely to result in significant adverse landscape and visual effects. These effects would outweigh the limited economic benefits explored above, and whilst the need for new homes is high, this is not sufficient to outweigh the local priority to conserve the area's valued landscape. This breach affords **significant** weight.

BNE35: International and national conservation sites. As noted above, the concerns of Natural England regarding the European Habitats Regulations might override these considerations. However, in addition without appropriate mitigation the potential impacts on the Medway Estuary & Marshes SPA / Ramsar Sites will be harmful. This breach affords **significant** weight.

BNE48: Agricultural land. The site comprises a significant amount of grade 1 and 2 agricultural land and the rest is grade 3. This is all considered to be the best and most versatile (BMV), its loss is to be avoided. Moreover, the site is an active orchard which makes appropriate use of that BMV land. Whilst some loss of this type of land might result from strategic planning

in this area, it should be a consideration of that – plan led – process, not an ad-hoc application led situation. This breach affords **moderate** weight.

T1: Impact of development. There is likely to be severe impacts to the local road junctions and networks, as well as unacceptable impacts in terms of highway safety. There is also insufficient evidence to demonstrate that the impacts on the SRN will be acceptable. This breach affords **significant** weight.

T2: Access to the highway. Safe access and egress to the site cannot yet be guaranteed in the proposals as presented. This breach affords **significant** weight.

National policy

4.232 Whilst it is accepted that the Council does not have a five-year supply of deliverable land for new homes, the Council is actively seeking to rectify the situation. Nevertheless, it is accepted that the ‘presumption in favour of sustainable development,’ as described at paragraph 11 is engaged.

4.233 However, the proposals do not comply with the NPPF at paragraphs 109, 170, 175-176 and 193-196, as outlined through this report.

4.234 Turning specifically to paragraph 196, it is considered that the significant harms to designated heritage assets – as outlined in this report and which must be given great weight – are not outweighed by the public benefits proposed by the applicant, which are in part, accepted. In such circumstances the ‘titled balance’ of NPPF paragraph 11 is not engaged because the caveat of footnote six precludes it when designated heritage assets are at risk.

4.235 Additionally, applying paragraph 177, the tilted balance is also disapplied because the proposal is likely to have significant effects on a habitats site, and it has not been possible to conclude that the proposal will not adversely affect the integrity of the habitats site

4.236 However, even if the titled balance were to apply, the cumulative harms identified through this report and the significant breaches of local policy and non-conformity with national policy would “significantly and demonstrably” outweigh the benefits of the scheme and thus it fails the in the balance of the presumption in favour of sustainable development.

The balance

4.237 Therefore, taking account of conflict with local plan policies and the potential for adverse impacts to the following:

- The likely impact on European protected sites;
- Effects on Heritage Assets;
- Landscape and Visual Effects;
- Implications for the Strategic Highway network;
- Local Highway Network impacts; and,
- The loss of Best and Most Versatile Agricultural Land, which currently operates as a commercial orchard

4.238 These adverse impacts are matters which collectively hold very considerable weight and it is not considered that the benefits of the scheme, taken individually or cumulatively, clearly outweigh the harms such that they justify the grant of permission. It follows that material considerations do not justify the grant of permission for a development which is in breach of the development plan

Conclusion

4.239 In summary while it is noted that the proposal would bring about some positive benefits especially in relation to the delivery of new homes and affordable homes, the harms identified through this report clearly outweigh these benefits.

4.240 Overall, it is considered that the proposal here for 1250 residential units along with primary school, convenience services and extra care facility will have a detrimental impact on the area in terms of:

- The likely impact on European protected sites;
- Effects on Heritage Assets;
- Landscape and Visual Effects;
- Implications for the Strategic Highway network;
- Local Highway Network impacts; and,
- The loss of Best and Most Versatile Agricultural Land, which currently operates as a commercial orchard

4.241 Development of this strategic scale is better considered through a Local Plan where constraints and opportunities can be fully considered, and alternatives assessed.

4.242 There are additional concerns that are raised within the report, however it is felt that they could come forward through additional submissions (through the use of carefully worded conditions). This includes the carrying out of archaeological works prior to any further development of a reserved matters application in order to ensure that all proposed developed land is suitable. It is considered therefore that

the current masterplan is only illustrative and demonstrates a maximum density. A flexibility of the density and layout should therefore be recognised.

4.243 The matters that have been set out above which are considered to be detrimental and warrant refusal are not considered to be aspects that could be managed through condition and would result in irreversible loss of important and valued open and green space within this part of Medway.

4.244 The proposed development is therefore considered to be contrary to Policies S1, S6, BNE12, BNE18, BNE25, BNE34, BNE35 BNE38, T1 and T2 of the Medway Local Plan 2003 and paragraphs 109, 170, 175-176 and 193-196 (along with footnotes 53 and 63) of the National Planning Policy Framework 2019.

Reasons for refusal

Following consultation with the Chairman, Vice Chairman and designated Opposition Spokesperson(s), it is considered inappropriate to refer this application to the Planning Committee for determination. Therefore, this decision has been made under delegated powers.

Reasons for refusal:

Reason 1

Insufficient information has been provided in relation to mitigation measures, and no agreement has been reached to secure such measures, which are necessary to ensure that there will be no adverse impact on the integrity of the Medway Estuary & Marshes SSSI, SPA and Ramsar site as a result of the additional recreational pressures caused by the proposal.

In the absence of imperative reasons of overriding public interest, Regulations 63 and 70 of the Habitats Regulations require permission to be refused.

In addition, the lack of information and mechanism to secure the mitigation also results in non-compliance with policies S6 and BNE35 of the Local Plan and NPPF paragraphs 175 & 176.

Reason 2

The proposed development would have a harmful impact on the local historic landscape, as well as the setting and significance of a number of designated heritage assets, including: listed buildings (York Farmhouse (Grade II); Pump Farmhouse (Grade II); Chapel House (Grade II); 497-501 Lower Rainham Road (Grade II); The Old House (Grade II); Bloors Place (Grade II*); a range of outbuildings including cart lodge and granary west of Bloors Place (Grade II); and, the garden walls to south and east of Bloors Place (Grade II)); and, two Conservation Areas (Lower Twydall; and, Lower Rainham).

Applying the great weight which has to be given to the conservation of the designated heritage assets (by virtue of NPPF paragraph 193 and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990), the proposal is contrary to Local Plan policies BNE 12 and BNE18. In addition, as the public benefits of the scheme would not outweigh the harm to the designated heritage assets, the proposed development is also contrary to the NPPF paragraph 196.

Reason 3

The proposed development would lead to significant long-term adverse landscape and visual effects to the local valued Gillingham Riverside Area of Local Landscape Importance (ALLI), which would not be outweighed by the economic and social benefits of the scheme, in conflict with Local Plan policy BNE34 and NPPF paragraph 170.

Reason 4

The applicant has failed to satisfy Highways England that the development will not materially affect the safety, reliability and / or operation of the Strategic Road Network (SRN). This is contrary to the tests set out in department for Transport Circular 2/13 paragraphs 9 & 10 and the NPPF at paragraph 109.

Reason 5

The cumulative impact from the increased additional traffic cannot be accommodated on the highway in terms of overall network capacity without a severe impact. This is contrary to Local Plan policy T1 and the NPPF at paragraph 109.

Reason 6

The cumulative impact from the increased additional traffic from the development is unlikely to be able to create a safe highway environment. This is contrary to Local Plan policy T1 and the NPPF at paragraph 109.

Reason 7

No assessment nor technical details have been provided regarding the two new access points along Pump Lane to serve the proposed development, therefore it has not been possible to appropriately assess the adequacy of these access points. This is contrary to Policy T1 of the Medway Local Plan 2003 and paragraph 109 of the NPPF.

Reason 8

The proposed development would result in the irreversible loss of 'best and most versatile' (BMV) agricultural land, contrary to Local Plan policy BNE48 and the NPPF at paragraph 170 and footnote 53.

Reason 9

In the absence of a completed S106 legal agreement, the proposal fails to secure infrastructure necessary to meet the needs of the development. This is contrary to Local Plan policy S6 and the NPPF at paragraph 54.