



Appeal Decision

Inquiry held on 10 to 12 December 2024 and 18 to 20 March 2025

Site visit made on 12 December 2024

by **O S Woodward MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th June 2025

Appeal Ref: APP/V2255/W/24/3350524

Land at Ham Road, Faversham, Kent ME13 7TX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Swale Borough Council.
 - The application Ref is 23/502113/OUT.
 - The development proposed is the erection of up to 250 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of up to 250 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point, in accordance with the terms of application Ref 23/502113/OUT, dated 12 May 2023, and subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was released in December 2024, and further updated in February 2025. This, amongst other amendments, included changes related to flooding, which is one of the main issues for the appeal. The Inquiry was therefore adjourned in December 2024 and resumed in March 2025, to afford time to review the revised Framework and to submit new evidence as appropriate. I am therefore satisfied that sufficient time was provided to all parties to consider the amendments.
3. The appeal is for outline planning permission with all matters reserved apart from access, which has been applied for in full. Vehicular access would be from Ham Road, as shown on drawing Ref 17277 H-01 P6. There would also be pedestrian access from a Public Right of Way (PRoW) to the south east corner of the site. Sketch layout, illustrative open space, and development framework plans have also been submitted. I have had regard to these drawings whilst acknowledging their illustrative nature and the outline nature of the application.
4. A number of submissions were received prior to, during and after the Inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice

to any party from my consideration of these documents. The appeal is therefore determined on the basis of the revised and additional documents.

5. Because the appeal relates to a proposal that would affect the setting of listed buildings, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. There are three reasons for refusal. The third reason for refusal is partly in relation to the effect on local infrastructure in the absence of a completed s106 Planning Obligation. The final s106 Planning Obligation, dated 26 March 2025 (the s106) responds to these concerns and, amongst other things, it secures:
 - a healthcare contribution;
 - a sports and recreation contribution;
 - a wheelie bin contribution;
 - a community learning contribution;
 - a libraries contribution;
 - a primary education contribution;
 - a SEND contribution;
 - a secondary education contribution;
 - a secondary education land contribution;
 - a social care contribution;
 - a waste disposal contribution;
 - an integrated children's services youth and early years contribution;
 - payment of the Council and County Council's legal costs to complete the s106; and,
 - monitoring fees for the Council and County Council.
7. The Council's and the County Council's CIL Compliance Statements set out the detailed background and justification for each of the obligations as set out above. I am satisfied that the provisions of the s106 as set out above would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at Paragraph 58 of the Framework, and I have taken them into account. The elements of this reason for refusal that relate to local infrastructure are not therefore main issues for the appeal. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.
8. The Faversham Neighbourhood Plan 2023 – 2038 Referendum Version 2024 (the FNP) was 'made', in December 2024. It therefore carries full weight, subject to any considerations of its consistency with the Framework, and I have had regard to the FNP as appropriate throughout my Decision.
9. It is common ground between the Council and the appellant that the Council cannot demonstrate a five-year supply of housing land. It has been set at 3.98 years, in accordance with a recent appeal decision¹ in the same Borough, and the latest Standard Method for calculating housing need. I refer to this as appropriate throughout my Decision.

¹ Ref APP/V2255/W/23/3333811

Main Issues

10. The main issues for the appeal are:
- whether or not the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of local and national planning policy;
 - the effect of the proposed development on the character and appearance of the area, including on landscape character; and,
 - whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance, including with regard to Best and Most Versatile agricultural land (BMV).
11. Save Ham Farm (SHF) and Faversham Town Council (FTC) both had Rule 6 status at the Inquiry. In addition to the above, they had concerns regarding drainage, ecology, accessibility and highway safety. I must also consider the planning balance.

Reasons

Flooding

Tidal flooding

12. The appeal site is located close to the coast and therefore tidal flooding, rather than river flooding, is the most relevant consideration. Based on present day scenarios, the proposed developable area of the site is not, though, at risk of tidal flooding.
13. However, it is also necessary to consider future scenarios. In this regard, it is common ground between the main parties and the Environment Agency (EA) that the most appropriate measure to use is the 1 in 200 yrs plus 'higher central' climate change allowance undefended flood event. The use of undefended is necessary because of the likelihood that the maintenance of the embankments within the Ham Marshes frontage will cease in the medium term (2048 onwards), as confirmed by the EA. Using either the 'higher central' or 'upper end' climate change allowance makes limited difference to the flood extents in this location². The adopted 'higher central' option is supported by the EA. For the avoidance of doubt, this also includes the EA's latest flooding data³ and is based on the current accurate topography of the appeal site. I therefore agree with this approach.
14. The above approach results in a design tidal flood event depth of 5.83m AOD. In such an event⁴, there would be flooding to the area where some of the proposed built form would be located to the north west corner of main part of site and also to the south east corner, to the access road, and to parts of the proposed areas of open space.
15. Paragraph 170 of the Framework directs inappropriate development in areas at risk of flooding away from areas at highest risk. The Framework does not define inappropriate development in the context of flooding. Residential development is both intrinsically vulnerable to flooding and a more

² Confirmed under cross examination

³ NaFRA2

⁴ See Appendix H2 of the appellant's Flood Risk Assessment & Outline Surface Water Drainage Strategy, dated April 2024

vulnerable land use than the existing agricultural field⁵. I therefore consider the proposed residential development to be inappropriate development for the purposes of Paragraph 170.

16. Directing development away from areas at highest risk can be achieved, in-principle, by adopting the sequential approach, ie placing inappropriate development on parts of the site not at risk of flooding. However, this is not what is being proposed because, as set out above, some of the areas for future homes and the proposed vehicular access are within areas at risk of tidal flooding. Even if the access point is largely dictated by the constraints of the site, it would have been possible to alter the proposed areas of built development to not be within the areas at risk of flooding.
17. Paragraph 174 further states that inappropriate development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 175 confirms that, where proposed built development is within areas at risk of flooding, the sequential test should be used. This is to establish whether or not there are reasonably available alternative sites.
18. The proposal includes changing the land levels including raising them in some areas, with the result that all areas of proposed built development would be 300mm above the design flood level, ie would not be at risk of flooding. This could be secured by condition(s). Much time was spent at the Inquiry discussing the changing land levels and whether they are occasioned by remediation works or are a direct response to the flood issues, ie a flood mitigation measure. However, such a distinction is not relevant to consideration as to whether or not a sequential test is required. Paragraph 175 clearly states that land raising, with no qualifications as to the purpose of such land raising, should not be used as a means to avoid the sequential test.
19. Annex 3 to the Framework is ambiguous as to the vulnerability classification of the access road. I do not view it as water-compatible development. It would be the only vehicular access to the site, and I view it to be either 'less' or 'more' vulnerable. I therefore consider the proposed access road to be inappropriate development for the purposes of Paragraph 170. The access road would be raised so that it could form a suitable connection to Ham Road, and its finished level would be above the design flood event and not at risk of tidal flooding. However, as with the ground remediation, the purpose of such land raising is not relevant to the necessity of the sequential test. Paragraph 175 is equally clear that access routes in areas at risk of flooding should be the subject of the test.
20. Paragraph 177 is extremely clear that an exception test can only be carried out after a sequential test has been undertaken. It starts with "Having applied the sequential test". Paragraph 172a is equally clear, stating "applying the sequential test and then, if necessary, the exception test". There is therefore no need to consider this further in terms of the obvious sequence of events. Whether or not it might be possible to compartmentalise the site is a moot point because the development is proposed as a whole and is not severable. Equally, whether or not the proposed access road would, by itself, trigger the need for a sequential test is also a moot point, because

⁵ Annex 3, the Framework

being triggered by the proposed residential development is sufficient by itself. Therefore, a sequential test is required. A sequential test has not been undertaken by the appellant. This is a clear conflict with the Framework.

Surface water flooding

21. The site is at risk of surface water flooding, as calculated based on the NaFRA2 data and the latest topography on the site⁶. This includes developable areas. Paragraph 175 is clear that the sequential test applies to any form of flooding, now or in the future. It is therefore triggered. As with tidal flooding, this has not been undertaken, and there is a conflict with the requirements of the Framework.

Harm

22. The area at risk of flooding in the design flood event is part of the main access road and future developable areas equivalent to circa 20 homes⁷. The main vehicular access is obviously an important element of the site. However, it is relevant that less than 10% of the proposed homes would be in areas at risk of future flooding. In addition, it has been demonstrated that the entire appeal site could be made safe from flooding by the land changing measures, and by raising the access road, amongst other flood resistance and resilience measures at the detailed design stage, such as small flood barriers, raised services etc⁸. It has also been confirmed that the land changing measures have already been accounted for in the visual envelope as used as the baseline for the assessment of landscape character, as considered below. This could be controlled by condition(s).
23. The reasons for the land changing measures are a material consideration as to the weight to be applied to not undertaking the sequential test. In this regard, there is a need to remediate parts of the site, which is a former quarry. However, it is not currently known to what extent this is required or what effect this would have on the land levels after the works. It has therefore not been fully substantiated by the appellant that this is the only reason for the land changing, and it would certainly be convenient if the remediation just so happened to result in the minimum level needed to avoid flood risk. Nevertheless, remediation would form part of the reason for the land works. With regard to raising the access road for access to Ham Road, it has been demonstrated that this is required to provide suitable and safe access to the road.
24. The extent of pluvial flooding risk is relatively limited. It is from ponding on the site in existing depressions and similar factors. The depth of the flooding would be relatively shallow. There is no risk related to interrupting an off-site surface water flow path, or effects on other off-site properties. It is a fairly typical existing situation on an agricultural field. As part of the design detail for the proposal at reserved matters stages, the precise land levels, drainage solutions, and landscaping would all need to be considered. Given the limited nature of the existing and future surface water flood risk, designing out the flood risk could be comfortably accommodated as part of this natural detailed design process.

⁶ See Appendix 2, Mr Lane's Rebuttal Proof of Evidence

⁷ Confirmed under cross-examination

⁸ See Paragraph 6.5, CD2.14

25. Overall, therefore, there is no real world harm from either the failure to undertake a sequential test for tidal flooding or the failure to properly undertake a sequential approach. This is because it has been satisfactorily demonstrated that mitigation measures can make the proposed development safe for its lifetime from tidal flooding. There are also reasons other than flooding that result, although likely only in part, in the land levels changing mitigation measures. There would also be no real world surface water flood risk to the finished and occupied development proposal.

Overall

26. Despite the lack of real world harm, due to the failure to undertake a sequential test or to fully apply the sequential approach for the proposed residential development and access road in areas at risk of flooding in the future, the proposal therefore represents an unacceptable form of development having regard to its flood zone location and the provisions of local and national planning policy. The conflicts with the Framework are set out above. With regard to the Development Plan, the proposal would conflict with Policy DM21(2) of the LP because inappropriate development is proposed in an area at risk of flooding before mitigation measures are taken into account, and Policy ST7(11) which cross-refers to Policy DM21. It would, though, comply with Policy FAV8 of FNP, which requires there be no significant adverse impact on risk of flooding and the including of SUDS, but does not directly relate to the requirements of the Framework.

Character and appearance

Existing

27. The appeal site is part of an agricultural field. It is relatively flat. There is limited vegetation and hedgerows, but there is an area of scrub land along the southern boundary, and a hedgerow to the western boundary. There are some scattered trees and a small group of trees to the eastern edge of the site. There is existing built form directly to the south, west and east, ie the existing built form of Faversham, which is clearly visible in the background of the site.
28. The surroundings to the site are also influenced by more rural and tranquil elements. To the north is the remainder of the field with low lying marsh and agricultural land further to the north, west and east. This low lying land has a relatively strong and distinctive character due to its marshland feel, and provides a sense of place which associates the surroundings of the site to the tributaries to the nearby Thames river ie the creek. This area is designated in the LP as an Area of High Landscape Value (AHLV) and displays some of the key characteristics of the wider NCA 81 'Greater Thames Estuary', including low lying landscape, persuasive presence of water, grazing for cattle, and feelings of remoteness. However, the appeal site itself does not particularly demonstrate these attributes and rather has the appearance of a normal agricultural field lying next to existing built form.
29. The appeal site is visible from users of Ham Road, occupiers of surrounding properties and businesses, and from several PRoW, including ZF5, ZF32 and ZF23, which run both through nearby fields and alongside the creek. It is also open to the north and partly open to the east and west. It is therefore relatively visible including to sensitive receptors, in particular users of the

PRoW. However, this is only to a certain degree because the built form blocks longer views from three sides, and the very flat land to the north and east restricts visibility from those directions.

Assessment

30. It is proposed to develop a large proportion of the site for up to 250 dwellings. Vehicular access would be from a new junction onto Ham Road and this would require the removal of 12m of hedgerow and a tree. There would also be fairly extensive areas of open space, of approximately 7 ha, including alongside Ham Road and to the western part of the site. Planting is proposed to the northern boundary, and a thin line of planting is indicated to the southern boundary adjacent to the existing residential area.
31. There would be some harm to the appeal site itself because of the change from an agricultural field to an urban development. This would reduce over time as planting matured, but even the planting would be clearly of an urban form and type, trees are not characteristic of the area in any event, and the built form would still be partially visible. There would therefore remain some residual harm. However, this would be localised because of the existing built form to three sides and the relative lack of visibility from the flat marshland. It would also be seen in the context of, and would read as an extension to, Faversham. Although built form would be brought closer to the more valuable marshland type landscape to the north, west and east, it would not encroach upon it. There would therefore be limited effect on this area, although there would be some, minor, harm to its setting.
32. The FNP has designated the southern boundary of the site, where it runs alongside the existing residential extent of Faversham, as a protected linear green space. Although there would be some planting alongside this boundary, the proposal includes built development that would encroach upon this green space. However, the proposal would simply read as a natural extension to Faversham. Fairly extensive public open space would be provided to the east and west of the site. In addition, there is proposed a similar green space corridor to the northern part of the site, which would largely replicate the existing green space that the FNP seeks to protect.
33. There would be a particular effect on users of the PRoWs. However, the open countryside beyond remains, and the existing site, whilst open, is already perceived in the context of the surrounding built form. There would also be open areas within the proposal, through which the existing PRoW on the appeal site would run. Any views from further afield would be limited, for the reasons set out above.

Overall

34. The proposal would harm the character and appearance of the area, including on landscape character, as set out above. The level of harm to the appeal site would be moderate, resulting in conflict with Policies ST1, ST3, CP4 and CP7 of the LP. There would also be limited conflict with Policy FAV11 of the FNP, which requires no adverse impact on the rural setting of Faversham. There would be a conflict with Policy FAV7, which requires no adverse impact on green infrastructure including green spaces, albeit this would largely be a technical conflict rather than one of substance given my

conclusions above on the acceptability of the proposed intrusion into the green space area.

35. Policy DM24 of the LP sets out a hierarchy with regard to the protection of landscapes. The AHLV sits above, ie is more protected, than non-designated landscapes. Harm to non-designated landscapes must be minimised and mitigated. Whereas for AHLVs, harm should also be avoided and conservation and enhancement must be demonstrated. Therefore, although limited, the harm to the setting of the AHLV that I have identified therefore conflicts with this part of the policy.
36. With regard to the non-designated appeal site and nearby, mitigation is proposed. Whether or not landscape harm has been minimised is debatable. Of course, a smaller scheme would allow for greater areas of open space and less harmful positioning of built form. However, I view 'minimise' to mean within the context of what is proposed. Otherwise, there would always be a smaller development that would have lesser harm. The proposal therefore complies with that part of the policy.
37. It's important to note that the harm to landscape reflects the hierarchy of landscape protection set out in Policy DM24, ie the greater harm is to the non-designated landscape and the lesser harm to the AHLV. In addition, the second part of both parts of the policy state that it is only where significant adverse impacts remain that this need be balanced against the social and economic benefits of the proposal. The logical inverse of this is that where there are less than significant adverse impacts, as is the case for the appeal proposal, then it complies with this element of the policy. There is therefore only limited conflict with Policy DM24.
38. I consider the AHLV to be a 'valued landscape' as defined by Paragraph 187(a) of the Framework. There would therefore be conflict, although to a limited degree, with the requirement to protect and enhance 'valued landscapes' as set out in this paragraph. With regard to the appeal site itself, which is not a 'valued landscape', Paragraph 187(b) only requires proposals to recognise the intrinsic character and beauty of the countryside, and the moderate harm that I have identified coupled with the proposed mitigation measures, would comply with this requirement.

Appropriate location

Principle

39. The appeal site lies outside the Built-up Area Boundary (BuAB) as set out in the LP, and which runs along the outer extent of the existing built form of Faversham, ie directly on the southern and part of the eastern boundaries of the appeal site. The appeal site is unallocated in the LP. Policy ST3 of the LP sets out the settlement strategy for the Council. This is hierarchical, focussing development on the larger built-up areas and settlements. Faversham is the 2nd tier of settlement, out of six. Land outside BuABs, like the appeal site, is in the 6th tier. This is protected from major development and the LP is clear that such land is not needed to meet the LP housing target⁹. Therefore, there is conflict with the settlement strategy and

⁹ Paragraph 4.3.23

therefore Policy ST3 and also Policy ST1(4), which cross-refers to the settlement strategy.

40. With regard to the FNP, Policy FAV2 sets out a number of circumstances where residential development would be acceptable, none of which apply to the proposal. However, it does not explicitly exclude residential development in other locations. It is a permissive rather than a restrictive policy. FNP also sets out several site allocations, none of which include the appeal site. This does not automatically mean that proposals outside of the site allocations are unacceptable. Nevertheless, despite the lack of clear conflict with specific policies, that the site is not allocated and is not positively promoted does represent a conflict with the obvious objectives and therefore spatial strategy of the FNP.
41. However, and importantly, the LP and the FNP spatial strategies are based on a housing need target of 776 dwellings per annum (dpa)¹⁰. This is now out-of-date and the current housing need is much higher¹¹, at 1,086 dpa. Although the BuABs are to an extent based on the physical extent of existing development, the site allocations and the very restrictive approach to development outside the BuABs is based on this now out-of-date premise. A more flexible approach is therefore required, to reflect current and future housing need.
42. It was even known at the time of adoption of the LP that this target had a shelf life, with Policy ST2 committing the Council to a review of the LP to be adopted by April 2022. There is an emerging Local Plan in production, but this is currently at an early stage and submission to the Secretary of State is not due until next year. It is therefore a long way from adoption or from providing an alternative spatial strategy to which weight could be applied.
43. The out of datedness of the spatial strategy does not automatically mean that development on unallocated countryside sites should be seen as acceptable. Each case should be judged on its own merits. In that regard, the proposal would be a direct expansion of Faversham, and in-keeping with the principle of directing significant development to Faversham. It would be of an appropriate scale for development in or adjacent to Faversham. It would be relatively accessible to local goods and services, as set out below. Therefore, whilst there would be a technical conflict with the spatial strategy of the LP and the FNP, the proposal would broadly accord with the philosophy behind it of directing development to accessible locations and the larger settlements. Therefore, whilst there is some conflict with the spatial strategy, this is only to a limited degree.

Agricultural land

44. The appeal site is almost entirely agricultural land. The proposal would result in the loss of all this land, either to built form or landscaped areas of open space. Policy DM31 of the LP states that development on any agricultural land will only be permitted when there is an overriding need that cannot be met within BuABs. As set out above, the site allocations and built-up areas of the LP are now out-of-date. There is also an agreed lack of a five-year supply of housing land. An overriding need that cannot be met within BuABs

¹⁰ Paragraph 4.2.28 and Policy ST2 of the LP, and page 26 of the FNP

¹¹ Agreed by the Council under cross-examination

has therefore been demonstrated¹² and the proposal complies with this part of the policy.

45. In addition, some of the agricultural land is at grades 2 (17%), 3a (22%) and 3b (55%)¹³. Therefore, 39% of the appeal site, or 5.6 ha, is defined as BMV by the Framework, ie is within grades 2 and 3a. With regard to BMV, Policy DM31 of the LP states that its loss will not be permitted unless one of three exceptions are met. The first is that the site be allocated, which isn't the case.
46. The second is in two parts. The first part is that there is no alternative, non BMV, site. In this regard, the appellant has undertaken a sequential test¹⁴. The appellant's assessment finds one alternative site, Rushenden South, which is assessed as having potential for 850 dwellings, on the Isle of Sheppey. There is, therefore, an alternative site, even on the appellant's own evidence. Although the Council acknowledges¹⁵ that it is difficult to imagine a high growth strategy on Sheppey, it is not entirely precluded. Only a part of the 850 dwelling site would be required to accommodate the proposed 250 homes of the appeal scheme. I have therefore not seen any substantiated evidence that there is not at least one alternative location for the proposal which would result in the loss of lower value agricultural land.
47. The third is also in two parts. The first is that the loss of BMV would not result in the remainder of the agricultural holding becoming unviable. This argument is not advanced by any of the main parties. The second is that the loss would likely lead to accumulated and significant losses of BMV. In this regard, the appeal site represents a tiny proportion of the BMV in the Borough as a whole. However, the Borough-wide amount of BMV is extremely large. Any development, even a colossal site, would still represent a small fraction of the overall proportion. It is important to avoid death by a thousand cuts, in other words accumulated losses of BMV.
48. The proposal therefore fails to comply with Policy DM31 parts (2) and (3) and, by extension, Policies ST1 and ST7 of the LP which reflect and cross-refer to Policy DM31. It also fails to comply with Policy FAV7 of the FNP, which protects BMV from loss for development.

Overall

49. Therefore, both due to the conflict with the spatial strategy limited though it may be and the loss of BMV, the appeal site is not an appropriate location for development of this type, having regard to local and national planning policy and guidance, including with regard to BMV.

Other Matters

Accessibility and highway safety

50. The appeal site lies directly adjacent to Faversham. PRow ZF5 runs through the site and provides access to Faversham town centre. In addition, there is a pedestrian exit, alongside the vehicular junction, onto Ham Road, which in turn leads towards Faversham town centre. There are lit pavements from

¹² As was also agreed by the Council under cross-examination

¹³ See Table 1, Agricultural Quality of Land off Ham Road, Faversham Report Ref 2461/1, dated 4 October 2024

¹⁴ See Appendix 6, Mr Lane's Proof of Evidence

¹⁵ See Sustainability Appraisal, dated February 2021, of the LP

Ham Road all the way to the shops and services in Faversham. These are fairly extensive, and Faversham is a 2nd tier settlement in the Borough. It also provides employment opportunities. Some of the future occupants would likely work elsewhere, or even commute to London, but there would be the option for more local employment. Faversham train station is approximately 2 km from the site. Given this, I agree with the Council and the appellant that the site is accessible to a range of goods and services by foot and by bike.

51. Whilst some of the roads on the route to the town centre, such as Priory Row, are relatively narrow and have extensive kerbside parking, there remain pavements. There is also nothing unusual about such arrangements on roads near town centres. I do not view them as dangerous or difficult to navigate either for pedestrians or cyclists. Davington Hill is relatively steep and has a narrow pavement directly next to a tall stone wall. This has the potential to be intimidating and off-putting to pedestrian users. However, there is still a pavement, albeit narrow. In addition, there is an alternative route to the town centre avoiding this road, via PRoW ZF5.
52. In addition to the above, the s106 secures a PRoW contribution, an additional PRoW contribution, sustainable transport vouchers, and a Travel Plan and associated monitoring fee. The PRoW contributions are towards the provision of ramps on the PRoW Ref ZF43 fronting Faversham Reach and Waterside Close, and also works to PRoW ZF5 and ZF32. These works would improve pedestrian facilities on the PRoWs and by extension better connect the site to both the town centre and to recreational walking along the creek and in the countryside.
53. The proposed access point to Ham Road would be on a relatively straight piece of road with good visibility in both directions. There is nothing substantive before me that the roads on the surrounding network are dangerous. Accident and injury data as provided by the appellant is at normal levels and as would be expected.
54. I am therefore satisfied that the appeal site is accessible and that the future occupants would have reasonable alternatives to use of the car to access services and facilities. I am also satisfied that the proposal would not give rise to any unacceptable effects on highway safety.

Ecology

55. The appeal site is largely an agricultural field of limited ecological importance. However, there are some areas of greater value, such as hedgerows, trees, scrub and grassland. An Ecological Impact Assessment, dated September 2023¹⁶ (EclA) has been submitted by the appellant. This finds evidence of bats, reptiles, breeding birds and amphibians.
56. The proposal would result in the loss of virtually all the existing habitat, including most of the more valuable areas. The Arboriculture Assessment, dated March 2023¹⁷, confirms that one tree and a 12m section of hedgerow would need to be removed to create the vehicular access.

¹⁶ CD2.4

¹⁷ CD1.12

57. There is therefore the potential for harm to the populations of bats and reptiles in particular. However, it is also proposed to provide significant replacement open space. This could be conditioned to provide suitable replacement habitat. It could also be controlled by condition that suitable replacement habitat be provided prior to clearance works of the higher value land, in particular the scrub and grassland. Other mitigation measures could include avoiding carrying out works during the nesting seasons for reptiles and providing a suitable reptile receptor site nearby, as could be secured by condition. In this manner, unacceptable harm to ecology on the appeal site could be avoided.
58. The SHF and FTC provided evidence collected by local residents of the ecology on the site. This includes research using the inaturalist app. I don't doubt the authenticity of the findings. However, they must be placed in context. Such observations do not tell the story of the habitats and behaviours of the species. The EcIA provided by the appellant uses recognised methodologies and assessments and has resulted in a robust baseline understanding of the ecological value of the appeal site. I am therefore satisfied that the proposal would suitably protect the ecological value of the site and would in fact result in a betterment through the creation of the new habitat.

Drainage

On-site

59. The proposal requires drainage. The full details of this are not yet known. However, an Indicative Surface Water Drainage Strategy has been provided¹⁸. This sets out the location for an attenuation basin, the likely routes for pipework, and the AODs throughout the site and at relevant connection points. FTC raised several points of detail regarding this strategy, with the primary concern being that the pipework and attenuation tank would need to be higher than as drawn to function correctly, which would lead to raising levels across the site.
60. There are some inconsistencies between the AOD figures used by the appellant in different documents. It is possible that an acceptable drainage strategy would require the need to raise the land, at least over part of the appeal site. If this were the case, there would be knock-on effects on a number of other considerations, such as character and appearance and ecology. However, the extent of land raising could be controlled by condition. At this stage, I do not have substantiated evidence before me that a material increase in the height of the land above that already set out by the appellant would be required. At this outline stage, I do not view it as reasonable to expect this level of detail to have been established.
61. It is also important to note that the Lower Medway Internal Drainage Board has confirmed in a letter dated 26 May 2023 that the proposal is acceptable, subject to control by conditions to agree full details of the drainage strategy. Kent County Council as the Local Lead Flood Authority has also not objected to the proposal, subject to control by conditions.

¹⁸ Ref 680663 10-05 Rev P2, page 96 of the Flood Risk Assessment & Outline Surface Water Drainage Strategy, dated April 2024

Off-site

62. The drainage strategy includes discharging water from the appeal site into a drainage ditch that is in The Swale Estuary Special Protection Area (the SPA) and Ramsar sites. The extent of the works are unknown as is the likely precise water flows. However, I have seen no substantiated evidence that there would be unacceptable effects on the SPA or Ramsar from such drainage. There would also be a change from the current uncontrolled run-off into the sites to a controlled strategy. Run-off rates could be restricted as part of the drainage and SUDS strategy. The details of this could be controlled by condition(s) and other processes, such as land drainage consent. With regard to effects from construction, this could be controlled by condition(s) and other legislative processes with regard to construction practice.
63. It is appropriate to use Grampian condition(s) in this regard as it is to secure off-site works. As set out in Planning Practice Guidance¹⁹, Grampian conditions may be used unless there are no prospects at all of the associated works not being performed within the time-limit imposed by the planning permission. Although land ownership issues have been raised by FTC as well as concerns regarding the acceptability of the easements submitted to the Inquiry, none of these amount to a demonstration that there are no prospects at all of the works being able to be carried out.

Land ownership

64. The appeal site includes some land outside the ownership of the appellant. However, planning permission runs with the land, not the owner. Therefore, whilst the land ownership situation might cause some issues to the appellant in terms of being able to implement any planning permission that is granted, this is not a matter to which I give weight.

Heritage

Significance

65. Faversham Conservation Area (the CA) covers most of the centre of Faversham and also the area heading northwards either side of the creek. It is very close to the appeal site to the south east corner, either side of the industrial estate. The Faversham Creek character area is that nearest the appeal site, where landscape is an important part of character, including the water channel, mudflats, chalk streams and water features, and green spaces.
66. The grade II Listed 'Ham Farmhouse and Walls Attached'²⁰ and grade II Listed 'Barn about 30 metres North of Ham Farmhouse'²¹ both lie in the same farm complex to the east of the appeal site. The farmhouse is from the early 18th-Century and extended in the 19th-Century. The barn is from the 17th-Century or earlier. Both buildings derive their significance from a combination of their intrinsic architectural value and also from their functional association with the wider farm complex, and farmland beyond. It remains a working farm, so this association is still relatively strong.

¹⁹ Paragraph: 009 Reference ID: 21a-009-20140306

²⁰ List entry number 1240464

²¹ List entry number 1261008

67. The grade II Listed 'Pair of houses at TR 021 627'²² lie to the east of the site, beyond the farm complex. They date from c.1870. Their primary significance is due to them being an unusually early example of flat roofed, concrete construction in small domestic buildings. They were likely coastguard cottages and their functional relationship is with the creek and the coast, not the farmland, and it is therefore the visual relationship eastwards towards the creek that contributes to their significance in terms of their setting.
68. The grade II Listed 'Gate House Marsh Works'²³ and 'Proof House approximately 10 metres south south west of Gate House, Marsh Works'²⁴ lie to the west of the appeal site. The Gate House was at the former entrance and the Proof House was a storage building to a former gunpowder works. Both buildings and the surrounding works site have lost their original use and are now in residential use, including a new build development immediately surrounding the listed buildings. The works were originally deliberately opened in a remote location for safety. However, the remoteness of the location has also almost entirely been lost due to the expansion of Faversham and the immediately surrounding development. Nevertheless, there is some intervisibility with the agricultural field of the appeal site, which provides a very minor echo of this former isolation, and therefore positively contributes to the significance of the listed buildings.
69. The grade II Listed 'Oyster Bay House'²⁵ lies to the south of the appeal site. It is a warehouse from the mid-19th-Century, likely built at the same time the creek was improved in 1843. It is a prominent building that is relatively tall. It has a hoist to its north end with doorways at each floor. It derives its significance from a combination of its innate architectural and historic interest and also its relationship to the creek. The grade II Listed 'Standard House'²⁶ is also located on the creek, further south and is from roughly the same time. It derives its significance partly from its innate architectural quality, partly from its association with the creek, and partly from its historic association with a shipyard which made sailing barges of outstanding quality. Neither building has a direct visual or functional relationship with the appeal site or the wider agricultural land.
70. The grade I Listed 'The Parish Church of St Mary of Charity'²⁷ and separately grade I Listed 'Church of St Mary Magdalene'²⁸ lie within Faversham roughly to the south of the site. St Mary is from the 14th and 15th-Centuries and was restored in the 19th-Century. St Mary Magdalene is from the 12th-Century, and repaired and restored in the 19th-Century. Both churches significance derives primarily from their intrinsic architectural and historic interest. St Mary of Charity has a particularly striking main tower. They also derive significance from their settings, at the centre of the community they serve. The immediate and medium distance setting for both is the built form of Faversham. The towers in particular can also be seen from surrounding fields and PRoW, including the appeal site. However, because of the distance and the intervening built form of Faversham, the appeal site makes only a very

²² List entry number 1260995

²³ List entry number 1389586

²⁴ List entry number 1389585

²⁵ List entry number 1240318

²⁶ List entry number 1069409

²⁷ List entry number 1319973

²⁸ List entry number 1069406

minor contribution to the setting of either church. Neither church has any known current or historic relationship with the appeal site.

Assessment

71. There would be some erosion of the key elements of the character of the Faversham Creek area of the CA. However, this would only be to a limited extent because the proposal would not directly affect this area, and would be set back from the area and any proposed housing would be perceived in the context of the existing development of Faversham in the immediate background. Additionally, areas of open space are proposed along the eastern boundary of the site, providing a buffer from the proposed built form, further reducing any effect on the CA. There would, nevertheless, be some harm to the character and appearance of the CA in terms of how it is experienced in its setting, thus failing to satisfy the requirements of Paragraph 219 of the Framework. I assess the level of harm to be at the lower level of less than substantial.
72. With regard to the farmhouse and barn, the appeal site land would result in the erosion of some of the agricultural land associated with these buildings and the farm complex. However, it is set away from the farm complex with agricultural land to be retained between. A sense of openness and the direct association between the farm complex and the immediately surrounding fields would therefore remain. Nevertheless, there would be some erosion of this important relationship. This would be directly visible from the farmhouse. However, it would not be appreciable from the barn, or whilst considering the barn in its setting, due to a large intervening building. The proposal would therefore result in harm to the special interest and heritage significance of the farmhouse only, in terms of how it is experienced in its setting, thus failing to satisfy the requirements of the Act and Paragraph 210 of the Framework. I assess the level of harm to be at the lower level of less than substantial.
73. The pair of houses are largely significant because of their intrinsic architectural value from their unusual construction technique. They are not directly associated with farm and neither it nor the agricultural field of the appeal site positively contribute to their setting. The proposal would not, therefore, result in harm to the special interest and heritage significance of the listed buildings in terms of how they are experienced in their settings.
74. The Gate House and Proof House are now part of a new development on the west side of Ham Road. The significance of the buildings lies largely in their innate architectural merit. The association with the long since closed gunpowder works has largely been eroded by the residential development. The proposal would, though, partially erode the little remaining sense of isolation through the introduction of built form. However, although relatively close to the proposed built form of the appeal proposal, there would be some off-setting from a proposed area of open space. In addition, this aspect of the setting of the buildings only contributes to their significance to a very minor extent. Nevertheless, the proposal would result in harm to the special interest and heritage significance of both buildings, in terms of how they are experienced in their settings, thus failing to satisfy the requirements of the Act and Paragraph 210 of the Framework. I assess the level of harm to be at the lower level of less than substantial.

75. There would be very limited visual intervisibility between the proposal and Oyster Bay House but the proposal would be on land that is not positively associated with it. It would be set away from the creek area that defines its setting, with fairly substantial open space providing a buffer from the proposed built form to the creek and the land around it. With regard to Standard House, this would not have any intervisibility due to the intervening industrial estate. The proposal would not, therefore, result in harm to the special interest and heritage significance of the listed buildings in terms of how they are experienced in their settings.
76. There would be limited intervisibility between the proposal and either church. However, the spire/tower of the churches would be visible in views from the appeal site. This though is in the context of the existing, substantial, intervening built form of Faversham. There would be no material change to this from the proposal. In addition, the key view of the tower of St Mary of Charity is from the PRoW which would not only be retained but would be within the large area of open space to the east of the appeal site. The proposal would not, therefore, result in harm to the special interest and heritage significance of the listed buildings in terms of how they are experienced in their settings.

Air quality

77. The appeal site is not within an Air Quality Management Area. Although SHF has provided some information regarding research into air quality levels in Faversham, none of the streets claimed to be above the Country's standards are nearby to the appeal site. In addition, the full methodology behind the calculation has not been provided. There is nothing before me to suggest that the appeal site or nearby roads suffer from poor air quality.
78. However, the future residents would create additional journeys on the local transport network. The appellant's Air Quality Assessment, dated February 2023²⁹, has calculated the levels of future emissions and therefore the necessary mitigation measures. These include the provision of electric car parking spaces, travel plans, and a potential electric car club scheme. The electric spaces and travel plan could be secured by condition(s). The s106 secures mitigation measures, up to the amount needed to mitigate the harms caused by the proposal.
79. Two options are provided in the s106. I direct that option (a) should be chosen because it affords flexibility for the choice of mitigation measures to be made in the future. It is not necessary to specify that a car club scheme must be included, because it is that the air quality harms are mitigated that is necessary and reasonable, not the precise way it is achieved.

Interested parties

80. Several letters of objection have been submitted both in relation to the appeal and the application, including a petition. They raised various concerns, but these have been captured either by the Council or by the two R6 Parties at the Inquiry. I therefore consider the concerns of local residents throughout my Decision.

²⁹ CD1.14

Planning Balance

Positive

81. The provision of housing is one of the key aims of national and local planning policy. A recent Written Ministerial Statement said that the country is in an acute and entrenched housing crisis³⁰. The Council can only demonstrate a 3.98 year supply of housing land, representing 1,119 homes that have not been provided. The proposal is for a relatively large development of up to 250 homes, of which 60% would be market housing. It would make a meaningful contribution to the housing supply in the Borough. In this context, I place substantial weight on the provision of market housing.
82. The s106 secures 40% of the proposed number of dwellings to be affordable housing. This is above the Policy DM8 of the LP requirement of 35%. The precise mix of affordable housing is left to be agreed with the Council, although with a starting point of 90% to be affordable rent or social rent units, which accords with the local need for social rent housing as set out in the evidence base to the FNP. I direct that Paragraph 2.8 of Schedule 5 of the s106 is a material consideration because it provides suitable flexibility to future developers to progress affordable housing whilst securing the overall percentage and still affording the Council the opportunity to negotiate and secure a suitable mix.
83. There is a shortfall in affordable homes in the Borough and this is increasing. Practical completions last year were less than half of identified need. The current shortfall of affordable home provision in the Borough is having real world effects. For example, there are 1,684 households on the housing register, 121 of which are classified as being in urgent need of housing. Waiting times to be housed are between 12 and 28 months. Overall, I place substantial weight on the provision of affordable housing.
84. There would be short term benefits to the economy from construction of the proposal. There would also be long term benefits from expenditure in the local area by the future residents of the development. It is a reasonably large proposal. That the benefits are standard for housing development does not lessen their reality or importance. I place significant weight on this factor.
85. A Biodiversity Net Gain (BNG) Feasibility Report, dated August 2023³¹ confirms that the proposal would result in an overall BNG of 32.65% for area-based habitats, a BNG of 200.78% for hedgerows, and that trading rules will be satisfied. This exceeds the national requirements and also Policy FAV7(2) of the FNP, which requires a minimum BNG of 20% on greenfield sites such as the appeal site. I place moderate positive weight on this factor.
86. As existing, apart from the PRow, none of the appeal site is useable or accessible to the public, because it is a private field. That there used to be allotments, as stated by SHF, does not alter the current situation. Significant public open space would be provided as part of the proposal. This would be useable not only by future residents of the scheme but also by other nearby existing residents. In addition, the s106 secures upgrades to PRows both

³⁰ CD11.5

³¹ CD2.8

through and in the vicinity of the site. A children's play space would be provided, as secured by the s106. I place moderate positive weight on these factors.

87. As set out above, the pluvial flooding on the appeal site is not related to cross-site flows. The proposal would also not affect nearby areas with regard to tidal flood risk because it would not afford opportunities for tidal flood waters to spread further than if the site were left as existing. Any impact on tidal flood water volume would be a drop in the ocean (sic). In addition, it is common ground, and I see no reason to disagree, that by raising the access road as described above, a barrier would be created that would help protect The Goldings scheme to the west from tidal flooding. There would therefore be a betterment in this respect. I place moderate weight on this factor.
88. The provision of an electric car club is secured by the s106. This would have some benefits in terms of allowing both future and nearby residents to hire the cars. However, only five cars are proposed and the take-up of the club is not known at this stage. Overall, I place limited positive weight on this factor.
89. The appeal site contains contaminated land. The proposal would remediate this land. This would largely be so as to create an acceptable form of development. However, it would also likely result in a reduction of the existing risks to the underlying aquifers and reduce existing surface water infiltration rates resulting in a reduction of subsequent soil leaching into the underlying groundwater³². Paragraph 125(c) of the Framework supports opportunities to remediate contaminated land. However, the remediation works are largely to create an acceptable situation for the proposed development. I therefore place limited weight on this factor.

Negative

90. The appellant has failed to undertake a sequential assessment or to fully apply the sequential approach, both in relation to tidal and surface water flooding. However, as also set out above, there would be no real world harm as a result of the proposal, because the proposed mitigation works would mean that no areas of the proposed development in its final form would be at risk of flooding in the design flood event, or from surface water. Overall, though, and consistent with previous appeal decisions, I nevertheless place significant weight on this factor, which remains in conflict with the Framework and local policy and represents a departure from the overarching spatial planning requirement to direct inappropriate development away from areas at risk of flooding.
91. There would be a conflict with the spatial strategy of the Council. However, the weight I apply to this conflict is reduced because of the limited scope of the conflict. It is further reduced because the Council cannot demonstrate a five-year supply of housing land. Even a relatively small shortfall is still an important factor to take into consideration. In addition, it is accepted that the emerging Local Plan will either need to apply a more flexible approach to BuABs or widen them to accommodate likely future housing need. Nevertheless, a conflict with the spatial strategy is an important consideration, even if limited, because it means the proposal represents a

³² See Appendix 3, Mr Lane Proof of Evidence

departure from the plan-led system. Overall, I place significant weight on this factor.

92. There would be loss of BMV in a manner in conflict with the Development Plan. It is also important to remember that loss of BMV goes beyond technical non-compliance with a spatial strategy. There would be real world harm from the loss of the land because of the loss of productive land for agriculture and associated economic effects. However, the loss of some BMV, be it at the appeal site or elsewhere in the Borough, is inevitable if the Borough is to meet its housing need moving forward³³. There would also not be any loss of grade 1 land and relatively limited loss of grade 2 and 3a land. There is therefore likely no loss of BMV that would not inevitably occur in the near to medium future in any event. The conflict with the spatial strategy in this regard, important though it is, therefore must have reduced weight and importance, and I place moderate weight on this factor.
93. There would be moderate harm to the intrinsic character, beauty and tranquillity of the countryside by developing part of an agricultural field and limited harm to the setting of the AHLV marshland to the north. However, some harm to the appeal site and nearby countryside is an inevitable consequence of development. Importantly, the harm would be lowest to the area of highest value and subject to greater protection, ie the designated AHLV landscape. Overall, I place limited weight on this factor.
94. Although the land of ecological value to be lost, such as the trees, hedgerows and grassland, would be adequately mitigated, there is still some intrinsic harm from the loss of such habitat. Because of the relatively low existing ecological value, and that some habitat would be retained, such as many of the trees, I place limited weight on this factor.
95. Construction of the proposal would involve relatively large numbers of HGV movements. This would be increased above that of purely constructing the buildings and infrastructure due to the need to change the land levels, as detailed above. Although this could be controlled by condition(s) to minimise the effect on the local highway network, there would inevitably be some harm to the free-flow of traffic and highway safety. I place limited weight on this factor because there is no substantiated evidence before me that this harm would be to an unacceptable degree.
96. There is a path which runs from Upper Brents to Ham Road along the field edge behind the existing houses in Upper Brents and Springhead Road. Evidence has been provided that it has been informally used for a long time, perhaps over 100 years. This would be lost as part of the proposal. However, this is not a formal PRoW. It has no formal heritage designation. It runs on private land. Nevertheless, it is evidently in use by local residents and there would be some, albeit limited, harm from the loss of this footpath, to which I attach limited weight.

Heritage balance

97. In accordance with Paragraph 212 of the Framework, I place great weight on the conservation of designated heritage assets. Although at the lower level of less than substantial, I place considerable importance and weight on the

³³ Agreed by the Council under cross-examination and also as set out in its Sustainability Appraisal

harm that I have identified to the character and appearance of the CA in terms of how it is experienced in its setting, and to the special interest and heritage significance of the farmhouse, Gate House and Proof House Listed buildings in terms of how they are experienced in their settings. As set out at Paragraph 215 of the Framework, where there is less than substantial harm to designated heritage assets, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing their optimum viable use.

98. There is no contention before me, nor reason to believe, that the optimum viable use of any of the heritage assets would be affected by the proposal. With regard to the public benefits, these are substantial, as set out in the positive section of the planning balance above. These outweigh the limited and low level of harm to the farmhouse, Gate House and Proof House Listed buildings and the CA.

The balance

99. The failure to perform a sequential test with regard to both tidal and pluvial flooding is a fundamental breach of planning policy, even if there are no real world effects as a result. The proposal also represents a departure from the adopted spatial strategy of the Council. The current housing land supply situation of the Council means that some departures from this strategy are inevitable, which lessens the weight to be applied to this conflict. Nevertheless, the importance of a plan-led system is a thread which runs through planning policy. This should be respected, and the departure is an important conflict to weigh in the planning balance. In addition, as set out above, I place moderate weight on the loss of BMV, and there are further harms with regard to character and appearance, existing ecology, construction traffic, heritage and the informal footpath. Taken together, and despite the package of benefits as set out above, these harms represent a conflict with the Development Plan when read as a whole.
100. Applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004. The Framework is an important material consideration. As set out above, the Council cannot demonstrate a five-year supply of housing land. Therefore, as set out at Paragraph 11d and Footnote 8 of the Framework, the 'tilted balance' as set out at Paragraph 11dii is engaged unless the application of policies in this Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed.
101. Footnote 7 confirms that areas at risk of flooding are counted as assets of particular importance. Although the proposal has failed to perform the required sequential tests, there would be no real world effects after mitigation is taken into account. A 'strong' reason for refusal based on flooding must, to my mind, go beyond mere technical conflicts, even if they are important. There must be substantive risks and harms that go beyond policy. I do not, therefore, view this as a strong reason for refusing the development proposed. For the avoidance of doubt, I also do not view the minor harms to heritage assets as representing a strong reason for refusal, or even a reason for refusal at all, as set out in my heritage balance section above. The 'tilted balance' is therefore engaged.

102. In this regard, the benefits of the proposal are many and weighty. It would provide a reasonably substantial housing development in a Borough with a lack of a five-year supply of housing land. There would also be benefits to the economy, BNG, public open space, off-site flooding, contaminated land and an electric car club.
103. With regard to Paragraph 14 of the Framework, the FNP became part of the Development Plan within the past five years. However, it contains policies and allocations that would only meet a housing requirement that does not accurately reflect up-to-date housing need, as set out above. The conflict with the FNP is also limited to Policy FAV7 with regard to BMV which is an inevitable loss when considered in the round, and FAV2 with regard to spatial strategy but only with regard to its overarching objectives rather than specifics parts of the policy. In this circumstance, therefore, the adverse impacts of the conflicts with FNP do not significantly and demonstrably outweigh the benefits.
104. Overall, and particularly because of the importance and weight to be applied to the proposed housing, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits of the proposal. The appeal should therefore be allowed.

Conditions

105. An agreed schedule of conditions was tabled at the Inquiry and was then discussed at a round-table session. On the basis of that discussion, and with regard to the Government's guidance on the use of conditions in planning permissions, I have amended the schedule of conditions. No parties would be prejudiced by this because it follows the discussion held at the Inquiry.
106. In addition to the standard submission of reserved matters, time limit for submission of reserved matters, and time limit for implementation conditions, a condition specifying the relevant drawings provides certainty.
107. The archaeology, reserved matters accompaniment, remediation, contamination, foul water drainage, landfill, construction environment management plan (CEMP), SUDS, Verification Report, Acoustic Design Statement (ADS), cycle parking facilities, emergency vehicle route, and water use restriction conditions are necessary to ensure compliance with these technical considerations. The water restriction is additionally a requirement of Policy DM21(9) of the LP. Foul water control is a requirement of the EA and relates to potential harm to controlled waters and is therefore necessary.
108. The reserved matters accompaniment, reserved matters plans and sections, remediation, PRoW Scheme of Management, CEMP, Landscape and Ecological Management Plan (LEMP), SUDS, bollards and signage, lighting strategy, tree and shrub replanting, and unit and density restriction conditions are necessary to protect the character and appearance of the area. I view five years tree and shrub replanting as being proportionate and necessary in this regard. The PRoW applies only to where they are within the appeal site, with off-site works captured by the s106. This is therefore necessary and enforceable.

109. The reserved matters accompaniment, CEMP, Construction Management Plan (CMP), ADS and piling conditions are necessary to protect the living conditions of local residents.
110. The reserved matters accompaniment condition is necessary to ensure an adequate standard of accommodation for future occupiers.
111. The reserved matters accompaniment, Reptile Mitigation Strategy, PRoW Scheme of Management, Biodiversity Method Statement, CEMP, LEMP, SUDS, Verification Report, lighting strategy, tree and shrub replanting, infiltration of surface water drainage from drainage systems, piling, and habitat monitoring survey reports submissions conditions are necessary to protect ecology.
112. The reserved matters accompaniment and reserved matters plans and sections conditions are necessary to ensure that the future occupants and users of the site would be suitably protected from tidal flooding.
113. The PRoW Scheme of Management, CEMP, CMP, bollards and signage, cycle parking facilities, emergency vehicle route, and travel plan conditions are necessary to protect highway safety and the free-flow of traffic.
114. The plans and sections condition confirms the floor levels AOD and also that the maximum heights of buildings must be within the visual envelope as assessed for the proposal. It is therefore sufficient by itself to ensure that any works and the final design, be they part of remediation or the proposed development, would be within the parameters as assessed above with regard to both flooding and character and appearance. I have seen no substantiated evidence that these could not be achieved.
115. It is, therefore, unnecessary to specify the number of storeys or building heights of individual buildings, because they would need to comply with the restrictions in the plans and sections condition in any event. In addition, there is no need to specify AOD levels in relation to contamination works, because it is the final situation which needs to be controlled regarding flooding. It is also not necessary to attach a condition in relation to flood warning and evacuation plans because the final proposal would not be at risk of flooding.
116. The Reptile Mitigation Strategy, PRoW, contamination, foul water drainage, landfill, Biodiversity Method Statement, CEMP, LEMP, CMP, and SUDS conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Appropriate Assessment

117. The appeal site is located close to The Swale Estuary Special Protection Area (the SPA) and Ramsar. The proposal could have indirect effects on the SPA and Ramsar due to recreation from the future residents, as well as direct effects both during construction and in operation through drainage that would discharge into the sites. I therefore consider that the effects of the proposal, both on its own and in combination with other development projects, is such that it is likely to have significant effects on the integrity of the SPA. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) therefore indicates the

requirement for an Appropriate Assessment (AA). As the Competent Authority, I have therefore undertaken an AA.

118. The SPA was designated due to it being a wetland of international importance. It provides habitat for wintering waterfowl and supports notable breeding bird populations, including several qualifying species. The SPA includes the largest remaining areas of freshwater grazing marsh in Kent. The Ramsar is an extensive complex of mudflats and saltmarsh which provide habitat for notable non-breeding, breeding and winter birds, as well as a high species diversity of plants and invertebrates, including several nationally rare species. The conservation objectives include maintaining or restoring the extent, distribution, function and structure of the habitats.
119. It is proposed to construct up to 250 homes. The layout of the development would include a green link between Faversham Creek and the Faversham Gravel Pits Country Park. This would give the future residents easy access to the Faversham Creek at the point where it flows out of Faversham. Very few SPA birds use the section of Faversham Creek that the residents of the new development would have easy access to. However, the footpath at this point continues northwards along the bank of the creek where more SPA birds can be found, especially redshank. Consequently, there could be a likely significant effect on birds including overwintering waterbird assemblage species, all due to recreational pressure.
120. There could also be a likely significant effect during construction due to the possibility of works, such as piling, resulting in contaminants that would pollute the habitats of the birds in the SPA and Ramsar sites. In addition, the drainage strategy, whilst not finalised, would result in drainage from the development being partly funnelled into a ditch to the north west corner of the appeal site, and thereby transferring contaminants from the appeal site into the estuary and other habitats in the SPA. There could also, therefore, be a likely significant effect from construction and the drainage works and strategy.
121. Mitigation is proposed with regard to increased recreational pressure. This would largely be the s106 securing contributions to the North Kent Strategic Access Management and Monitoring Strategy, which largely relates to access management measures including wardening and visitor engagement, a dog project, codes of conduct, site specific access and infrastructure enhancements and monitoring. On-site measures are also proposed through the creation of fairly substantial open space within the appeal site, which would partially divert recreation away from the SPA and Ramsar.
122. The mitigation for the drainage concerns would be by controlling the detail of the SUDS and other drainage works by condition(s) to ensure that the drainage amount and pollution would be within acceptable limits. I am confident this would be achievable because the draft information provided in this regard has already considered the requirement to protect the existing natural water supply and habitat quality within the adjacent ditch network and SPA. With regard to construction, conditions could minimise harmful effects, for example by controlling piling, noise, locations of compounds etc. Given the distance between the bulk of the construction works and the SPA and drainage ditch, there is no reason to believe that suitable mitigation measures could not be achieved.

123. With regard to in-combination effects, proposed and recently approved developments located within 5km of any part of the SPA and Ramsar site have been considered, and there are no predicted significant in-combination impacts with any other projects or plans.
124. Overall, therefore, taking into account mitigation measures, there are no adverse effects predicted on site integrity of the SPA and Ramsar site as a result of the proposed development alone or in-combination with other plans or projects. The Council agrees with this conclusion and Natural England has been consulted and has issued no comment.

Conclusion

125. For the reasons above, the appeal is allowed.

OS Woodward
INSPECTOR

Richborough

ANNEX A: APPEARANCES

FOR THE APPELLANT:

Guy Williams KC. He called:

Laurie Lane MRTPI	Director, Lane Town Planning
Colin Whittingham CIWEM	Director, RSK
Ian Grimshaw CMLI MRTPI (TEP)	Technical Director, The Environment Partnership
Andy Nyul CEnv MCIEEM	Associate Director, TEP

FOR THE LOCAL PLANNING AUTHORITY:

Rowan Clapp, of Counsel. He called:

John Etchells CMLI	Director, John Etchells Consulting Ltd
Edward Hartwell MCIWEM	Principal Analyst, JBA Consulting
Martin Carpenter MRTPI	Director, Enplan
Matt Duigan	Planning Officer, Swale Borough Council

SAVE HAM FARM:

Frances Beaumont	Chair, Save Ham Farm
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FAVERSHAM TOWN COUNCIL:

Peter Cook PNL	Faversham Town Councillor, Prior Ward
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INTERESTED PARTIES:

Stephen Atkins	The Faversham Society
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ANNEX B: DOCUMENTS

- ID1 – Opening Submissions of the Appellant
- ID2 – Opening statement on behalf of Swale Borough Council
- ID3 - Comment on TEP comment on Rule 6 Proof of Evidence, by Peter Cook
- ID4 – FTC opening comments
- ID5 – SHF opening comments
- ID6 – Email dated 10 December 2024 regarding FNP being 'made'
- ID7 – Suggested Route for Inspector's Site Visit Ref ID9624.01.003
- ID8 – Update to condition schedule by Council regarding condition 17, incorporating inspector's comments
- ID9.1 – s106 Agreement Draft, as updated regarding footpath ramps
 - ID9.2 - Public Rights of Way Ramps Map 'ZF43 Faversham'
 - ID9.3 - Andrew Osborne email regarding ramps, dated 4 February 2025
 - ID9.4 – Email from Kent County Council regarding public footpath contribution, dated 11 February 2025
 - ID9.5 - Extract of the working copy of the definitive map of Public Rights of Way for the County of Kent Ref ZF43/a01992
 - ID9.6 – Planning Obligation Summary
- ID10 – Stephen Atkins Supplementary Statement
- ID11 – Flood Risk Statement of Common Ground, dated 25 February 2025
- ID12 – Council's Planning Proof of Evidence, Martin Carpenter
- ID13 – Environment Agency Comments, dated 31 January 2025
- ID14 – Updated Statement of Common Ground, dated February 2025
- ID15 – Revised Proof of Evidence following publication of NPPF in December 2024 by Peter Cook
- ID16 – Appellant's Planning Supplemental Proof of Evidence, dated February 2025
- ID17 – Appeal Decision Ref 3350855, dated 14 March 2025
- ID18 – Appeal Decision Ref 3343144, dated 18 March 2025
- ID19 – Closing submissions on behalf of Swale Borough Council
- ID20 – Closing statement by FTC including appendices
- ID21 – Final submissions of the appellant
- ID22 – Final, engrossed s106 Agreement

ANNEX C: CONDITIONS SCHEDULE

Reserved matters

- 1) Details of the appearance, landscaping, layout, and scale, "the reserved matters", shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to any Reserved Matters application, the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority.
 - A) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.
 - B) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
 - C) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the Local Planning Authority. The Report shall be in accordance with Kent County Council's requirements and include:
 - A description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
 - An Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same; and,
 - A scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.
 - D) The measures outlined in the Report shall be implemented in full and in accordance with the agreed timings.

- 5) Reserved Matters applications shall be accompanied, as appropriate, by the following documents and/or information:
- A Design Statement that demonstrates how the proposals generally accord with the Development Framework Plan (PS9624.01.014H) and the Design and Access Statement;
 - Details of measures to minimise opportunities for crime, according with the principles of Crime Prevention Through Environmental Design;
 - Details of the siting and orientation of the proposed buildings and any relevant roads, as well as the location of any landscaped or open space areas;
 - Details of building heights and massing;
 - Details of housing mix;
 - Details of the internal layout of buildings identifying how “regard” has been had to the Nationally Described Space Standards;
 - Details of the external treatment and design of the buildings;
 - Details of finished floor levels;
 - A contextual study looking at the physical, social and economic context of the site. Evidence that the design provides a reflection of urban forms, block patterns, development to space relationships, open space typologies, local landscape character, local habitat creation and patterns of vegetation boundary treatments and architectural vernacular details that are characteristic of the locality;
 - The extent to which the proposal is consistent with the guidance on design set out in the National Design Guide;
 - Plans, drawings, sections, and specifications (including planting specification) to explain full details of the hard and soft landscaping treatment and works including; materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, opens spaces, edges, boundary treatments, public rights of way and roads;
 - Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas, to include provision for advanced planting (in the first available planting season) to the northern and southern boundary of the site;
 - The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas;
 - Significant landscaping provided within the core of the site and internal streets and roads are tree lined;
 - The width and configuration of proposed carriageway layouts including any footways/foot paths and verges; a link from the proposed Neighbourhood Equipped Play Area to the existing Springhead Road Play area. The details shall show path widths, sufficient to allow pedestrians, wheelchair users, scooters, cyclists and mobility scooters, to move freely throughout the development;
 - The layout of street lighting;
 - The layout and configuration of surface water sewers, drains and outfalls serving the internal streets and footways;

- The layout and configuration of any retaining walls and highway supporting structures;
- The layout of service routes and corridors within highways;
- Street nameplates;
- Identification of any vehicle overhang margins, embankments, visibility splays, property accesses, carriageway gradients, driveway gradients, street furniture;
- Details of the programme for implementing and completing the planting; and,
- An Arboricultural Method Statement produced in accordance with BS5837 and:
 - o A Tree Protection Plan showing trees that would be retained and the arrangement of temporary protection measures that would be installed prior to the commencement of development;
 - o A methodology for any special construction that is required to ensure the success of proposed tree retention;
 - o Detail for any temporary construction measures, products or construction methods that are specified; and,
 - o Details of a proposed watching brief, monitoring or reporting.

The development shall thereafter accord with the approved details and shall be provided prior to the occupation of each dwelling to which they relate and retained for the life of the development.

- 6) Reserved Matters applications shall, as appropriate, include plans and sections, indicating the proposed ground levels, cross-sections through the streets, building heights, gradients and finished floor levels. The details shall demonstrate that:
- All finished floor levels within the proposed development at the site must be raised to a minimum of 300mm above the flood level of 5.83m AOD; and,
 - The maximum height and extent of proposed dwellings does not result in an extension of the Visual Envelope of the development identified the Landscape and Visual Appraisal ref: 8938.01.001 (March 2023) and Landscape and Visual Appraisal Addendum Note 9624.01.005 (August 2023).

Pre-commencement

- 7) Prior to commencement of development including site clearance, a detailed Reptile Mitigation Strategy for the translocation of reptiles shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:
- A methodology for the collection of reptiles and measures to prevent reptiles returning to the site during construction;
 - Exact location of a suitably sized receptor area within the site boundary. The minimum size of the receptor will be as shown on the Reptile Receptor Site Plan of the BNG Feasibility report, TEP, November 2023 and will include connectivity with existing northern and western boundary habitats;

- Details of how the receptor site will be established and be in a suitable condition to support the likely number of animals which will be moved, prior to any animals being captured for translocation; and,
- Details of the management of the translocation site in perpetuity.

The translocation shall be undertaken in strict accordance with the approved details and the development shall not commence until a Verification Report has been submitted to and approved in writing by the Local Planning Authority confirming that the reptiles have been removed from the site.

- 8) Prior to commencement of development, a Public Rights of Way (PRoW) Scheme of Management shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- The management of PRoW routes ZF5 and ZF1 where they fall within the appeal site during the construction period; and,
 - Details of the width, surface, signage, exit and entry points of the routes where they fall within the appeal site during the construction period.

Thereafter the construction of the development shall accord with the approved Scheme.

- 9) Prior to commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the Local Planning Authority:
- A) A Preliminary Risk Assessment which has identified:
- all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and,
 - potentially unacceptable risks arising from contamination at the site.
- B) A Site Investigation, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- C) Subject to the results of (B) and if required a Remediation Method Statement (RMS) based on the Site Investigation results and the detailed risk assessment. This should give full details of an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The RMS shall also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

- D) Subject to the need for (C), a Closure Report shall be submitted upon completion of the works. The Report shall include full verification details as set out in (C). This shall include detailed results of sampling, analysis and monitoring together with documentation certifying quantities and source/destination of any material brought onto or taken from the site and to confirm remediation has been carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

The Scheme shall thereafter be implemented as approved.

- 10) Prior to commencement of development, a Foul Water Drainage Strategy to deal with foul water drainage shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall accord with the approved Strategy.
- 11) Prior to commencement of development, a scheme for detailing how this proposal takes the permitted landfill into account, shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- How the ongoing management and maintenance of the site and monitoring of in-waste and perimeter monitoring points will be facilitated;
 - Detail to show that monitoring points within the proposal boundary will remain accessible and in a useable condition; and
 - The potential impact on the engineered liner of the landfill from the drainage proposals.

Thereafter the development shall accord with the approved scheme.

- 12) Prior to commencement of development including site clearance, a Biodiversity Method Statement which details all precautionary mitigation methods to be implemented for the protection of protected and priority species including bats, reptiles, badger, breeding birds (including ground-nesting species), wintering birds, otter, common amphibians and hedgehog shall have been submitted to and approved in writing by the Local Planning Authority.

The approved Statement shall align with the recommendations of the Ecological Impact Assessment (EcIA), TEP, Ref: 9634.014 (September 2023) and appended protected species reports. The Statement will include, but not necessarily be limited to, the following:

- A schedule detailing seasonal timing for precautionary works and surveys;
- An update site walk-over no earlier than 3 months prior to commencement to:
 - o confirm that the condition/management of the onsite habitats is consistent with that recorded during the ecological assessment, such that the potential for protected species to occur has not changed;
 - o identify the presence of any additional non-native/invasive species;

- o identify any badger setts. Should new setts be identified during the pre-works walk over and/or monitoring during the construction period, all required surveys and mitigation/licensing will be implemented prior to further works being undertaken in the vicinity of the sett/s;
 - o update the preliminary assessment followed by close-inspection, presence/likely absence surveys and mitigation (as required) of all trees which require removal or pruning under the proposals. Mitigation for tree removal will be designed in accordance with the Bat Mitigation Guidelines, CIEEM, 2023. Where roosting bats are confirmed, all mitigation and licensing will be approved by Natural England and implemented as appropriate prior to the relevant tree works being undertaken;
- Precautionary methods for breeding birds including Schedule 1 species and measures to avoid disturbance of wintering birds;
- Precautionary measures for badger and their setts;
- Precautionary methods to avoid capture of animals within open trenches and use of temporarily stored materials as refugia; and,
- Procedure to be followed should a protected species be found within the construction area.

Thereafter the development shall strictly accord with the approved details.

- 13) Prior to commencement of development including site clearance, a Construction Environment Management Plan (CEMP) shall have been submitted to and approved in writing by the Local Planning Authority. Details will include the following:
- Purpose and objectives for the proposed works;
 - Reference to the Biodiversity Method Statement;
 - The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;
 - Detailed design(s) and/or working method(s) necessary to achieve stated objectives including (but not excluded to) all relevant measures outlined within the EcIA, Habitat Regulations Assessment, TEP, March 2023, and the Arboricultural Impact Assessment, TEP, March 2023;
 - Sensitive lighting proposals with reference to the Bat Conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23';
 - Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats;
 - Reference to any environmental permits required and any relevant mitigation measures;
 - A Method Statement for the removal and disposal of Schedule 9 invasive species Virginia creeper and Russian vine (and any other species identified during update site visits) in accordance with the Wildlife and Countryside Act 1981 (as amended) and with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991;
 - Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction and landscaping;

- Persons responsible for implementing the works, including times during construction/landscaping when specialist ecologists need to be present on site to undertake / oversee works;
- Initial aftercare and reference to a long-term maintenance plan (where relevant);
- Disposal of any wastes for implementing work; and,
- Details of how surface water and storm water will be managed on the site during construction.

The works shall thereafter be carried out in accordance with the approved details and shall be retained in that manner for the duration of construction and landscaping works.

- 14) Prior to commencement of development including site clearance, a Landscape and Ecological Management Plan (LEMP) shall have been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP will be based on the information submitted within the Biodiversity Net Gain Feasibility report V3.1, TEP, November 2023, Biodiversity Metric V3, TEP, November 2023 and Illustrative Masterplan, Gladman, February 2023, and will include the following:

- Description and evaluation of features to be managed;
- Constraints on site that might influence management;
- Mitigation measures set out in the Habitat Regulations Assessment (ref: 9624007 V4)
- Aims and objectives of management, in alignment with the Biodiversity Net Gain habitat type and condition targets detailed within the Biodiversity Net Gain Feasibility report V3.1, TEP, November 2023 and Biodiversity Metric V3, TEP, November 2023;
- Details of additional building-integrated, tree-mounted and free-standing biodiversity enhancements to be provided for protected and priority species including bats, red/amber list bird species, reptiles and invertebrates;
- Measures for monitoring and control of non-native invasive species;
- Measures to be implemented to ensure habitat connectivity for protected and priority species throughout operation, including gaps at the base of any proposed solid fencing;
- Measures to ensure long term retention and appropriate management of hedgerows and trees bordering residential gardens, including fencing to exclude such features from residential curtilage;
- Appropriate management prescriptions for achieving aims and objectives;
- Information regarding remedial measures;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period, for the lifetime of the development;
- Details of the body or organisation responsible for implementation of the plan; and,
- Details of a long-term monitoring program for all habitats (in accordance with the BNG habitat types and targets).

The LEMP will include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer, with details of the management body(ies) responsible for its delivery. The approved plan shall thereafter be implemented in accordance with the approved details.

- 15) Prior to commencement of development, a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The CMP shall include:
- Routing of construction and delivery vehicles to / from site;
 - Parking and turning areas for construction and delivery vehicles and site personnel;
 - Timing of deliveries;
 - Provision of wheel washing facilities;
 - Temporary traffic management / signage; and,
 - Measures to control dust.

The construction of the development shall then be carried out in accordance with the approved CMP.

- 16) Prior to commencement of development, a detailed Sustainable Urban Drainage Scheme (SUDS) for the site, shall have been submitted to and approved in writing by the Local Planning Authority. The SUDS shall be based upon principles contained within the Flood Risk Assessment and Outline Drainage Strategy report (Issue 3 05/04/2024). The submission shall also demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The SUDS shall also demonstrate (with reference to published guidance):
- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters;
 - How it is to be maintained to include a maintenance schedule, details of ownership, and a timetable for implementation of maintenance and management of the Scheme;
 - That the operational, maintenance and access requirements for each drainage feature or component are adequate, including any proposed arrangements for future adoption by any public body or statutory undertaker; and,
 - Ongoing monitoring of the SUDS to ensure there is no pollution risk to receiving waters.

The SUDS shall thereafter be implemented in accordance with the approved details.

Pre-specific element

- 17) Prior to above ground works, a Stage 2 Acoustic Design Statement (ADS) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall accord with the approved Stage 2 ADS.
- 18) Prior to installation of highway signage and reflective bollards, details of the bollards and signage to be used at or close to the new access to the site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall accord with the approved details.
- 19) Prior to occupation, a Sensitive Lighting Strategy for Biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall accord with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions) and the Bat Conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23'. Plans included shall show how and where all external lighting will be installed and shall include a baseline lighting assessment for the site and site boundaries.

The Strategy shall detail the expected vertical and horizontal light spill in Lux levels, so that it can be clearly demonstrated that areas to be lit will not increase lighting impacts on designated sites and the associated designated features, or impact on areas of retained vegetation, proposed landscaping (including wetland features) and biodiversity enhancement features.

The Lux contour plan should incorporate any mitigation measures proposed to reduce impacts from external and internal lighting, including shielding, sensitive positioning / recessing of internal lighting, use of cowls, and/or tinted glazing treatments.

All lighting shall be installed in accordance with the approved specifications and locations set out in the plan and be maintained thereafter.

- 20) Secure, covered cycle parking facilities shall be provided for the relevant dwelling in accordance with the Council's adopted parking standards. Areas for the parking (including garages and carports) and manoeuvring of vehicles in the development in accordance with the Council's adopted parking standards. The development shall accord with the approved details and shall be provided prior to the occupation of each dwelling to which they relate and retained for the life of the development.
- 21) Prior to the first occupation of the development the emergency vehicle route serving the development shown on drawing Ref H-01 R6 shall be surfaced and access controlled in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 22) Prior to first occupation of the development, a Travel Plan which shall include clear objectives and modal split targets, together with a time-

bound programme of implementation, monitoring, regular review and update; and be based on the particulars contained within the approved development, shall be submitted to and approved in writing by the Local Planning Authority and thereafter operated in accordance with the agreed details.

- 23) Prior to first occupation of the development, a Verification Report, pertaining to the SUDS and prepared by a suitably competent person, shall have been submitted to and approved in writing by the Local Planning Authority. The Report shall contain evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the SUDS as constructed.

For observation

- 24) The development hereby permitted shall be carried out in accordance with drawing Refs 9624.01.001A and 17277 H-01 P6.
- 25) The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 250. Density shall not exceed 35 dwellings per hectare.
- 26) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
- 27) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall thereafter be implemented as approved.
- 28) No infiltration of surface water drainage from drainage systems into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 29) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a Piling Risk Assessment that there is no resultant unacceptable risk to groundwater. The development shall thereafter be carried out in accordance with the approved details.

- 30) Copies of the habitat monitoring survey reports will be submitted to the Local Planning Authority for written approval in years 2, 5, 10, 15, 20 and 30 (or in accordance with the timescale stated in the Biodiversity Management and Monitoring Plan if different). Details of, and a timetable for, any required remedial measures will also be provided.
- 31) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.

===== END OF SCHEDULE =====

Richborough