



Appeal Decisions

Hearing Held on 27 April 2022

Site visit made on 27 April 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th May 2022

Appeal A: Ref: APP/A2280/W/21/3277702

Avenue Tennis Club, Glebe Road, Gillingham ME7 2HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Glen Jarvis of Jarvis Residential (Medway) LTD against the decision of Medway Council.
 - The application Ref MC/20/3204, dated 11 December 2020, was refused by notice dated 6 April 2021.
 - The development proposed is Proposed 4No three bedroomed and 3No four bedroomed dwellings with associated parking, access road and open landscape area.
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Appeal B: Ref: APP/A2280/W/21/3284718

Avenue Tennis Club, Glebe Road, Gillingham ME7 2HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Glen Jarvis of Jarvis Residential (Medway) LTD against the decision of Medway Council.
 - The application Ref MC/21/1534, dated 24 May 2021, was refused by notice dated 23 August 2021.
 - The development proposed is Proposed reduced scheme consisting of 3No three bedroomed and 3No four bedroomed dwellings with two detached Garages and associated parking, access road and open landscape area.
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Decisions

1. Appeal A is allowed, and planning permission is granted for Proposed 4No three bedroomed and 3No four bedroomed dwellings with associated parking, access road and open landscape area at Avenue Tennis Club, Glebe Road, Gillingham ME7 2HU, in accordance with the terms of application Ref MC/20/3204 dated 11 December 2020, subject to the attached conditions listed in Schedule A.
2. Appeal B is allowed, and planning permission is granted for Proposed 3No three bedroomed and 3No four bedroomed dwellings with two detached garages and associated parking, access road and open landscape area at Avenue Tennis Club, Glebe Road, Gillingham ME7 2HU, in accordance with the terms of application Ref MC/21/1534 dated 24 May 2021, subject to the attached conditions listed in Schedule B.

Procedural Matters

3. Each of these appeals relate to separate proposals on the same site. The Council's reasons for refusing the applications, the appellant's grounds of

appeal, and the circumstances surrounding each proposal all raise the similar issues for my consideration. Therefore, while I have considered each appeal on its own merits, to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.

4. The description of development in the banner headings above are taken from the planning application forms. To make the description of development for Appeal B more succinct I have deleted the wording 'reduced scheme consisting of', as this is not an act of development. At the Hearing it was agreed that no-one would be prejudiced by this amendment, and I have considered Appeal B on this basis.
5. Permission was not refused for either development due to the location within the 6km Zone of Influence (ZoI) of the Medway Estuary & Marshes Special Protection Area and Ramsar site (the SPA). However, for these appeals I am the competent authority under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations). I have sought further information from the Council and the Appellant in respect of this matter and considered it as a main issue. I have been provided with completed signed Section 106 Unilateral Undertakings to secure contributions towards SPA mitigation measures for each development. I return to this matter below.
6. The 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. The Council and the Appellant were given the opportunity to comment upon the implications of this for their cases, which I have taken into account in determining these appeals.

Application for costs

7. In advance of the Hearing an application for costs was made by Glen Jarvis of Jarvis Residential (Medway) LTD against Medway Council in relation to Appeal B. This application is the subject of a separate Decision.

Main Issues

8. The main issues are the effect of the proposed developments in Appeal A and Appeal B upon:
 - the character and appearance of the area;
 - the SPA; and,
 - protected species.

Reasons

Character and appearance

9. The appeal site includes former grass courts, a clubhouse, sheds, enclosures, a landscaped area, mature boundary vegetation, and two sections of neighbouring rear gardens. Its surrounds include gardens of varying depths associated a variety of design of detached, semi-detached, and terraced dwellings. Notwithstanding the existing buildings, netting and supports, the mostly open verdant character and mature vegetation means the site makes an overall positive contribution to the character and appearance of the area.

10. Appeal A proposes 4 dwellings on the eastern side, whereas Appeal B proposes three dwellings with two sets of double detached garages. Both developments would harmfully diminish the appeal site verdancy and openness, urbanising it through the new buildings, access road, parking areas, vegetation removal, increased comings and goings, activity, and paraphernalia. While visibility from the surrounding streets would be somewhat limited, the harm would be visible from the access and many surrounding properties.
11. The proposed western dwellings would align with the neighbouring back land terrace and existing site buildings, with dwellings to the east along a parallel alignment. Therefore, the new layouts would not be out of keeping with the surrounding pattern of development. Within the variety of nearby dwellings are a number of generously sized detached dwellings. The new two storey dwellings are not of an incongruently larger footprint, they have been designed to reflect local design features, including brickwork, rendering, simple elevations, bay windows and porches. Having regard to the surrounding composition and mixed character of dwellings, site levels, the design, footprint, height, and scale of the new dwellings would not be out of keeping with dwellings in the area.
12. The previous two appeal decisions¹ are not binding on me, however, I have had regard to them. In Ref. W/4000728 the Inspector found previous plots 1, 4 and 5 would have a cramped appearance. These appeal proposals provide greater dwelling spacing from the boundaries of previous concern. Gaps between the side elevations of dwellings are reflective or greater than those nearby. While I saw no detached garages nearby, given their limited depth, height, hipped roof, and the landscape screening they would not be harmful.
13. The proposed rear gardens are shorter than some nearby, but not all, such as the terraced dwellings immediately to the southeast. At between approximately 11.6m – 12.1m the new gardens, and reduced gardens at Nos 26 and 28 Second Avenue, exceed the Council's minimum standards of 10m depth² and would not appear stridently short. The new plots are of a generous width, which combined with garden depths, building scale, spacings, density, and landscape spaces, would ensure both appeal development A and B would not appear either cramped or overdeveloped.
14. The retention of most existing trees and hedgerows would ensure a good level of screening to the east and west. It would be supplemented by new landscaped areas. These would include standard trees planted at up to 2.5m in height and large shrubs maintained by a management company, providing a good level of screening from the south and softening the appearance from the north. Overall, given this and the distances from the boundaries, the harmful visual effects of the proposals would be limited.
15. The Council's reason for refusal applies criteria (ii) of Policy H4 of the Medway Local Plan (2003) (LP), which requires a clear improvement to the area. While sections of gardens are included within the appeal site, it is predominantly vacant land, and so it is rational to consider it under criteria (i). This does not make a requirement for a clear improvement. A development only needs to meet one of the H4 criteria, and at the hearing it was not explained why the development should not be considered under criteria (i).

¹ Refs. W/4000728 and APP/A2280 /W/19/3231943.

² Section 2.5 on p.16 of the Medway Housing Standards (interim) Adopted November 2011.

16. For the reasons set out above, Appeal A and Appeal B would result in a limited harmful effect upon the character and appearance of the area. It would conflict with Policy H9 of the LP as it does not maintain the character and amenity of the area. However, the developments would not conflict with Policies BNE1 and H4 of the LP insofar as they permit development on vacant land designed appropriately to the surrounding built environment in respect of location, scale, layout, appearance of buildings, and provide adequate and attractive open spaces. The developments would also conflict with Policies 126 and 130 of the National Planning Policy Framework (2021) (the Framework) insofar as these aspire to create overall high quality beautiful places that are visually attractive and sympathetic to the surrounding landscape setting.

The Medway Estuary & Marshes SPA

17. The Regulations require where a plan or project is likely to result in a significant effect on a European site (in this case the SPA), a competent authority is required to make an Appropriate Assessment of the implications of that project on the integrity of a European site in view of its conservation objectives. Any likely significant effects (LSEs) from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
18. The SPA comprises valuable habitats for important assemblages and species of wintering, breeding, and migrating waders, waterfowl, and terns, including some which are rare or vulnerable. A number of these constitute the qualifying features. The conservation objectives of the SPA are to maintain or restore the integrity of the site by maintaining or restoring the extent, distribution, structure, function of the habitats of the qualifying features and the supporting processes upon which they rely, the population of the qualifying features, and the distribution of the qualifying features within the site.
19. Both schemes would permanently increase the number of households within the ZoI of the SPA. A letter from Natural England³ (NE) states surveys and studies identified additional dwellings within the ZoI would have LSE on the SPA. This is from increased visitors resulting in disturbance to birds, from recreational activities such as dog walking, cycling, jogging, and activities that involve people on the mudflats and water. Therefore, the effects of either appeal development A or B alone and in combination with other development, would have LSE on the SPA.
20. The Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy⁴ (SAMMS) sets out mitigation measures funded by financial contributions at a costed tariff per dwelling sought by the Council's Policy Statement⁵. Contributions fund measures such as wardening, education, communication, access management, site works and monitoring. NE as the Statutory Nature Conservation Body has confirmed the SAMMS comprise a package of strategic measures to address LSEs funded through the contributions. It is satisfied the measures are deliverable and sufficient to avoid adverse impacts upon the SPA. Therefore, based upon the evidence

³ Ref. Recreational Pressure and Bird Disturbance (137979) dated 6 January 2015.

⁴ The Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy Report by Footprint Ecology (July 2014).

⁵ The Strategic Access Management and Mitigation (Medway Council) Interim Policy Statement, dated November 2015

provided, I am satisfied that subject to payments being secured against each appeal scheme, the measures would overcome the LSEs on the SPA.

21. While the Council currently holds contributions from previous direct payments, based upon what I heard, direct payments are not index linked to the time of implementation, they are less than the amount required for the Appeal A development, and it is unclear whether they are secured against any successors in title of the land. However, the signed Unilateral Undertakings (UUs) for each appeal provide the Council's current required contribution per dwelling. Based upon what I heard, the contributions secured by the UUs are secured against the land and any successors in title, will be used to deliver the mitigation measures set out in the SAMMS in a timely manner, are index linked to the time of implementation, and are enforceable by the Council.
22. The contributions are necessary, directly related to the developments and fairly and reasonably related in scale and kind to each development. The mitigation measures secured would be effective to adequately overcome any LSEs of each development. The Council's Solicitor has accepted and certified the UUs. Overall, I am satisfied, following Appropriate Assessment, the mitigation is appropriately secured and would be delivered in a timely manner.
23. For the reasons set out above both developments would conserve the integrity of the SPA. Therefore, they are compliant with Policies S6 and BNE35 of the LP, which require developments protect SPA and Ramsar sites. The proposed developments are compliant with paragraphs 180 and 181 of the Framework, which amongst other things, seek to ensure that developments provide adequate mitigation to avoid harm to biodiversity including at habitat sites.

Protected species

24. The appellant's Preliminary Ecological Appraisal (2017) (PEA) assessed the effects upon habitats and protected species, with a walkover survey update in 2021. Much of the site is well maintained short grassland. However, the PEA identified Viviparous Lizards were likely and Slow Worms were highly likely to be present on two small parts of the site, of which parts would be affected by the developments. These species are protected under the Wildlife and Countryside Act 1981 (the WCA). However, Circular 06/2005 advises it is essential the presence or otherwise of protected species, and the extent they may be affected is established before permission is granted, otherwise all relevant material considerations may not have been addressed. Ecological surveys should only be conditioned in exceptional circumstances.
25. The PEA recommended reptile surveys be carried out to establish their presence/absence and the size of any population. The 2021 update confirmed a survey has not been undertaken. However, both documents and assessments are made by a professional chartered ecologist. The PEA states that under the WCA there is no licensing function for these reptiles and works need to take place in accordance with good practice. The ecologist is of the view that for this site the additional surveys can be the subject of planning conditions. A clear, staged, mitigation strategy is also set out including provision of reptile fencing, habitat creation, destructive searching and the translocation of any reptiles found.
26. The Council's specialist adviser reviewed all the ecological information. It is of the view that sufficient information has been provided, and that subject to the

imposition of a suitably worded planning condition securing the implementation of precautionary measures, there is no objection to the developments. The preceding are matters to which I attribute significant weight. Furthermore, only small pockets of suitable habitat are present of which some can be retained, and there is sufficient space to provide equal or greater compensatory habitat.

27. In combination, I regard the above as being the exceptional circumstances for allowing a presence/absence survey by conditions. This, habitat creation and ecological enhancements would ensure any populations of reptiles are protected and enhanced. On this basis, subject to the imposition of suitably worded planning conditions, the effects of either development upon reptiles could be mitigated so there would not be harm to protected species.
28. Harmful effects to nesting birds can be avoided through suitably worded planning conditions to control the timing of works or pre-removal surveys, as appropriate to the time of year. The PEA recommends the provision of bird nesting and bat roosting boxes, other hibernacula and native species planting to secure biodiversity enhancements. There is generous space for native planting. Subject to securing the measures by suitably worded planning conditions, I am satisfied there would be an overall small ecological benefit. While it is put to me by interested parties that other protected species might be present and affected by the developments, there is no substantive evidence that demonstrates this.
29. For the reasons set out above the proposed developments would not result in harm to protected species. Therefore, they would not conflict with Policy BNE37 of the LP, which seeks the protection of important wildlife features unless appropriate compensatory measures are provided. They would also not conflict with the aims of paragraphs 174 and 180 of the Framework, which seek that planning decisions should contribute to and enhance the natural environment and avoid significant harm to biodiversity.

Other Matters

30. I am aware of concerns in respect of the Local Member of Parliament's comments to the Council in support of the proposals. However, I have come to my own findings on these appeals for the reasons set out. A police investigation found a supporting representation was fraudulently submitted, which I have disregarded. No conclusion could be made on the validity of others. The principal matters raised in them are reflective of the matters raised in the appellant's submissions. Therefore, even if I were to disregard them, the issues would still need to be addressed in determining the appeals.
31. Although it was suggested there are attempts to have the vacant tennis club listed as an Asset of Community Value, I see no substantive evidence this has taken place. It has been replaced by a facility nearby, so the Council, Sport England and previous Inspectors have not objected to its loss, and based upon the evidence before me I see no reason to disagree. The premises includes a landscaped area I am informed was previously a residential garden, and the appeal site includes modest sections of two neighbouring gardens. Although paragraph 71 of the Framework advises such policies could be adopted by Councils, no specific local policies referred to me preclude the principal of this development.

32. I am informed the Committee had concerns but did not refuse permission for highway reasons, and a previous Inspector did not raise objections on highway grounds⁶. After having considered the access, layouts, and parking provision, the Highway Authority (HA) does not object to either proposal and the Council confirmed it is considered the development is compliant with Policies T1, T2 and T13 of the LP and paragraphs 111 and 112 of the Framework. As the Council's adviser on highway matters and for licensing works, the views of the HA attract significant weight.
33. Based upon what I heard, the access would be sufficient to allow safe access, circulation and egress by larger vehicles including refuse and emergency service vehicles. The visibility splays, radii, access width, parking spaces, and compliance with Disability Discrimination Act, are all matters the HA would consider and ensure are provided to its standards and satisfaction through a section 278 agreement for highway works under the Highway Act 1980. However, the Council could not confirm the visibility splay standards that apply.
34. Based upon the evidence before me and what I heard, I am of the view that there is sufficient space to provide a safe access. However, the section 278 process is outside the scope of this appeal. So that I can be satisfied it can be delivered and will be compliant with development plan policies, this is a matter it is necessary to secure by suitably worded planning conditions. Initial construction works would be temporary, be subject to site health and safety requirements, and the construction management condition, and there is no substantive evidence that would lead me to concerns in this regard. However, the conditions should ensure the details of the site access are secured prior to development taking place above ground floor slab level.
35. I have no reason to assume compliance with other pertinent legislation such as the provisions of the Highway Act 1835 and the Town Police Clauses Act 1847, would not also be considered by the Council in discharging the access condition, or the HA in any future highway works application. A significant proportion of each street would be tree lined and there is no disagreement between the main parties that the requirements of paragraph 131 of the Framework can be accommodated within the development.
36. I visited the access, nearby accesses, and surrounding roads in the evening before and at my formal site visit. These can only represent brief snapshots in time. While there were high levels of on-street parking in the area⁷, there was some on-street vehicular parking opportunities available, as well as unoccupied spaces on private driveways. Traffic flow was limited, at a steady speed and the free parking areas and the dropped kerbs allowed vehicles to safely pass. There is no substantive evidence demonstrating these conditions are untypical at these times.
37. Both developments would provide a level of off-street parking in accordance with HA standards, including an additional visitor space than required, and spaces for Nos 26 and 28 Second Avenue. Some limited on-street parking may be displaced through providing the access and visibility splays. However, I have not been provided with substantive evidence such as accident records or a parking survey by interested parties, that would lead me conclude either against the advice of the HA, or that it would be harmful to highway safety.

⁶ Appeal Ref. W/4000728

⁷ First Avenue, Second Avenue and Glebe Road.

Therefore, subject to planning conditions to secure the access and layout the developments can be safely accommodated on the highway and are compliant with paragraph 110 of the Framework.

38. It is suggested that the pavilion/clubhouse building, and the courts should be regarded as a Non-Designated Heritage Asset (NDHA). The courts are flat grassland. The building comprises a single storey part hipped, stepped, and cross gable roof with simple rendered and painted brickwork elevations. There is nothing of substance before me to suggest the building is particularly rare, considered worthy of statutory listing, or its significance as a NDHA is of a high order. In accordance with paragraph 203 of the Framework, a balanced judgement will be required.
39. The Council is satisfied the developments would not result in harmful living conditions to neighbouring occupiers. Both developments would be visible from neighbouring properties. However, this will be at some distance from the dwellings or at oblique angles. The closest new dwelling would be located to the north of the dwellings permitted by 17/2328, be on lower ground and would not of a full two storeys in height. I am of the view it would not result in harmful living conditions in respect of daylight or outlook.
40. Having regard to the evidence before me, what I heard, and what I saw, in respect of matters such as outdoor space provision, daylight, overshadowing, outlook, privacy, overlooking, light pollution, and noise and disturbance, there would be some perceptible change for some neighbouring occupiers. However, the nature of the developments, orientation of dwellings and distances are such that neither would result in harmful living conditions to neighbouring occupiers. Suitably worded planning conditions could ensure construction works and associated vehicles could be managed to ensure there would not be harmful living conditions resulting to neighbouring occupiers, or harmful effects upon the operation of the public highway.
41. I see no reason why these developments would increase the likelihood for crime or anti-social behaviour. Green space can be beneficial to health and well-being. However, the appeal site is currently a private space with no public access. There is no technical evidence the developments would be so detrimental to result in harm to well-being. The appeal site is within flood zone 1 and future increased impermeable surfacing could be attenuated by the conditions advanced. There is no substantive evidence local infrastructure and services could not cope with additional occupiers at the appeal site. Rights to light under the 1959 Act are a private matter. This and effects upon property prices are matters which the Planning Practice Guidance⁸ advises are not material considerations. There is little evidence before me in respect of any restrictive covenants, so this matter does not justify withholding permission.

Planning Balance

42. The Council cannot not demonstrate a Housing Land Supply (HLS) of 5 years. While noting the Council's HDT Action Plan (July 2021), the Statements of Common Ground (SoCGs) indicates the Council's HLS is approximately 3.64 years. It has a Housing Delivery Test result of only 67% of its requirement for the past 3 years. The shortfalls are reduced compared to previous figures I have been referred to, but remain significant. As the developments would not

⁸ Ref. 21b-008-20140306.

result in harm to the integrity of the SPA, in accordance with paragraph 11d) of the Framework, the most important LP policies are considered out of date and the tilted balance applies. Therefore, permission should be granted for each development unless any adverse impacts would significantly and demonstrably outweigh their benefits, when assessed against policies in the Framework taken as a whole.

43. Either development would result in moderate temporary economic benefits during construction, and once occupied a limited benefit to the local economy. The provision of 6 or 7 dwellings would make a modest contribution to supply. However, paragraph 69 of the Framework states small and medium sized sites can make an important contribution to housing requirements and are often built out relatively quickly. The Council's shortfall is significant, so the contribution of each scheme, attracts moderate weight in favour of the respective developments.
44. Subject to the imposition of suitably worded planning conditions, there would be an overall small benefit to biodiversity attracting a small amount of weight in favour of each scheme. Overall, I attribute the benefits of each development moderate weight. These are sufficient to outweigh the loss of the courts and buildings were I to regard these as a NDHA. Compliance with policies in respect of matters such as design, materials, energy and resource efficiency, protected species, the SPA, the living conditions of future and neighbouring occupiers, highway safety and accessibility, and accessibility to services and facilities, are neutral matters in the planning balance.
45. The developments would have a limited harmful effect upon the character and appearance of the area and the loss of a NDHA, which are matters that attract limited weight against the schemes. Therefore, the benefits of each development alone outweigh any harm. Consequently, the adverse impacts of each development do not significantly and demonstrably outweigh the benefits of each development when assessed against the policies in the Framework taken as a whole. Therefore, both the appeals should be allowed.

Conditions

46. I have considered the schedules of conditions in the SoCGs and where appropriate amended the wording to more closely align with the Planning Practice Guidance. For certainty conditions requiring each development is carried out in accordance with the approved plans is necessary. To protect the living conditions of nearby occupiers it is necessary to impose conditions to secure a Construction Environmental Management Plan. To manage surface water to prevent flooding, both during construction and for the life of each development, pre-commencement conditions are necessary to secure site drainage plans and strategies, as well as pre-occupation conditions for a verification report.
47. To ensure a satisfactory visual appearance in the interests of the character and appearance of the area conditions are necessary to agree the external materials. For similar reasons, as well as to ensure satisfactory hard surfacing and paraphernalia, the provision street trees, and ensure landscaping that results in an ecological benefit, conditions are necessary to secure hard and soft landscaping details, boundary treatments, and Landscape Management Plans. In the interests of the character and appearance of the area pre-commencement conditions are necessary to ensure that tree protection

measures are in place to protect the retained trees and hedgerows before the development takes place.

48. In the interests of highway safety, conditions are necessary to secure the details of the site access and visibility splays. Conditions to ensure no works take place within areas of suitable reptile habitat until an ecological survey to establish their presence/absence, and conditions requiring implementation of the reptile mitigation scheme and controlling tree removal, are necessary to ensure the development does not result in harm to protected species. To secure an ecological enhancement of the site it is necessary to impose conditions to secure a scheme for biodiversity enhancements.
49. In the interests of promoting sustainable transport measures and reducing transport emissions it is necessary to agree the details of the provision of Electric Vehicle charging points. In the interests of highway safety, it is necessary to impose a condition to secure the pre-occupation and future retention of parking spaces. To protect the living conditions to the neighbouring occupiers to the south of plot 5 of the development in Appeal A and plot 4 of the development in Appeal B conditions are necessary to require the stairway window is obscure glazed and non-opening.
50. Paragraph 53 of the Framework advises conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In the interests of the character and appearance of the area, given the nature of the dwellings and the depths of the rear gardens there is clear justification for the withdrawal of national permitted development rights under Classes A, B and E of Part 1. To ensure each development does not result in high levels of occupancy and associated car ownership prejudicial to highway safety, a condition is necessary to restrict the use of each dwelling to the C3 Use Class.
51. Given the space available in each plot for cycle storage, and the commitments set out in the Energy Statements, I am satisfied it is not necessary to secure cycle parking provision by planning condition. However, to ensure the developments are built to high energy and resource efficiency standards conditions are necessary to secure the construction of each development in accordance with the submitted Energy Statements.

Conclusion

52. The proposed developments would conflict with the development plan and the Framework taken as a whole. However, there are material considerations that indicate the decisions should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A and Appeal B should succeed.

Dan Szymanski

INSPECTOR

----- Schedule A -----

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plan/drawing numbers: 3111 – 016 Rev B; 3111 – 031 Rev B; (excluding tree removal and retention and landscaping); 3111 – 032; 3111 – 033; 3111 – 035; Tree Survey Plan and Tree Protection Plan received on 14 December 2020.
- 3) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall have been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include amongst other things details of: the hours of construction working; measures to control noise at all nearby residential properties; wheel and chassis cleaning facilities; dust control measures; pollution incident control; and, site contact details in case of complaints. The construction works shall thereafter be carried out in accordance with the approved CEMP at all times, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place until tree protection measures have been put in place, in accordance with the tree protection measures and methods of working set out in the tree protection plan (drawing Ref: SA/TPP/1769-02) and the Arboricultural Report (ref. SA/1769/20). The measures shall be maintained for the life of construction works at the site.
- 5) Prior to the commencement of the development hereby permitted, a scheme based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include (where applicable):
 - i. Details of the design of the scheme (in conjunction with the landscaping plan);
 - ii. A timetable for its implementation;
 - iii. An operational maintenance and management plan including access requirements for each sustainable drainage component.
 - iv. Arrangements for future adoption by any public body, statutory undertaker, or management company.

The development shall only be undertaken in accordance with the approved details and thereafter be maintained.
- 6) Prior to the commencement of the development hereby permitted, a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) shall be submitted to and approved in writing by the Local Planning Authority. The approved CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:
 - i. Temporary drainage systems.

- ii. Measures for managing pollution/water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or off-site flood risk associated with the development.

The CSWMP shall be implemented as approved and thereafter managed and maintained in accordance with the approved plan for the duration of construction works.

- 7) No development or site clearance shall take place on the areas shown in yellow on the plan on page 1 of the Walkover Survey by KB Ecology dated 21 January 2021, until survey has been undertaken by a suitably qualified ecologist to establish the presence or absence of reptiles on the appeal site, that has been submitted to and approved in writing by the Local Planning Authority.
- 8) No development above ground floor slab level shall take place until, the details and timing of construction of the site access including visibility splays has been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved details, and thereafter be maintained as such at all times.
- 9) No development shall take place above ground floor slab level until details and samples of all materials to be used externally in the development hereby permitted, have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall only be implemented in accordance with the approved details.
- 10) No development shall take place above ground floor slab level until details for the provision of electric vehicle charging points (1 per dwelling) have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location, charging type (power output and charging speed), associated infrastructure, and timetable for installation. The development hereby permitted shall be implemented in accordance with the approved details and shall thereafter be maintained.
- 11) There shall be no tree felling, vegetation clearance works, or other works that may affect nesting birds between March and August inclusive, unless the absence of nesting birds has been confirmed by survey or inspection carried out by a suitably qualified ecologist, the results of which shall have been first submitted to and approved in writing by the Local Planning Authority.
- 12) No development shall take place above ground floor slab level until details of scheme of biodiversity enhancement have been submitted to, and approved in writing by, the Local Planning Authority. This will include details of measures set out in the recommendations in section 4.10 of the Preliminary Ecological Appraisal (KB Ecology August 2017) and timescales for implementation. The approved details shall be implemented in accordance with the approved timescales and be maintained thereafter.
- 13) From the commencement of works including site clearance, all precautionary mitigation measures for reptiles shall be carried out in accordance with the details contained in the walkover survey by KB Ecology dated January 2021.

- 14) No part of the development hereby permitted shall be occupied until the areas shown on the submitted layout as vehicle parking spaces has been provided, surfaced, and drained in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter the areas shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access and parking on the parking spaces.
- 15) No development shall take place above ground floor slab level until details of a hard and soft landscape scheme to include a tree-lined street have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:
- i. Plans and details of existing and finished ground levels, means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, all paving and external hard surfacing, lighting, and services (including drainage), tree grilles, minor artefacts, and structures (seating, refuse receptacles and raised planters).
 - ii. Soft landscape works, including details of planting plans, tree positions, planting build ups, written specifications (including cultivation and other operations associated with grass, tree and planting establishment, aftercare, and maintenance); schedules of plants, noting species, sizes, root treatments and proposed numbers/densities.
 - iii. Details for the design and specification of tree planting to enable healthy establishment at maturity, including the planting environment (including within hard landscape, raised planters, podium decks and green roofs), calculated soil volume, tree support and tie specification, guards and grilles, aeration and irrigation systems, soil build-up information, tree cell systems (to street tree planting environments).
 - iv. A timetable for implementation.
- The development shall be implemented and maintained thereafter in accordance with the approved details and timetable. Any trees or plants which within 5 years of planting, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 16) Prior to the first occupation of the development hereby permitted, a Landscape Management Plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority. The LMP shall include long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, including communal amenity space (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for implementation. The development shall thereafter be maintained and managed in accordance with the approved details.
- 17) No dwelling shall be occupied until a plan indicating the positions, design, materials, and type of boundary treatment to be erected has been

submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any dwelling is occupied and shall thereafter be retained.

- 18) Prior to occupation of any dwelling (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) shall be submitted to and approved by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the scheme and plans approved pursuant to condition 5. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets, and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.
- 19) Notwithstanding the submitted plans, the stairway window on the side elevation of plot 5, shall be fitted with obscure glass and shall be non-opening. This work shall be completed before the dwelling is occupied and shall be permanently retained thereafter.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) all dwellinghouses herein approved shall remain in use as a dwellinghouse in Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.
- 21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking, and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1 Classes A, B and E of that Order unless planning permission has been granted on an application relating thereto.
- 22) The development shall be implemented in accordance with the measures to address energy efficiency and climate change set out within the Energy Statement dated March 2021 for application Ref. MC/20/3204. Prior to first occupation of each dwelling a verification report prepared by a suitably qualified professional shall be submitted to the Local Planning Authority confirming that all the agreed measures have been undertaken for that dwelling, and will thereafter be maintained.

End of Schedule A.

----- Schedule B -----

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plan/drawing numbers: 3111 – 016 Rev B; 3111 – 031 Rev E; 3111 – 032 Rev B; 3111 – 033 Rev B; 3111 – 035 Rev A; 3111 – 036.
- 3) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall have been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include amongst other things details of: the hours of construction working; measures to control noise at all nearby residential properties; wheel and chassis cleaning facilities; dust control measures; pollution incident control; and, site contact details in case of complaints. The construction works shall thereafter be carried out in accordance with the approved CEMP at all times, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place until tree protection measures have been put in place, in accordance with the tree protection measures and methods of working set out in the tree protection plan (drawing Ref: 3111 – 036) and the Arboricultural Report (ref. SA/1769/20). The measures shall be maintained for the life of construction works at the site.
- 5) Prior to the commencement of the development hereby permitted, a scheme based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include (where applicable):
 - i. Details of the design of the scheme (in conjunction with the landscaping plan);
 - ii. A timetable for its implementation;
 - iii. An operational maintenance and management plan including access requirements for each sustainable drainage component.
 - iv. Arrangements for future adoption by any public body, statutory undertaker, or management company.

The development shall only be undertaken in accordance with the approved details and thereafter be maintained.
- 6) Prior to the commencement of the development hereby permitted, a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) shall be submitted to and approved in writing by the Local Planning Authority. The approved CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:
 - i. Temporary drainage systems.

- ii. Measures for managing pollution/water quality and protecting controlled waters and watercourses.
- iii. Measures for managing any on or off-site flood risk associated with the development.

The CSWMP shall be implemented as approved and thereafter managed and maintained in accordance with the approved plan for the duration of construction works.

- 7) No development or site clearance shall take place on the areas shown in yellow on the plan on page 1 of the Walkover Survey by KB Ecology dated 21 January 2021, until survey has been undertaken by a suitably qualified ecologist to establish the presence or absence of reptiles on the appeal site, that has been submitted to and approved in writing by the Local Planning Authority.
- 8) No development above ground floor slab level shall take place until, the details and timing of construction of the site access including visibility splays has been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved details, and thereafter be maintained as such at all times.
- 9) No development shall take place above ground floor slab level until details and samples of all materials to be used externally in the development hereby permitted, have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall only be implemented in accordance with the approved details.
- 10) No development shall take place above ground floor slab level until details for the provision of electric vehicle charging points (1 per dwelling) have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location, charging type (power output and charging speed), associated infrastructure, and timetable for installation. The development hereby permitted shall be implemented in accordance with the approved details and shall thereafter be maintained.
- 11) There shall be no tree felling, vegetation clearance works, or other works that may affect nesting birds between March and August inclusive, unless the absence of nesting birds has been confirmed by survey or inspection carried out by a suitably qualified ecologist, the results of which shall have been first submitted to and approved in writing by the Local Planning Authority.
- 12) No development shall take place above ground floor slab level until details of scheme of biodiversity enhancement have been submitted to, and approved in writing by, the Local Planning Authority. This will include details of measures set out in the recommendations in section 4.10 of the Preliminary Ecological Appraisal (KB Ecology August 2017) and timescales for implementation. The approved details shall be implemented in accordance with the approved timescales and be maintained thereafter.
- 13) From the commencement of works including site clearance, all precautionary mitigation measures for reptiles shall be carried out in accordance with the details contained in the walkover survey by KB Ecology dated January 2021.

- 14) No part of the development hereby permitted shall be occupied until the areas shown on the submitted layout as vehicle parking spaces has been provided, surfaced, and drained in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter the areas shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking, or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access and parking on the parking spaces.
- 15) No development shall take place above ground floor slab level until details of a hard and soft landscape scheme to include a tree-lined street have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:
- i. Plans and information providing details of existing and proposed finished ground levels, means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, all paving and external hard surfacing, lighting, and services (including drainage), tree grilles, minor artefacts, and structures (seating, refuse receptacles and raised planters).
 - ii. Soft landscape works, including details of planting plans, tree positions, planting build ups, written specifications (including cultivation and other operations associated with grass, tree and planting establishment, aftercare, and maintenance); schedules of plants, noting species, plant sizes, root treatments and proposed numbers/densities.
 - iii. Details for the design and specification of tree planting to enable healthy establishment at maturity, including the planting environment (including within hard landscape, raised planters, podium decks and green roofs), calculated soil volume, tree support and tie specification, guards and grilles, aeration and irrigation systems, soil build-up information, tree cell systems (to street tree planting environments).
 - iv. A timetable for implementation.

The development shall be implemented and maintained thereafter in accordance with the approved details and timetable. Any trees or plants which within 5 years of planting, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

- 16) Prior to the first occupation of the development hereby permitted, a Landscape Management Plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority. The LMP shall include long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, including communal amenity space (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for implementation. The development shall thereafter be maintained and managed in accordance with the approved details.

- 17) No dwelling shall be occupied until a plan indicating the positions, design, materials, and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any dwelling is occupied and shall thereafter be retained.
- 18) Prior to occupation of any dwelling (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) shall be submitted to and approved by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the scheme and plans approved pursuant to condition 5. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets, and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.
- 19) Notwithstanding the submitted plans, the stairway window on the side elevation of plot 4, shall be fitted with obscure glass and shall be non-opening. This work shall be completed before the dwelling is occupied and shall be permanently retained thereafter.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) all dwellinghouses herein approved shall remain in use as a dwellinghouse in Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and no change of use shall be carried out unless planning permission has been granted on an application relating thereto.
- 21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking, and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1 Classes A, B and E of that Order unless planning permission has been granted on an application relating thereto.
- 22) The development shall be implemented in accordance with the measures to address energy efficiency and climate change set out within the Energy Statement dated May 2021 for application Ref. MC/21/1534. Prior to first occupation of each dwelling a verification report prepared by a suitably qualified professional shall be submitted to the Local Planning Authority confirming that all the agreed measures have been undertaken for that dwelling, and will thereafter be maintained.

End of Schedule B.

APPEARANCES

FOR THE APPELLANT:

Mr John Collins, BA Hons MBA RTPI (Planning Witness of DHA Planning)

Mr Dan Blake, Planning Assistant (DHA Planning)

Mr Mark Carter, RIBA (Design Witness of Mark Carter Associates)

FOR THE COUNCIL:

Mrs Madeline Mead (Senior Planning Officer, Medway Council)

Mrs Hannah Gunner (Senior Planning Officer, Medway Council)

Mr Jonathan Simon (Medway Council)

INTERESTED PARTIES:

Councillor Chrissy Stamp (Ward Member)

Councillor Wendy Purdy (Ward Member)

Councillor Simon Curry (Planning Committee Member)

Mr Mike Mallard (Local Resident)

Mr Mark Wraight (Local Resident)

Mrs Jacqueline Makowski (Local Resident)

Mr Brett Hollywood (Local Resident)

Mr Gary Clifford (Local Resident)

Mr Colin Read (Local Resident)

DOCUMENTS SUBMITTED AT THE HEARING

AT-G1: North Kent Area SPA and Ramsar 6km buffer coverage map.

AT-G2: Aerial Photograph of Appeal Site.